

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Seventh Session
February 18, 2013**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 1:44 p.m. on Monday, February 18, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Kelvin Atkinson, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Justin C. Jones
Senator Joyce Woodhouse
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Mark Hutchison

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Wayne Archer, Committee Secretary

OTHERS PRESENT:

Matthew L. Sharp, Nevada Justice Association
Jeanette K. Belz, M.B.A., Property Casualty Insurers Association of America
Scott Kipper, Commissioner of Insurance, Division of Insurance, Department of
Business and Industry
Joseph W. Brown, Fennemore Craig Jones Vargas
Phillip Holt, Senior Vice President for Government and Public Relations,
Security Finance Company
Cheryl Blomstrom, Nevada Consumer Finance Association
Jon Sasser, Legal Aid Center of Southern Nevada

Chair Atkinson:

I will open the hearing on Senate Bill (S.B.) 88.

SENATE BILL 88: Increases notice required before insurer cancels policy of motor vehicle insurance. (BDR 57-109)

Senator Joseph P. Hardy (Senatorial District No. 12):

The law requires motor vehicle insurers to provide 10 days notification prior to cancellation of coverage for nonpayment. There are a number of legitimate reasons an individual may fail to make a payment in a timely manner. It is not unusual for an individual to be absent from the State for a period of 10 days for vacation. Senate Bill 88 would extend the notification period from 10 days to 14 days. Senate Bill 88 would become effective July 1, 2013. The Division of Insurance (Division), Department of Business and Industry, has offered an amendment to delay the effective date to give insurance companies adequate time to comply with the changes ([Exhibit C](#)). The new effective date would be January 1, 2014. The Division has also submitted a letter to the Committee expressing their neutrality about S.B. 88 ([Exhibit D](#)).

Matthew L. Sharp (Nevada Justice Association):

The Nevada Justice Association supports S.B. 88 because it is a good consumer protection bill.

Jeanette K. Belz, M.B.A. (Property Casualty Insurers Association of America):

The Property Casualty Insurers Association (PCI) opposes S.B. 88 due to the additional costs it would impose upon policyholders and insurers. We have submitted a letter of opposition to the Committee ([Exhibit E](#)). The PCI is concerned S.B. 88 will result in policyholders receiving 4 days of insurance coverage without having to pay a premium. The United States Postal Service has announced it will discontinue mail delivery on Saturdays, which would further increase the notification period. A chart showing the notification period for each state appears on pages 1 and 2 of my handout ([Exhibit F](#)). The notification period is 10 days in most cases. Compliance with the requirements of S.B. 88 would require massive system changes.

Chair Atkinson:

Can you explain how the PCI came to the conclusion policyholders would receive 4 additional days of coverage?

Ms. Belz:

By the time the 10-day notification period has lapsed, policyholders are unlikely to renew coverage. Increasing the notification period to 14 days would create an additional 4 days during which policyholders could technically receive coverage. The burden of covering the cost of holders who do not renew their coverage would fall to the rest of our policyholders.

Senator Settlemeyer:

Senate Bill 88 would only require insurers to send notices of cancellation 4 days earlier. Instead of sending notification 10 days ahead of the cancellation, insurers would send notice 14 days prior to cancellation. I do not understand the PCI's conclusion that policyholders would receive free coverage. This is not the intent of S.B. 88.

Ms. Belz:

We interpret that S.B. 88 requires policyholders to be insured during those 14 days.

Senator Settlemeyer:

If coverage ends January 1, the insurance company is required to notify the individual 10 days before coverage ends. Senate Bill 88 would require insurers to send notification 14 days prior to expiration. Am I correct?

Ms. Belz:

You are correct. Senate Bill 88 extends the notification period from 10 days to 14 days.

Senator Jones:

Can you explain the "massive system changes" you testified would be required under S.B. 88?

Ms. Belz:

Insurance companies will be required to change their data processing systems and forms just for the State.

Senator Jones:

Would Nevada be the only state to require a notification period of 14 days?

Ms. Belz:

No. The chart on pages 1 and 2 of [Exhibit F](#) lists the notification periods for nonpayment for other states. Some are longer, but the majority require 10 days notice.

Senator Jones:

Since there is no standard notification period, why would there be a cost for companies to comply with the 14-day requirement just for Nevada?

Ms. Belz:

Insurers would need to change the forms for Nevada.

Chair Atkinson:

This bill only requires a longer notice period, does it not?

Ms. Belz:

Since there is an additional 4 days during which a premium may not be paid, the insurer would be on the hook for the additional risk in the event of a claim.

Senator Hutchison:

Assuming an insurance policy expires on December 31, insurers must send the notice of intent on December 21. Under the requirements of S.B. 88, insurers must send the notice on December 17. Is that correct? How would a policyholder receive coverage without having to pay the premium when the date of expiration is still December 31?

Ms. Belz:

Perhaps we misunderstood the bill. Our understanding is 4 days would be added to the end of the policy.

Senator Hutchison:

The plain language of S.B. 88 only indicates insurers must send the notice 14 days prior to cancellation. It does not affect the expiration of the policy. There is a fundamental difference in our understanding of the intent of S.B. 88.

Senator Hardy:

There is some confusion between a policy in default and a default in payment. The notification requirement does not apply to the expiration of policies. Rather, section 1, subsection 2 of S.B. 88 requires an insurer to provide 14 days written notice of its intent to cancel motor vehicle insurance policies due to default in payment. Again, the payment is in default as opposed to the policy going into default.

Senator Denis:

What happens when a premium is due and the premium is not paid?

Ms. Belz:

Under existing law, the coverage would remain in effect for 10 days. Senate Bill 88 would increase that to 14 days.

Mr. Sharp:

After a payment is due, policyholders have up to 10 days to pay the premium before an insurer can cancel the coverage under existing law. If the policyholder pays the premium within the 10-day period, coverage would continue as it normally would. If the premium were not paid, the coverage would not be in effect. Senate Bill 88 only affects the timing of the notice. It will not add any additional days of coverage. Consumers must still pay the bill to receive coverage for those days.

Chair Atkinson:

Is there a way to capture the concerns of both opponents and proponents of S.B. 88?

Mr. Sharp:

The intent of S.B. 88 is to add 4 days of notice. If a policyholder filed a claim within those 10 days, the holder would still have to pay the premium for the coverage to apply. If the holder did not pay the premium, the coverage would not apply. The longer notification period does not create free insurance. It only extends the notification period.

Chair Atkinson:

Would a policyholder still have the option of paying the premium to cover an accident during the 10-day period?

Mr. Sharp:

Yes. That is the purpose of S.B. 88. Even the best of us forget to pay bills. This ensures no one will lose coverage simply because a policyholder forgets to pay a bill. Senate Bill 88 increases the existing notification by 4 days.

Senator Settlemeyer:

I appreciate the clarification, Mr. Sharp. Ms. Belz, does your primary objection concern section 5, where the prohibition on cancellation extends from 10 days to 14 days?

Ms. Belz:

The PCI objects to the additional 4 days policyholders would have to decide if they want to make the payment, which results in increased exposure.

Senator Hutchison:

Under existing law, the consumer can pay the premium up to 10 days after the insurer sends the notice. Insurers are still going to receive payment for coverage, but they will have 4 additional days of risk.

Ms. Belz:

Your statement is correct. Also, the coverage would be priced incorrectly given the 4 extra days.

Senator Hutchison:

If S.B. 88 passes, insurers will know and will adjust their prices accordingly.

Ms. Belz:

The pool of policyholders will bear this cost because insurers will not know who will not pay the premium.

Chair Atkinson:

The Committee has received a letter of opposition from the National Association of Mutual Insurance Companies ([Exhibit G](#)).

Scott Kipper (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):

The Division is neutral on S.B. 88. The Division has proposed to amend S.B. 88, [Exhibit C](#). In sections 1 and 2, we propose replacing the language "motor vehicle insurance policy" with "motor vehicle liability policy" to remain

consistent with *Nevada Revised Statute* (NRS) 485.055. In section 6, we propose to extend the effective date to January 1, 2014. Delaying the effective date will give insurance companies adequate time to adjust their forms and processes. It will also give the Division sufficient time to review and approve those forms.

Chair Atkinson:

I will now close the hearing on S.B. 88 and open the hearing on S.B. 94.

SENATE BILL 94: Revises provisions governing certain loans. (BDR 52-581)

I want to draw the Committee's attention to section 1 of S.B. 94, which authorizes lenders to charge a one-time late fee of \$10. It was my intention to authorize lenders to charge up to \$25. A forthcoming amendment will address this issue and accurately reflect the \$25 fee.

Joseph W. Brown (Fennemore Craig Jones Vargas):

I represent the Security Finance Company (SFC). I am appearing with Phillip Holt, Senior Vice President of Government Affairs, SFC.

Phillip Holt (Senior Vice President for Government and Public Relations, Security Finance Company):

I will read from my written testimony ([Exhibit H](#)).

Senator Hutchison:

Mr. Holt, you testified administrative charges are spread over all borrowers and the \$25 fee will create an incentive for borrowers to repay their loans on time. If the fee reduces delinquency, will there be a corresponding decrease in the cost of loans? Is there a way to quantify the effect of this fee on the overall cost of installment loans?

Mr. Holt:

We have not analyzed whether the late fee would provide an economic benefit to borrowers. We do know if the ability to charge a late fee will help us keep our rates as low as possible since it will help offset the cost of delinquencies.

Senator Hutchison:

You testified that without a reasonable late charge, borrowers have little incentive to repay loans on time. Can you explain to the Committee why you believe a \$25 late fee is reasonable?

Mr. Holt:

Consumers are savvy. They take advantage of the fact late fees are prohibited in Nevada. As a result, Nevada has a higher rate of delinquency than neighboring states. Each late payment affects a borrower's credit score. Unlike other financial products in the market, installment loans give consumers the ability to enhance their credit score. A late fee would be another incentive to help them pay on time and improve their credit score.

Senator Hardy:

Section 1 of S.B. 94 authorizes a one-time \$25 fee. Is this fee truly a one-time fee, regardless of length of the loan? Can lenders charge the fee for each day a licensee fails to make a payment?

Mr. Holt:

A lender could only charge a late fee once during the payment period within a particular month. If the consumer failed to make the payment the next month, the lender would be able to charge the fee again for that month.

Chair Atkinson:

Based on your testimony, the fee can be charged once for each period. Could a \$25 late fee be charged for each week the consumer fails to make the payment if the term of the loan is 1 week?

Mr. Holt:

No. The fee can only be charged for one payment period for each month. For example, a consumer who fails to make a payment for the second month will be charged \$25. If the consumer fails to make the payment the next month, a late fee would be charged for that payment.

Chair Atkinson:

What happens if the borrower fails to make two consecutive payments?

Mr. Holt:

There is a very good chance the loan will go into default. The process changes completely once a loan goes into default. Lenders are prohibited from charging late fees once the loan is in default. Subsequent to default, we begin the collection process.

Senator Denis:

Do you offer loans with terms of less than 1 month?

Mr. Holt:

No. Typically, traditional installment loans are made for 3 to 18 months.

Senator Denis:

Are the payment periods always 1 month?

Mr. Holt:

Yes. We accept bimonthly payments and apply those payments to consumers' monthly payments. There are no prepayment penalties.

Senator Hardy:

Are you speaking for the whole industry or only for the SFC? Do other installment lenders assess prepayment penalties? Do other installment lenders apply biweekly payments towards borrowers' monthly payments?

Mr. Holt:

I speak for those industry members that actively participate in the National Installment Lenders Association and for those companies which adhere to the best practices of the American Financial Services Association. The national chains and most of those with whom I associate adhere to those lending guidelines.

Senator Hardy:

Would your testimony be specific about those members?

Mr. Holt:

My testimony covers the SFC and those affiliate members of the national trade groups I mentioned.

Cheryl Blomstrom (Nevada Consumer Finance Association):

The Nevada Consumer Finance Association supports S.B. 94. Installment loans are fully amortized. There is no balloon payment at the end of the term. Consumers have an opportunity to look at the installment agreement from the first payment to the last payment. After the last payment is made, the borrower's debt is eliminated. Each monthly payment includes both interest charges and principal.

Chair Atkinson:

The consumer knows the terms of the loan before signing. If borrowers do not agree to the terms, they should not sign the agreement.

Ms. Blomstrom:

You are correct. Lenders have a conversation with consumers during this process. Consumers fully understand the terms. There are no surprises at the end of the loan.

Jon Sasser (Legal Aid Center of Southern Nevada):

The Legal Aid Center (Center) is a nonprofit civil law firm in Las Vegas. The Center provides free legal assistance to low-income Nevadans in civil law matters. The Center has worked extensively with high-interest loans. The Legislature passed comprehensive payday loan legislation in 2005 and 2007 after reaching a compromise with consumer groups and the lending industry. The Division added regulations specific to the payday loan industry to NRS 604A. As part of the compromise, no prohibitions on usury were included. There is no limit to the amount of interest lenders may charge. In exchange for giving lenders the ability to charge usurious interest rates, the Legislature prohibited lenders from charging late fees. Prior to the compromise, lenders compounded late fees. The Legislature received testimony from consumers who had borrowed as little as \$100 but ended up paying thousands of dollars in interest.

Senate Bill 94 is the first attempt to abrogate the 2007 compromise by permitting lenders to charge a late fee. The Center has observed annual interest rates for payday loans between 194 percent and 1000 percent. Many of these short-term, high-interest loans are for relatively small amounts. A 2-week loan for \$300 typically carries a weekly interest charge of \$45; the annual percentage rate (APR) is more than 300 percent. A \$25 late fee would raise the

APR by 22 percent, substantially increasing the cost of credit. These terms are unconscionable and expose consumers to the abuses the Legislature sought to prevent with the compromise in 2007. The payday loan industry does not need a late fee to earn a profit. Nevada law allows lenders to charge any amount of interest they want.

Mr. Holt's testimony made a distinction between installment loans and payday loans. Existing law makes no distinction between payday lenders and traditional installment lenders, nor does S.B. 94. The Legislature passed a related bill in 2009. To avoid licensure, many payday lenders adjusted the terms of their loans from 1 year to 1 year and 1 day to be licensed as installment lenders.

Senate Bill 94 is unnecessary. It opens up a "Pandora's Box." Layering more fees onto consumers is the wrong approach.

Senator Hardy:

On page 4 of [Exhibit H](#), Mr. Holt provided a list of entities which have the ability to charge late fees. The list includes Clark County Public Library and NV Energy. Do you know what interest rate the Library charges? How does it compare to the rates payday lenders and installment lenders charge? I am under the impression the installment loans are not high-interest loans.

Chair Atkinson:

Senator Hardy, the lenders are not asking for an interest rate increase on the repayment on loans. They are requesting the ability to charge a flat \$25 late fee.

Mr. Sasser:

The lenders are not seeking an increase because there is no limit to what they can charge. Lenders could charge a thousand percent interest if the market would bear it. This is one reason there is no late fee.

As to Senator Hardy's question, institutions such as libraries charge late fees, but they do not provide loans. Libraries do not charge hundreds of percent of interest on fines for overdue books.

Senate Bill 94 would amend NRS 604A.485 to allow high-interest loan services to charge a \$10 late fee. It is not limited to installment lenders. High-interest loans and high-interest loan services are defined in

NRS 604A.0703 and 604A.0705, respectively. As Mr. Holt noted, existing law prohibits lenders from charging late fees.

Senator Hutchison:

I understand you do not want to revisit the discussions from previous sessions. Suppose the vast majority of installment loans are made on a monthly basis, and annual late charges are \$300. In your view, is the \$25 late charge reasonable?

Mr. Sasser:

I have seen much higher late fees. Keep in mind that not all of the institutions affected by S.B. 94 require monthly payments. In some situations, the \$25 late fee can be charged on top of a weekly payment of \$45. Generally, the high-interest loans covered by S.B. 94 are for very small amounts. For a \$300 loan, a \$25 late fee represents 8.33 percent of the total amount borrowed. Certainly, some of the loans are larger. As the size of the loans increase, the percentage the late fee represents decreases.

Senator Hutchison:

How often are loan payments due? Is it monthly or weekly? I do not want to lump installment loans in with payday loans. Are you familiar with how often payments for installment loans are due?

Mr. Sasser:

Installment loans often require monthly payments, but S.B. 94 is not limited to installment loans exclusively. As I mentioned, high-interest loan services are defined in NRS 604A.0705.

Chair Atkinson:

You testified there is no limit to how much interest high-interest loan services can charge. I recall the Legislature addressing interest rates for high-interest loans in a previous session.

Mr. Sasser:

Assembly Bill No. 478 of the 74th Session limited the amount of interest lenders could charge once a loan goes into default. This limit only applies after default. Until the moment of default, there is no limit to the interest lenders can charge.

Senator Hutchison:

Mr. Holt, how often are payments for installment loans made?

Mr. Holt:

Typically, payments are made on a monthly basis. Payment schedules are outlined in the contract. Each payment is due monthly, based on the contract date.

Senator Hutchison:

Why does section 1 of S.B. 94 apply to high-interest loans, as opposed to installment loans? Why is it not specific to installment loan services?

Mr. Holt:

We asked to be carved out with language specific to the installment loan industry. The term "high-interest" is defamatory. We do not view installment loan services as high-interest. Page 6 of [Exhibit H](#) shows that installment loan services may possibly be deemed as preferred lenders for the National Black Caucus of State Legislators and we are also working with the National Hispanic Caucus of State Legislators to that end. Traditional installment loan services are the preferred lender in minority communities because of the safety and affordability of installment loans. Our loans are reported to credit reporting agencies. Payday lenders and post-dated check lenders access the consumers' credit reports. Installment loan services do not access consumers' credit reports. The Security Finance Company is a signature loan company. Therefore, the amount of underwriting for each consumer is exhaustive. The SFC also provides financial literacy. Not only does the SFC give customers a road map to get to a better place in life, but we also help them develop a budget. We have little recourse when we make a loan. Since we make signature loans, we do not have access to a car title or other assets.

Senator Hutchison:

Why does the bill apply to high-interest loan services and not be limited to installment loans, particularly since you consider it defamatory? Did the Legislative Counsel Bureau require this language?

Mr. Holt:

The language resulted from negotiations with the sponsor. We asked to be labeled differently. Ultimately, this language was used because our interest rates exceed those of typical prime loans. In Nevada, the APR for a \$1,000 loan is

generally 58 percent. The APR is relative. It is hard to apply an APR to products like installment loans, which generally have terms between 12 and 18 months. An APR is more applicable to a loan secured by an asset, such as a car loan or a home loan.

Senator Hutchison:

Are you are opposed to using the term "high-interest loan?"

Mr. Holt:

Yes. We did not want to be classified as a high-interest lender. We are not categorized as such by any other state regulatory body. The Consumer Financial Protection Bureau does not categorize us as a high-interest loan service. There is a clear distinction between traditional installment loans, payday loans, title loans and pawnshop loans. We serve many of the same consumers, but our loans do not require a consumer to have a checking account or a car title. We only make signature loans.

Senator Settlemeyer:

Can you comment on the concept of a \$25 late fee for a \$100 loan? What is the average size and the range of signature loans?

Mr. Holt:

The average loan size in Nevada is \$800. The range is \$400 to \$1,800, depending on the consumer's ability to pay. The lending industry is completely deregulated in Nevada with regard to interest charges. Our contracted rates in Nevada mirror regulations in states with the greatest regulation of our industry, such as Tennessee, Oklahoma and Texas. Those rates are highly competitive in this market. We cannot charge excessively high rates.

Senator Hardy:

How does the interest rate for installment loans compare to payday loans?

Mr. Holt:

Payday loan services generally charge \$15 per \$100 borrowed for a 2-week loan. Installment loan services typically charge \$4 or \$5 per \$100 for a 30-day loan. On a monthly basis, we collect \$5, while payday loan services typically collect \$45. Consumers pay for the convenience and speed of payday loans. The process for traditional installment loans lasts an hour. We need enough time to ensure the consumer has the ability to pay. We have little recourse to

recapture the money once we make a loan. It is to our benefit consumers have the ability to repay the loan, and we coach them how to succeed by providing them with financial literacy materials.

Chair Atkinson:

We will close the hearing on S.B. 94.

The Committee will now consider a bill draft request for introduction.

BILL DRAFT REQUEST 43-582: Revises provisions governing body shops. (Later introduced as [Senate Bill 170](#).)

SENATOR DENIS MOVED TO INTRODUCE BDR 43-582.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Atkinson:

We will adjourn at 2:53 p.m.

RESPECTFULLY SUBMITTED:

Wayne Archer,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 88	C	2	Scott Kipper	Proposed Amendment, Division of Insurance
S.B. 88	D	1	Scott Kipper	Testimony
S.B. 88	E	1	Jeanette Belz	Oppose Property Casualty Insurance
S.B. 88	F	2	Jeanette Belz	PCI Property Casualty Insurers Notice Period of Cancellation
S.B. 88	G	3	Christian Rataj	NAMIC Testimony
S.B. 94	H	7	Phillip Holt	Security Finance Testimony