

Amendment No. 644

Assembly Amendment to Senate Bill No. 94 First Reprint (BDR 52-581)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

VMS/BAW



Date: 5/19/2013

S.B. No. 94—Revises provisions governing certain loans. (BDR 52-581)



SENATE BILL NO. 94—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

FEBRUARY 7, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing certain loans. (BDR 52-581)

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

~

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

AN ACT relating to financial services; authorizing ~~to a high interest loan service~~ ***certain licensees*** to charge a late fee on a loan in default under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain limitations on the amounts that a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service may charge after a customer defaults on a loan. (NRS 604A.485) This bill authorizes ~~to a high interest loan service~~ ***certain licensees*** to charge not more than ~~(\$25)~~ ***\$15***, payable on a one-time basis, ~~for any loan~~ ***for any loan installment payment*** that remains unpaid 10 days or more after the date of default.

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 a new section to read as follows:

In addition to the amounts authorized to be collected pursuant to NRS 604A.485, a ~~high interest loan service~~ licensee who makes a high-interest loan in accordance with the provisions of subsection 2 of NRS 604A.480 may charge a fee of not more than ~~(\$25)~~ \$15, payable on a one-time basis, ~~for any loan~~ installment payment that remains unpaid 10 days or more after the date of default.

Sec. 2. NRS 604A.407 is hereby amended to read as follows:

604A.407 1. Except as otherwise provided in this section, for the purposes of determining whether a loan is a high-interest loan, when determining whether a lender is charging an annual percentage rate of more than 40 percent, calculations must be made in accordance with the Truth in Lending Act and Regulation Z, except 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 lender must be included in calculating the annual percentage rate, including, without limitation:

1 (a) Interest;

2 (b) Application fees, regardless of whether such fees are charged to all
3 applicants or credit is actually extended;

4 (c) Fees charged for participation in a credit plan, whether assessed on an
5 annual, periodic or nonperiodic basis; and

6 (d) Prepaid finance charges.

7 2. The following charges and fees must be excluded from the calculation of
8 the annual percentage rate pursuant to subsection 1:

9 (a) Any fees allowed pursuant to NRS 604A.490 or 675.365 for a check not
10 paid upon presentment or an electronic transfer of money that fails;

11 (b) Interest accrued after default pursuant to paragraph (c) of subsection 1 of
12 NRS 604A.485;

13 (c) Charges for an unanticipated late payment, exceeding a credit limit, or a
14 delinquency, default or similar occurrence; ~~and~~

15 (d) Any premiums or identifiable charges for insurance permitted pursuant to
16 NRS 675.300 ~~H~~; and

17 *(e) The fee allowed pursuant to section 1 of this act.*

18 3. Calculation of the annual percentage rate in the manner specified in this
19 section is limited only to the determination of whether a loan is a high-interest loan
20 and must not be used in compliance with the disclosure requirements of paragraph
21 (g) of subsection 2 of NRS 604A.410 or any other provisions of this chapter
22 requiring disclosure of an annual percentage rate in the making of a loan.

23 **Sec. 3.** NRS 604A.485 is hereby amended to read as follows:

24 604A.485 1. If a customer defaults on a loan or on any extension or
25 repayment plan relating to the loan, whichever is later, the licensee may collect
26 only the following amounts from the customer, less all payments made before and
27 after default:

28 (a) The unpaid principal amount of the loan.

29 (b) The unpaid interest, if any, accrued before the default at the annual
30 percentage rate set forth in the disclosure statement required by the Truth in
31 Lending Act and Regulation Z that is provided to the customer. If there is an
32 extension, in writing and signed by the customer, relating to the loan, the licensee
33 may charge and collect interest pursuant to this paragraph for a period not to exceed
34 60 days after the expiration of the initial loan period, unless otherwise allowed by
35 NRS 604A.480.

36 (c) The interest accrued after the expiration of the initial loan period or after
37 any extension or repayment plan that is allowed pursuant to this chapter, whichever
38 is later, at an annual percentage rate not to exceed the prime rate at the largest bank
39 in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case
40 may be, immediately preceding the expiration of the initial loan period, plus 10
41 percent. The licensee may charge and collect interest pursuant to this paragraph for
42 a period not to exceed 90 days. After that period, the licensee shall not charge or
43 collect any interest on the loan.

44 (d) Any fees allowed pursuant to NRS 604A.490 for a check that is not paid
45 upon presentment or an electronic transfer of money that fails because the account
46 of the customer contains insufficient funds or has been closed.

47 ➤ The sum of all amounts collected pursuant to paragraphs (b), (c) and (d) must not
48 exceed the principal amount of the loan.

49 2. Except for the interest and fees permitted pursuant to subsection 1 and any
50 other charges expressly permitted pursuant to NRS 604A.430, 604A.445 and
51 604A.475, *and section 1 of this act*, the licensee shall not charge any other amount
52 to a customer, including, without limitation, any amount or charge payable directly
53 or indirectly by the customer and imposed directly or indirectly by the licensee as

1 an incident to or as a condition of the extension of the period for the payment of the
2 loan or the extension of credit. Such prohibited amounts include, without limitation:

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

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