

## Amendment No. 869

Senate Amendment to Assembly Bill No. 384 First Reprint

(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 sec. 2, page 1, line 5, by deleting:

“3 to 21,” and inserting:

“2.5 to 21.5,”.

Amend the bill as a whole by adding a new section designated sec. 2.5, following sec. 2, to read as follows:

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

**(a) Is automated;**

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

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Date: 5/25/2005

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



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

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

Amend sec. 8, page 2, by deleting lines 30 and 31 and inserting:

*“the extension or repayment plan does not violate the provisions of this chapter.”.*

Amend sec. 9, page 2, line 35, by deleting “*written*” and inserting “*loan*”.

Amend sec. 9, page 3, line 2, by deleting “*the electronic*” and inserting “*an electronic*”.

Amend the bill as a whole by adding a new section designated sec. 15.5, following sec. 15, to read as follows:

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

Amend sec. 16, page 3, by deleting lines 32 and 33 and inserting:

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

Amend sec. 17, page 3, by deleting lines 37 through 43 and inserting:

*“(a) Charges an annual percentage rate of 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;*

*(b) A title loan; or*

*(c) A refund anticipation loan.”.*

Amend sec. 19, page 4, by deleting lines 5 through 11 and inserting:

*“pursuant to a loan agreement which, under its original terms:*

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

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

*2. The term does not include:*

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

*(b) Any other loan for which a vehicle is used as security or collateral if the person making the loan,”.*

Amend sec. 21, page 4, by deleting lines 17 through 19 and inserting:

*“Sec. 21. “Title to a vehicle” or “title” means a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar”.*

Amend the bill as a whole by adding new sections designated sections 21.2 through 21.8, following sec. 21, to read as follows:

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

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

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

**(a) Passenger vehicles;**

**(b) Recreational vehicles; and**

**(c) House trailers and travel trailers.**

**3. The term does not include:**

**(a) Farm vehicles;**

**(b) Vehicles of a common or contract carrier;**

**(c) Commercial vehicles;**

**(d) Construction vehicles;**

**(e) Military vehicles;**

**(f) Vehicles used exclusively upon stationary rails or tracks; or**

**(g) Any other vehicles which are similar in nature to the vehicles listed in paragraphs (a) to (f), inclusive, and which the Commissioner, by regulation, excludes from the definition of “vehicle.”**

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

**(a) “Amount financed.”**

**(b) “Annual percentage rate.”**

**(c) “Finance charge.”**

**(d) “Payment schedule.”**

(e) *“Total of payments.”*

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

Amend sec. 23, page 4, line 28, before *“loan,”* by inserting:

*“loan or an extension of a”.*

Amend sec. 23, page 4, line 30, by deleting:

*“fees or interest”* and inserting:

*“additional fees or additional interest”.*

Amend sec. 27, page 6, between lines 6 and 7, by inserting:

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

Amend sec. 28, page 6, by deleting lines 7 through 13 and inserting:

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

*2. The Commissioner shall adopt any other regulations as are”.*

Amend sec. 29, page 6, line 24, by deleting *“means.”* and inserting:

*“means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3.*

*3. A person shall not operate a deferred deposit loan service or short-term loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to conduct business through any automated loan machine.”.*

Amend sec. 30, page 6, by deleting lines 26 through 29 and inserting:

*“every location at which he conducts business under his license:*

*(a) 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.*

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

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

Amend sec. 30, page 6, line 33, after “*means*,” by inserting:

*“except for an automated loan machine prohibited by section 29 of this act,”.*

Amend sec. 31, page 7, by deleting lines 11 through 25 and inserting:

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

*(c) The date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;*

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

*(e) 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;*

*(f) A disclosure stating that, if the customer defaults on the loan, the customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at*

*least 90 days, and that the licensee must offer the repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle; and*

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

Amend sec. 32, page 7, line 30, after “Act,” by inserting “*as amended*,”.

Amend sec. 32, page 7, line 33, by deleting “*initiates*” and inserting “*commences*”.

Amend sec. 32, page 7, line 39, by deleting “*is*” and inserting “*was*”.

Amend sec. 32, page 7, after line 45, by inserting:

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

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

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

*↪ the licensee is required to commence the civil action in the justice’s court for the township where the loan was made unless, after the date of default and before the licensee commences the civil action, the customer signs an affidavit agreeing to try the action in another justice’s court having jurisdiction over the subject matter and the parties. A licensee shall not, directly or indirectly, require, intimidate, threaten or coerce a customer to sign such an affidavit.”.*

Amend sec. 33, page 8, line 12, after “*Garnish*” by inserting:

*“or threaten to garnish”.*

Amend sec. 33, page 8, line 14, after “*Contact*” by inserting:

*“or threaten to contact”.*

Amend the bill as a whole by adding a new section designated sec. 33.5, following sec. 33, to read as follows:

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

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

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

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

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

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

Amend sec. 34, page 8, by deleting lines 19 through 38 and inserting:

***“Sec. 34. A licensee shall not make more than one deferred deposit loan or short-term 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:***

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

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



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

*4. If the additional loans are deferred deposit loans and the”.*

Amend sec. 35, page 9, line 2, by deleting “motor”.

Amend sec. 35, page 9, by deleting lines 7 through 22 and inserting:

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

*(e) A check or written authorization for an electronic transfer of money for any deferred deposit loan in an amount which exceeds the total of payments set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z 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, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z.*

*3. Take any instrument, including a check or written authorization for an electronic transfer of money, in which blanks”.*

Amend sec. 36, page 9, by deleting lines 36 through 38 and inserting:

*“2. Commence a civil action or any process of alternative dispute resolution or repossess a vehicle before the customer defaults under the original term of a loan agreement or before the customer defaults under any repayment plan, extension or grace period negotiated and agreed”.*

Amend sec. 36, page 10, line 2, before *“payment”* by inserting *“the”*.

Amend the bill as a whole by adding a new section designated sec. 36.5, following sec. 36, to read as follows:

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

- 1. The original term of a title loan must not exceed 30 days.*
- 2. The title loan may be extended for not more than six additional periods of extension, with each such period not to 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.”.*

Amend sec. 37, page 10, line 18, by deleting *“motor”*.

Amend sec. 37, page 10, by deleting line 27 and inserting:  
*“obligations, employment and ownership of the vehicle; and”.*

Amend sec. 38, page 10, line 30, by deleting *“chapter,”* and inserting *“section,”*.

Amend sec. 38, page 10, line 35, by deleting:

*“to commence a legal action”.*

Amend sec. 38, page 10, lines 36, 40, 41 and 43, by deleting *“motor”*.

Amend sec. 38, page 11, lines 1 and 3, by deleting *“motor”*.

Amend sec. 38, page 11, by deleting lines 4 through 15 and inserting:

*“before he entered into the title loan.*

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

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

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

*4. If a customer uses fraud to secure a title loan or if the customer wrongfully transfers any interest in the vehicle to a third party before the title loan is repaid, 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 as permitted under this chapter, less any prior payments made by the customer;”.*

Amend sec. 38, page 11, line 24, by deleting *“motor”*.

Amend sec. 39, page 11, line 31, by deleting *“loan:”* and inserting *“loan;”*.

Amend sec. 39, page 12, line 6, by deleting *“motor”*.

Amend sec. 40, page 12, line 14, by deleting *“customer,”* and inserting:

*“customer as permitted under this chapter,”.*

Amend sec. 40, page 12, line 23, by deleting “*motor*”.

Amend sec. 42, pages 13 and 14, by deleting lines 7 through 45 on page 13 and lines 1 through 22 on page 14, and inserting:

***“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;*
  - (b) The licensee must allow the period for repayment to extend at least 90 days after the date of default, unless the customer agrees to a shorter term;*
  - (c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;*
  - (d) For a deferred deposit loan:*
    - (1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for an electronic transfer of money which equal the total amount due under the terms of the repayment plan;*
    - (2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped "void" or destroy the check or written authorization; and*
    - (3) The licensee shall not charge any fee to the customer pursuant to section 45 of this act for a check which is provided as security during the repayment plan and which is not paid upon*

*presentment if, in connection with that loan, the licensee has previously charged at least one such fee.*

*4. 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) Except as otherwise provided by this chapter, 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, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; 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) Except as otherwise provided in this section, accept any additional 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 section 33.5 of this act;*

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

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

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

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

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

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

*(2) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan.”.*

Amend sec. 42, page 14, between lines 35 and 36, by inserting:

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

Amend sec. 43, page 14, by deleting lines 36 through 41 and inserting:

*“Sec. 43. 1. Except as otherwise provided in subsection 2, 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 deferred deposit loan or short-term loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond 60 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.”.*



Amend sec. 44, pages 14 and 15, by deleting lines 42 through 45 on page 14 and lines 1 through 12 on page 15, and inserting:

***“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”.***

Amend sec. 44, page 15, lines 17 and 18, by deleting “***12 weeks.***” and inserting “***90 days.***”.

Amend sec. 44, page 15, line 24, by deleting “***1,***” and inserting:

***“1 and any other charges expressly permitted pursuant to sections 34, 36.5 and 42 of this act,”.***

Amend sec. 48, page 17, line 21, by deleting “***business,***” and inserting:

***“business under the license,”.***

Amend sec. 48, page 17, line 25, by deleting “***means.***” and inserting:

*“means, except that the applicant shall not propose to do business through any automated loan machine prohibited by section 29 of this act.”.*

Amend sec. 48, page 17, between lines 40 and 41, by inserting:

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

Amend sec. 49, page 17, by deleting lines 44 and 45 and inserting:

*“the State of Nevada in the amount of \$50,000 plus an additional \$5,000 for each branch location at which the applicant proposes to do business under the license. Thereafter, each licensee shall maintain the surety bond so that the amount of the surety bond is \$50,000 plus an additional \$5,000 for each branch location at which the licensee does business under the license. The surety bond required by this section is for the use and benefit of any customer receiving the services of the licensee at any location at which the licensee does business under the license.”.*

Amend sec. 51, page 19, line 39, by deleting “*means.*” and inserting:

*“means, except that the applicant shall not conduct business in this State through any automated loan machine prohibited by section 29 of this act.”.*

Amend sec. 52, page 19, line 43, by deleting “*section*” and inserting:

*“sections 53.5 and”.*

Amend the bill as a whole by adding a new section designated sec. 53.5, following sec. 53, to read as follows:

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

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

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

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

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

***(e) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, 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.”.*

Amend sec. 54, page 20, line 21, by deleting “*that the*” and inserting:

“*that:*

*(a) The”.*

Amend sec. 54, page 20, by deleting line 25 and inserting:

“*efficiently; and*

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

Amend sec. 54, page 20, line 41, by deleting “*means.*” and inserting:

“*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.”.*

Amend sec. 54, page 20, line 44, by deleting “*shall:*” and inserting “*must:*”.

Amend sec. 57, page 21, line 41, after “**Sec. 57.**” by inserting “**1.**”.

Amend sec. 57, page 22, between lines 2 and 3, by inserting:

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

**3. A licensee shall not:**

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

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

Amend sec. 59, page 23, line 8, by deleting “*means.*” and inserting:

*“means, except that the licensee shall not operate any automated loan machine prohibited by section 29 of this act.”.*

Amend sec. 60, page 23, line 12, after “*separate*” by inserting:

*“written or electronic”.*

Amend sec. 64, page 25, line 1, after “**Sec. 64.**” by inserting “**1.**”.

Amend sec. 64, page 25, between lines 6 and 7, by inserting:

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

Amend the bill as a whole by adding a new section designated sec. 65.5, following sec. 65, to read as follows:

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

Amend the bill as a whole by adding a new section designated sec. 73.5, following sec. 73, to read as follows:

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

Amend sec. 74, page 28, by deleting lines 9 through 21 and inserting:

*“Sec. 74. 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person 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 person for any or all of the following relief:*

- (a) Actual and consequential damages;*
- (b) Punitive damages, which are subject to the provisions of NRS 42.005;*
- (c) Reasonable attorney’s fees and costs; and*
- (d) Any other legal or equitable relief that the court deems appropriate.*

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

- (a) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service without a license, in violation of section 29 of this act;*
- (b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of section 31 of this act;*
- (c) Violates any provision of section 33 of this act;*

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

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

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

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

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

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

*(a) Was not intentional;*

*(b) Was technical in nature; and*

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

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

Amend the bill as a whole by adding a new section designated sec. 75.5, following sec. 75, to read as follows:

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

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

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

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

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

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

(a) “Credit card” has the meaning ascribed to it in NRS 205.630;

(b) “Debit card” has the meaning ascribed to it in NRS 205.635; and

(c) “Issuer” has the meaning ascribed to it in NRS 205.650.”.

Amend sec. 80, page 32, line 44, by deleting “***act.***” and inserting:

***“act with regard to those services regulated pursuant to sections 2 to 74, inclusive, of this act.”.***

Amend sec. 83, page 33, line 39, by deleting “A” and inserting:

“Except as otherwise provided in subsections 3 and 4, a”.

Amend sec. 83, page 34, between lines 6 and 7, by inserting:



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

- (a) Any provision requiring the use of the Spanish language; and
- (b) Any provision requiring changes to or replacement of existing computer software or major modifications to existing business processes, as determined by the Commissioner.

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

- (a) Is not economically feasible;
- (b) Is prevented by factors beyond the control of the person; or
- (c) Is prevented by any other factors that the Commissioner deems to be an appropriate justification for an extension.”.

Amend the title of the bill to read as follows:

“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.”.