

Amendment No. 324

Assembly Amendment to Assembly Bill No. 384

(BDR 52-806)

Proposed by: Committee on Commerce and Labor**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
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Amend the bill as a whole by deleting sections 1 through 94 and adding new sections designated sections 1 through 84, following the enacting clause, to read as follows:

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

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 21, inclusive, of this act have the meanings ascribed to them in those sections.*

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

Sec. 4. 1. *“Check” means:*

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

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A.B. No. 384—Makes various changes relating to certain short-term, high-interest loans.



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

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

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

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

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

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

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

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

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

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

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

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

1. A customer tenders to another person:

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

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

2. The other person:

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

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

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

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

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

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

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

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

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

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

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

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

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

2. *The term does not include:*

(a) *A deferred deposit loan; or*

(b) *A title loan.*

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

Sec. 19. 1. *“Title loan” means a loan made to a customer who secures the loan with the title to a motor vehicle and who gives possession of the title to the person making the loan or to any agent, affiliate or subsidiary of the person.*

2. *The term does not include a loan which is secured by a lien or other security interest that attaches to a motor vehicle or appears on its title, including, without limitation, a loan to finance the purchase of the motor vehicle, if the person making the loan, or any agent, affiliate or subsidiary of the person, does not take possession of the title.*

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

Sec. 21. *“Title to a motor vehicle” or “title” means a certificate of title issued by the Department of Motor Vehicles that identifies the legal owner of a motor vehicle or any similar document issued pursuant to the laws of another jurisdiction.*

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

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

- 1. Any fees for granting such a grace period; or*
- 2. Any fees or interest on the outstanding loan during such a grace period.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Any firm or corporation:

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

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

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

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

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

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

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

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

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

2. A person must have a license regardless of the location or method that the person uses to operate such a service, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

Sec. 30. 1. A licensee shall post in a conspicuous place in every location at which he conducts business under his license, a notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, short-term loan services or title loan services.

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

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

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

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

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

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

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

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

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

(b) The date of the loan;

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

- (d) The amount of the loan obligation, including, without limitation, an itemization of the interest, charges and fees the customer must pay if the licensee makes a loan to the customer;*
- (e) The description or schedule of payments on the loan;*
- (f) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;*
- (g) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;*
- (h) Disclosures required for a similar transaction by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.; and*
- (i) Disclosures required under any other applicable state statute or regulation.*

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

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

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

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

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

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

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

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

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

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

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

Sec. 34. *A licensee shall not:*

1. *Make a loan that exceeds 25 percent of the expected gross monthly income of the customer during the term of the loan unless justified by particular circumstances. A licensee is not in violation of the provisions of this subsection if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that the loan does not*

exceed 25 percent of the expected gross monthly income of the customer during the term of the loan.

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

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

(b) The licensee charges the same rate of interest for any additional loans as he charged for the initial loan;

(c) Except for the interest charged pursuant to paragraph (b), the licensee does not impose any other charge or fee to initiate any additional loans; and

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

Sec. 35. A licensee shall not:

1. Accept:

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

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

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

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

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

2. Take any note or promise to pay which does not disclose the date and amount of the loan, a schedule or description of the payments to be made thereon and the rate or aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer. Compliance with the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., constitutes compliance with this subsection.

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

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

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

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

Sec. 36. A licensee shall not:

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

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

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

4. Include in any written agreement:

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

(b) A confession of judgment by the customer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Give to the customer:

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

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

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

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

- (1) The name and address of the licensee;*
- (2) The identification number assigned to the loan agreement or other information that identifies the loan;*
- (3) The date of the payment;*
- (4) The amount paid;*
- (5) An itemization of interest, charges and fees;*
- (6) A statement that the loan is paid in full; and*
- (7) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.*

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

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

- (a) The name and address of the licensee;*
- (b) The identification number assigned to the loan agreement or other information that identifies the loan;*
- (c) The date of the payment;*
- (d) The amount paid;*
- (e) An itemization of interest, charges and fees;*

(f) The balance due on the loan; and

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

Sec. 42. 1. The licensee and customer may enter into a repayment plan if:

(a) The customer defaults on the original loan, or any extension thereof; or

(b) Before such a default, the customer indicates that he is unable to pay the original loan in full pursuant to the terms set forth in the original loan agreement, or any extension thereof.

2. If the customer defaults on the original loan or any extension thereof, or indicates that he is unable to pay in full the original loan or any extension thereof, the licensee:

(a) Shall provide written notice in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish, to the customer of his right to enter into a repayment plan; and

(b) Shall not commence any civil action to collect on the outstanding loan unless:

(1) Such a notice has been sent to the customer; and

(2) The customer fails to exercise his right to enter into a repayment plan within 15 days after receipt of the notice.

3. If the licensee and customer enter into a repayment plan pursuant to this section, the customer may pay the remaining balance on the outstanding loan:

(a) In four equal monthly installments; or

(b) Under any other terms negotiated and agreed to by the licensee and customer that comply with the provisions of this section.

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

(a) Provide to the customer a document which confirms that the customer has entered into a repayment plan and which states the date and terms of the repayment plan; and

(b) If the repayment plan is for a deferred deposit loan, return to the customer the check or written authorization for an electronic transfer of money that the customer used to initiate the deferred deposit loan, with the check or written authorization stamped "void."

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

(a) Charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

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

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

(b) Accept any security or collateral from the customer to enter into the repayment plan;

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

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

(e) Commence a civil action against the customer during the term of the repayment plan.

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

(a) The name and address of the licensee;

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

(c) The date of the payment;

(d) The amount paid;

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

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

Sec. 43. If a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond 8 weeks after the expiration of the initial loan period.

Sec. 44. 1. If a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer:

(a) The principal amount of the loan.

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

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to paragraph (b), whichever is later, at a rate of interest not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 12 weeks. After that period, the licensee shall not charge or collect any interest on the loan.

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

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

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

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

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

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

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

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

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

- 1. The name and address of the licensee;*
- 2. The identification number assigned to the loan agreement or other information that identifies the loan;*
- 3. The date of the payment;*
- 4. The amount paid;*
- 5. The balance due on the loan or, when the customer makes a final payment, a statement that the loan is paid in full; and*

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

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

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

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

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

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

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

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

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

(1) Partner;

(2) Officer;

(3) Director;

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

(5) Registered agent,

↪ of the business entity.

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

(1) Partners;

(2) Officers;

(3) Directors; and

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

(d) The address of each location at which the applicant proposes to do business, including, without limitation, each location where the applicant will operate at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

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

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

(a) A nonrefundable application fee;

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

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

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

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

Sec. 49. 1. Except as otherwise provided in section 50 of this act, each application for a license pursuant to the provisions of this chapter must be accompanied by a surety bond payable to the State of Nevada in the amount of \$50,000 for the use and benefit of any customer receiving the services of the licensee.

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

3. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against him by any creditor or claimant arising out of business regulated by this chapter give notice thereof to the Commissioner by certified mail with details sufficient to identify

the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

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

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

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

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

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

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

(b) The termination of the bond,

↳ whichever event occurs first.

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

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

(a) Interest-bearing stocks;

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

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

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

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

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

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

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

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

2. This section applies, without limitation, to any office or other place of business located outside this State from which the applicant will conduct business in this State at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

Sec. 52. 1. Upon the filing of the application and the payment of the fees required pursuant to section 48 of this act, the Commissioner shall investigate the facts concerning the application and the requirements provided for in section 54 of this act.

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

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

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

- 1. Enter an order denying the application and notify the applicant of the denial.*
- 2. Within 10 days after the entry of such an order, file his findings and a summary of the evidence supporting those findings and deliver a copy thereof to the applicant.*

Sec. 54. *1. The Commissioner shall enter an order granting an application if he finds that the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently.*

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

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

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

3. Each licensee shall prominently display his license at the location where he does business. The Commissioner may issue additional licenses to the same licensee for each branch location at which the licensee is authorized to operate under the license, including, without limitation, each branch location where the licensee is authorized to operate at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means. Nothing in this subsection requires a license for any place of business devoted to accounting, recordkeeping or administrative purposes only.

4. Each license shall:

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

(b) State fully:

(1) The name and address of the licensee;

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

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

5. A license is not transferable or assignable.

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

(a) A renewal fee; and

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

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

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

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

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

2. A person who acquires stock, partnership or member interests resulting in a change of control of the licensee shall apply to the Commissioner for approval of the transfer. The

application must contain information which shows that the requirements for obtaining a license pursuant to the provisions of this chapter will be satisfied after the change of control. If the Commissioner determines that those requirements will not be satisfied, he may deny the application and forbid the applicant from participating in the business of the licensee.

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

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

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

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

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

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

(a) A mortgage broker if:

(1) The licensee and the mortgage broker:

(I) Maintain separate accounts, books and records;

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

(III) Maintain separate licenses; and

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

(b) A mortgage banker if:

(1) The licensee and the mortgage banker:

(I) Maintain separate accounts, books and records;

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

(III) Maintain separate licenses; and

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

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

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

days before changing the address, give written notice of the proposed change to the Commissioner.

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

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

4. This section applies, without limitation, to any office or other place of business at which the licensee intends to operate a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

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

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

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

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

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

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

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

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

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

- (a) Be directly or indirectly interested in or act on behalf of any licensee;*
- (b) Receive, directly or indirectly, any payment from any licensee;*
- (c) Be indebted to any licensee;*
- (d) Engage in the negotiation of loans for others with any licensee; or*
- (e) Obtain credit or services from a licensee conditioned upon a fraudulent practice or undue or unfair preference over other customers.*

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

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

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

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

(a) Any licensee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The licensee:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 74. *In addition to any other remedy or penalty, if a licensee violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the licensee for any or all of the following relief:*

- 1. Actual and consequential damages;*
- 2. An additional amount, as statutory damages, which is equal to \$1,000 for each violation;*
- 3. Punitive damages, which are subject to the provisions of NRS 42.005;*
- 4. Reasonable attorney's fees and costs; and*
- 5. Any other legal or equitable relief that the court deems appropriate.*

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

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

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

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

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

(b) Required by law to be placed therein.

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

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

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

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

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

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

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

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

(b) Any person primarily engaged in:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) Investing; or

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

→ who is doing business in this State;

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

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

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

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

645B.0119 “Financial services license or registration” means any license or registration issued in this State or any other state, district or territory of the United States that authorizes the person who holds the license or registration to engage in any business or activity described in the provisions of

this chapter, *title 55 or 56 of NRS or* chapter ~~[604,]~~ 645, 645A, 645C, 645E or 649 of NRS or ~~[title 55 or 56 of NRS.]~~ *sections 2 to 74, inclusive, of this act.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

675.040 This chapter does not apply to:

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

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

2. A real estate investment trust, as defined in 26 U.S.C. § 856.
3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.
4. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.
5. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.
6. Except as otherwise provided in this subsection, any firm or corporation:
 - (a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;
 - (b) Approved by the Federal National Mortgage Association as a seller or servicer; and
 - (c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.
7. A person who provides money for investment in loans secured by a lien on real property, on his own account.
8. A seller of real property who offers credit secured by a mortgage of the property sold.
9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.
- 10. A person licensed to do business pursuant to sections 2 to 74, inclusive, of this act.**

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

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

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

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

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

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

Sec. 83. 1. If a person:

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

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

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

2. A person described in subsection 1 shall:

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

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

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

Amend the title of the bill, fourth line, by deleting “payday” and inserting “certain short-term”.