

ASSEMBLY BILL NO. 478—ASSEMBLYMEN BUCKLEY, ANDERSON,  
OCEGUERA, CONKLIN, LESLIE, CARPENTER, DENIS,  
GERHARDT, GRADY, HARDY, HOGAN, KIRKPATRICK,  
KOIVISTO, MABEY, MANENDO, MCCLAIN, MUNFORD,  
PARKS, PARNELL, PIERCE AND SMITH

MARCH 19, 2007

JOINT SPONSORS: SENATORS AMODEI, COFFIN AND TITUS

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing loans and loan  
services. (BDR 52-394)

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

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

AN ACT relating to financial services; making the provisions governing certain short-term loan services applicable to any person who makes a loan pursuant to a loan agreement that charges in excess of a certain annual percentage rate regardless of the term of the loan; revising the calculation of the annual percentage rate to include all charges and fees imposed on a customer by a licensee; providing exemptions from certain statutory provisions; clarifying the applicability of certain provisions; making persons who violate certain provisions of federal law subject to certain remedies and penalties set forth in state law; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Existing law establishes standards and procedures for the licensing and
- 2 regulation of loans made pursuant to loan agreements that provide for an annual
- 3 percentage rate of more than 40 percent and require repayment of the loan in less
- 4 than 1 year. (Chapter 604A of NRS) This bill revises the applicability of those
- 5 standards and procedures to make them applicable to any person who makes a loan
- 6 pursuant to a loan agreement that charges an annual percentage rate of more than
- 7 40 percent regardless of the term of the loan. This bill redefines such a loan as a



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“high-interest loan” and the loan service for such a loan as a “high-interest loan service.” This bill also provides that the original term of a deferred deposit loan or a high-interest loan must not exceed 30 days.

Under existing law, the annual percentage rate of such loans is required to be calculated pursuant to the provisions of the Truth in Lending Act and Regulation Z. (NRS 604A.150) This bill provides an exception to that requirement by specifying that every charge or fee, regardless of the name given to the charge or fee, payable directly or indirectly by the customer and imposed directly or indirectly by the licensee must be included in calculating the annual percentage rate.

Existing law provides for the licensure of persons who make installment loans. (Chapter 675 of NRS) This bill provides for the licensure of such persons pursuant to chapter 604A of NRS if the loans are high-interest loans.

Existing law exempts certain persons and entities from the provisions of chapter 604A of NRS. (NRS 604A.250) This bill extends the exemption to national banking associations and their affiliates and subsidiaries, unless a purpose of the affiliation is to evade the provisions of that chapter.

Existing law exempts certain persons and entities from the provisions of chapter 675 of NRS. (NRS 675.040) This bill extends the exemption to national banking associations. This bill also clarifies the persons to whom chapter 675 of NRS applies.

Existing federal law imposes limitations on the terms of consumer credit that is extended to members of the Armed Forces of the United States who are on active duty and their dependents, including, without limitation, a prohibition against a lender imposing an interest rate greater than 36 percent. The federal law preempts any state law that is inconsistent with the federal law. (Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364) This bill provides that any violation of the federal law shall be deemed to be a violation of chapter 604A of NRS, thereby making violators subject to the remedies and penalties set forth in that chapter, including the imposition of an administrative fine of not more than \$10,000 for each violation, the revocation or suspension of a license issued pursuant to that chapter and civil actions for damages. (NRS 604A.820, 604A.930)

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 604A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

**Sec. 2. 1. “High-interest loan” means a loan made to a customer pursuant to a loan agreement which, under its original terms, charges an annual percentage rate of more than 40 percent.**

**2. The term includes, without limitation, any single-payment loan, installment loan or open-ended loan which, under its original terms, charges an annual percentage rate of more than 40 percent.**

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

- (a) A deferred deposit loan;**
- (b) A refund anticipation loan; or**
- (c) A title loan.**



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1     **Sec. 3.** *“High-interest loan service” means any person*  
2 *engaged in the business of providing high-interest loans for a fee,*  
3 *service charge or other consideration.*

4     **Sec. 4.** *For the purposes of this chapter, in determining*  
5 *whether a lender is charging an annual percentage rate of more*  
6 *than 40 percent, calculations must be made in accordance with the*  
7 *Truth in Lending Act and Regulation Z, except that every charge*  
8 *or fee, regardless of the name given to the charge or fee, payable*  
9 *directly or indirectly by the customer and imposed directly or*  
10 *indirectly by the licensee must be included in calculating the*  
11 *annual percentage rate.*

12     **Sec. 5.** *Notwithstanding any other provision of this chapter*  
13 *to the contrary, the original term of a deferred deposit loan or*  
14 *high-interest loan must not exceed 30 days.*

15     **Sec. 6.** *A violation of any provision of section 670 of the*  
16 *John Warner National Defense Authorization Act for Fiscal Year*  
17 *2007, Public Law 109-364, or any regulation adopted pursuant*  
18 *thereto shall be deemed to be a violation of this chapter.*

19     **Sec. 7.** NRS 604A.010 is hereby amended to read as follows:

20     604A.010 As used in this chapter, unless the context otherwise  
21 requires, the words and terms defined in NRS 604A.015 to  
22 604A.125, inclusive, *and sections 2 and 3 of this act* have the  
23 meanings ascribed to them in those sections.

24     **Sec. 8.** NRS 604A.015 is hereby amended to read as follows:

25     604A.015 1. “Automated loan machine” means any machine  
26 or other device, regardless of the name given to it or the technology  
27 used, that:

28     (a) Is automated;

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

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

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

40     **Sec. 9.** NRS 604A.040 is hereby amended to read as follows:

41     604A.040 “Customer” means any person who receives or  
42 attempts to receive check-cashing services, deferred deposit loan  
43 services, ~~short-term~~ *high-interest* loan services or title loan  
44 services from another person.



**Sec. 10.** NRS 604A.075 is hereby amended to read as follows:

604A.075 "Licensee" means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service pursuant to the provisions of this chapter.

**Sec. 11.** NRS 604A.080 is hereby amended to read as follows:

604A.080 "Loan" means any deferred deposit loan, ~~[short-term]~~ *high-interest* 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. 12.** NRS 604A.200 is hereby amended to read as follows:

604A.200 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]~~ :

1. *Calling* a loan by any other name ~~[or using]~~ ;

2. *Using* any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter ~~[ ]~~ ; or

3. *Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 604A.250, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a predominate economic interest in the revenues generated by the loan.*

**Sec. 13.** NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. ~~[A]~~ *Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies or insurance companies ~~[ ]~~ , including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.*

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.



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

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

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

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

11       7. A pawnbroker, unless the pawnbroker operates a check-  
12 cashing service, deferred deposit loan service, ~~[short-term]~~ *high-*  
13 *interest* loan service or title loan service.

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

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

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

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

24       12. Any firm or corporation:

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

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

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

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

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

35       15. A person who makes a refund anticipation loan, unless the  
36 person operates a check-cashing service, deferred deposit loan  
37 service, ~~[short-term]~~ *high-interest* loan service or title loan service.

38       **Sec. 14.** NRS 604A.400 is hereby amended to read as follows:

39       604A.400 1. A person, including, without limitation, a person  
40 licensed pursuant to chapter 675 of NRS, shall not operate a check-  
41 cashing service, deferred deposit loan service, ~~[short-term]~~ *high-*  
42 *interest* loan service or title loan service unless the person is  
43 licensed with the Commissioner pursuant to the provisions of this  
44 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, 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~~ **high-interest** 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.

4. Any person, and any member, officer, director, agent or employee thereof, who violates or participates in the violation of any provision of this section is guilty of a misdemeanor.

**Sec. 15.** NRS 604A.405 is hereby amended to read as follows:

604A.405 1. A licensee shall post in a conspicuous place in 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~~ **high-interest** 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.

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, except for an automated loan machine prohibited by NRS 604A.400, 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. 16.** NRS 604A.420 is hereby amended to read as follows:

604A.420 1. If a customer is ~~{called to active duty in}~~ *a member of* 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.

*(b) Honor any proclamation by a base commander that a certain branch location of the licensee is off-limits to members of the military and their spouses.*

2. ~~{When collecting any defaulted loan,}~~ *If a customer is a member of the military,* a licensee shall not:

(a) Garnish or threaten to garnish any wages or salary ~~{paid to a customer for active service in the military;}~~ *of the customer or his spouse;* or

(b) Contact or threaten to contact the military chain of command of a customer in an effort to collect the ~~{defaulted}~~ loan.

3. *If a customer is a member of the military and is deployed to a combat or combat supporting position, a licensee shall not engage in any collection activity against the customer or his spouse.*

4. As used in this section, “military” means the Armed Forces of the United States, a reserve component thereof or the National Guard.

**Sec. 17.** NRS 604A.425 is hereby amended to read as follows:

604A.425 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}~~ *high-interest* 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~~ *high-interest* loan, the monthly payment required under the terms of the loan agreement does not exceed 25 percent of his expected gross monthly income.

**Sec. 18.** NRS 604A.430 is hereby amended to read as follows:

604A.430 A licensee shall not make more than one deferred deposit loan or ~~short-term~~ *high-interest* 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 NRS 604A.425;

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~~ *high-interest* loans in accordance with the provisions of subsection 2 of NRS 604A.480 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 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 NRS 604A.490, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment.

**Sec. 19.** NRS 604A.435 is hereby amended to read as follows:

604A.435 A licensee shall not:

1. Accept:

(a) Collateral as security for a loan, except that a title to a 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~~ *high-interest* loan or title loan.

(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





1 description and the amount of every fee charged, regardless of the  
2 name given to the fee and regardless of whether the fee is required  
3 to be included in the finance charge under the Truth in Lending Act  
4 and Regulation Z.

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

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

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

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

16 **Sec. 20.** NRS 604A.460 is hereby amended to read as follows:

17 604A.460 1. A customer may rescind a loan on or before the  
18 close of business on the next day of business at the location where  
19 the loan was initiated. To rescind the loan, the customer must  
20 deliver to the licensee:

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

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

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

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

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

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

38 (2) If the customer gave to the licensee a promissory note to  
39 initiate a ~~short-term~~ *high-interest* loan, a copy of the promissory  
40 note stamped "void" or the receipt stamped "paid in full"; or

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

43 **Sec. 21.** NRS 604A.465 is hereby amended to read as follows:

44 604A.465 1. A customer may pay a loan, or any extension  
45 thereof, in full at any time, without an additional charge or fee,



1 before the date his final payment on the loan, or any extension  
2 thereof, is due.

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

6 (a) Give to the customer:

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

11 (2) If the customer gave to the licensee a promissory note to  
12 initiate a ~~[short-term]~~ **high-interest** loan, the promissory note  
13 stamped "void" or a receipt stamped "paid in full"; or

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

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

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

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

21 (3) The date of the payment;

22 (4) The amount paid;

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

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

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

28 **Sec. 22.** NRS 604A.480 is hereby amended to read as follows:

29 604A.480 1. Except as otherwise provided in subsection 2, if  
30 a customer agrees to establish or extend the period for the  
31 repayment, renewal, refinancing or consolidation of an outstanding  
32 loan by using the proceeds of a new deferred deposit loan or ~~[short-~~  
33 ~~term]~~ **high-interest** loan to pay the balance of the outstanding loan,  
34 the licensee shall not establish or extend ~~[such-a]~~ **the** period beyond  
35 60 days after the expiration of the initial loan period.

36 2. This section does not apply to a **new** deferred deposit loan or  
37 ~~[short-term]~~ **high-interest** loan if the licensee:

38 (a) Makes the **new** deferred deposit loan or ~~[short-term]~~ **high-**  
39 **interest** loan to a customer pursuant to a loan agreement which,  
40 under its original terms:

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

43 (2) Requires the customer to make a payment on the loan at  
44 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 *new* deferred deposit loan or ~~short-term~~ *high-interest* loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;

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

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

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

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

**Sec. 23.** NRS 604A.655 is hereby amended to read as follows:

604A.655 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}~~ *high-interest* 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. 24.** NRS 604A.710 is hereby amended to read as follows:

604A.710 1. For the purpose of discovering violations of this chapter or ~~to~~ 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}~~ *high-interest* loan or title loan is presumed to be engaged in the business of making loans.

**Sec. 25.** NRS 604A.920 is hereby amended to read as follows:

604A.920 If a person operates a check-cashing service, deferred deposit loan service, ~~{short-term}~~ *high-interest* loan service or title loan service without obtaining a license pursuant to this chapter:

1. Any contracts entered into by that person for the cashing of a check or for a deferred deposit loan, ~~{short-term}~~ *high-interest* loan or title loan are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the other party to the contract may bring a civil action against the person pursuant to NRS 604A.930.



**Sec. 26.** NRS 604A.930 is hereby amended to read as follows:

604A.930 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 NRS 604A.400, 604A.410 to 604A.500, inclusive, 604A.610, 604A.615, 604A.650 or 604A.655 *or section 6 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~~ *high-interest* loan service or title loan service without a license, in violation of NRS 604A.400;

(b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of NRS 604A.410;

(c) Violates any provision of NRS 604A.420;

(d) Accepts collateral or security for a deferred deposit loan, in violation of NRS 604A.435, 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 NRS 604A.440;

(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 NRS 604A.440;

(g) Violates any provision of NRS 604A.485; ~~for~~

(h) Violates any provision of NRS 604A.490 ~~or~~ ; *or*

*(i) Violates any provision of section 6 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.

**Sec. 27.** NRS 99.050 is hereby amended to read as follows:

99.050 ~~[Parties]~~ *Except as otherwise provided in section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto, parties* may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

**Sec. 28.** Chapter 675 of NRS is hereby amended by adding thereto a new section to read as follows:

*The provisions of this chapter apply to any person who:*

1. *Makes installment loans that are not subject to regulation pursuant to chapter 604A of NRS;*

2. *Is an affiliate or holding company of a bank, national banking association, savings bank, trust company, savings and loan association, credit union, development corporation, mortgage broker, mortgage banker, thrift company or insurance company; or*

3. *Seeks to evade its application by any device, subterfuge or pretense, including, without limitation:*

(a) *Calling a loan by any other name;*

(b) *Using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or*

(c) *Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 675.040, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a predominate economic interest in the revenues generated by the loan.*

**Sec. 29.** NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. ~~[A]~~ *Except as otherwise provided in section 28 of this act, a person doing business under the authority of any law of this State or*



1 of the United States relating to banks, *national banking*  
2 *associations*, savings banks, trust companies, savings and loan  
3 associations, credit unions, development corporations, mortgage  
4 brokers, mortgage bankers, thrift companies, pawnbrokers or  
5 insurance companies.

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

7 3. An employee benefit plan, as defined in 29 U.S.C. §  
8 1002(3), if the loan is made directly from money in the plan by the  
9 plan's trustee.

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

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

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

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

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

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

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

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

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

30 10. A person licensed to do business pursuant to chapter 604A  
31 of NRS with regard to those services regulated pursuant to chapter  
32 604A of NRS.

33 **Sec. 30.** NRS 604A.095 and 604A.100 are hereby repealed.

34 **Sec. 31.** Any license to operate a short-term loan service that  
35 was issued by the Commissioner of Financial Institutions pursuant  
36 to chapter 604A of NRS before July 1, 2007, shall be deemed to be  
37 a license to operate a high-interest loan service which was issued by  
38 the Commissioner pursuant to the provisions of chapter 604A of  
39 NRS and which expires on the date on which the license to operate a  
40 short-term loan service would have expired pursuant to the  
41 provisions of NRS 604A.640.

42 **Sec. 32.** 1. A license to engage in the business of lending in  
43 this State which was issued by the Commissioner of Financial  
44 Institutions pursuant to chapter 675 of NRS before July 1, 2007, to a  
45 person who, pursuant to the provisions of this act, is subject to





1 regulation only pursuant to chapter 604A of NRS, shall be deemed  
2 to be a license issued by the Commissioner pursuant to chapter  
3 604A of NRS. Such a license expires on December 31, 2007, and  
4 may be renewed on or before its expiration in accordance with NRS  
5 604A.640. Upon the renewal of such a license, the Commissioner  
6 shall issue to the holder of the license a license pursuant to chapter  
7 604A of NRS in lieu of the license issued pursuant to chapter 675 of  
8 NRS.

9 2. Any person who is licensed pursuant to chapter 675 of NRS  
10 to engage in the business of lending in this State on June 30, 2007,  
11 may continue to operate in the same location upon becoming  
12 licensed pursuant to chapter 604A of NRS, notwithstanding any  
13 ordinance or other zoning regulation to the contrary. This subsection  
14 does not exempt such a person from any provision of chapter 604A  
15 of NRS or any regulation adopted pursuant thereto.

16 **Sec. 33.** The amendatory provisions of this act do not apply to  
17 loans entered into before July 1, 2007.

18 **Sec. 34.** This act becomes effective on July 1, 2007.

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## TEXT OF REPEALED SECTIONS

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### **604A.095 “Short-term loan” defined.**

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

(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.

**604A.100 “Short-term loan service” defined.** “Short-term loan service” means any person engaged in the business of providing short-term loans for a fee, service charge or other consideration.

