

ASSEMBLY BILL NO. 360—ASSEMBLYWOMAN NEAL

MARCH 20, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing loan practices.
(BDR 52-543)

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 loans; revising provisions governing the making of certain long-term, high-interest loans; revising provisions for the licensing of persons who make such loans; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes standards and procedures governing the making of certain short-term loans commonly known as "high-interest loans," which, under their original terms, charge an annual percentage rate of more than 40 percent. (Chapter 604A of NRS) Existing law prohibits the original term of a high interest loan from exceeding 35 or, alternatively, 90 days, depending on the terms of the loan. (NRS 604A.5037) This bill authorizes and establishes standards and procedures which are substantially similar to the provisions of existing law governing high-interest loans and which govern the making of traditional installment loans, which are loans that: (1) charge an annual percentage rate of more than 40 percent; (2) are for more than \$300 and less than \$2,000; (3) are fully amortized; (4) require a payment from the customer at least once every 30 days; (5) are not a deferred deposit loan; (6) do not require a balloon payment; and (7) have an original term of not less than 6 months and not more than 37 months. This bill also establishes standards and procedures for the issuance of a license governing persons who provide traditional installment loan services which are substantially similar to the provisions of existing law governing high-interest loans. **Section 105** of this bill provides that a person who, on July 1, 2019, holds a valid license issued pursuant to existing law governing high-interest loans is deemed to hold a license to issue traditional installment loans.



* A B 3 6 0 *

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

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 93, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 14, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. 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 traditional installment loan through the machine or other device; and

(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.

Sec. 4. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 5. *“Customer” means any person who receives or attempts to receive traditional installment loan services from another person.*

Sec. 6. 1. *“Default” means the failure of a customer to:*

(a) Make a scheduled payment on a loan on or before the due date for the payment under the terms of a lawful loan agreement that complies with the provisions of section 31 and subsection 2 of section 44 of this act, as applicable, and any grace period that complies with the provisions of section 17 of this act; or

(b) Pay a loan in full on or before the expiration of the loan period as set forth in a lawful loan agreement that complies with the provisions of section 31 and subsection 2 of section 44 of this act, as applicable, and any grace period that complies with the provisions of section 17 of this act.

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



1 **Sec. 7. 1. “Extension” means any extension or rollover of a**
2 **loan beyond the date on which the loan is required to be paid in**
3 **full under the original terms of the loan agreement, regardless of**
4 **the name given to the extension or rollover.**

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

6 **Sec. 8. 1. “Grace period” means any period of deferment**
7 **offered gratuitously by a licensee to a customer if the licensee**
8 **complies with the provisions of section 17 of this act.**

9 2. The term does not include an extension of a loan that
10 **complies with the provisions of section 31 and subsection 2 of**
11 **section 44 of this act, as applicable.**

12 **Sec. 9. “Licensee” means any person who has been issued**
13 **one or more licenses to operate a traditional installment loan**
14 **service pursuant to the provisions of this chapter.**

15 **Sec. 10. “Loan” means any traditional installment loan, or**
16 **any extension or repayment plan relating to such a loan, made at**
17 **any location or through any method, including, without limitation,**
18 **at a kiosk, through the Internet, through any telephone, facsimile**
19 **machine or other telecommunication device or through any other**
20 **machine, network, system, device or means.**

21 **Sec. 11. “Regulation Z” means the federal regulations, as**
22 **amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in**
23 **Lending Act and commonly known as Regulation Z.**

24 **Sec. 12. “Traditional installment loan” means a loan:**

25 1. Made to a customer pursuant to a loan agreement which,
26 under its original terms:

27 (a) Charges an annual percentage rate of more than 40
28 percent; and

29 (b) Is for an amount not less than \$300 and not more than
30 \$2,000.

31 2. That requires the customer to make a payment at least
32 once every 30 days, except that the first monthly installment may
33 be due not later than 90 days after the date of the loan.

34 3. For which the payments are calculated to ratably and fully
35 amortize the entire amount of principal and interest payable on
36 the loan.

37 4. That does not require a balloon payment of any kind.

38 5. That is not a deferred deposit loan.

39 **Sec. 13. “Traditional installment loan service” means any**
40 **person engaged in the business of providing traditional**
41 **installment loans for a fee, service charge or other consideration.**

42 **Sec. 14. “Truth in Lending Act” means the federal Truth in**
43 **Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.**



1 **Sec. 15. 1.** *As used in this chapter, unless the context*
2 *otherwise requires, the following terms have the meanings*
3 *ascribed to them in the Truth in Lending Act and Regulation Z:*

- 4 (a) *"Amount financed."*
5 (b) *"Annual percentage rate."*
6 (c) *"Finance charge."*
7 (d) *"Payment schedule."*
8 (e) *"Total of payments."*

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

13 **Sec. 16.** *The provisions of this chapter apply to any person*
14 *who seeks to evade its application by any device, subterfuge or*
15 *pretense, including, without limitation:*

- 16 1. *Calling a loan by any other name;*
17 2. *Using any agents, affiliates or subsidiaries in an attempt to*
18 *avoid the application of the provisions of this chapter; or*
19 3. *Having any affiliation or other business arrangement with*
20 *an entity that is exempt from the provisions of this chapter*
21 *pursuant to subsection 1 of section 21 of this act, the effect of*
22 *which is to evade the provisions of this chapter, including, without*
23 *limitation, making a loan while purporting to be the agent of such*
24 *an exempt entity where the purported agent holds, acquires or*
25 *maintains a preponderant economic interest in the revenues*
26 *generated by the loan.*

27 **Sec. 17. 1.** *The provisions of this chapter do not prohibit a*
28 *licensee from offering a customer a grace period on the repayment*
29 *of a loan or an extension of a loan, except that the licensee shall*
30 *not grant a grace period for the purpose of artificially increasing*
31 *the amount which a customer would otherwise qualify to borrow.*

32 2. *Except in compliance with the provisions of section 31 and*
33 *subsection 2 of section 44 of this act, where they apply, a licensee*
34 *shall not:*

35 (a) *Condition the granting of the grace period on the customer*
36 *making any new loan agreement or adding any addendum or term*
37 *to an existing loan agreement; or*

38 (b) *Charge the customer interest at a rate in excess of that*
39 *described in the existing loan agreement.*

40 **Sec. 18. 1.** *The provisions of this chapter must be*
41 *interpreted so as to effectuate their general purpose to provide for,*
42 *to the extent practicable, uniform regulation of the loans and*
43 *transactions that are subject to the provisions of this chapter.*



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

Sec. 19. This chapter or any part thereof may be modified, amended or repealed by the Legislature so as to effect a cancellation or alteration of any license or right of a licensee under this chapter, provided that such cancellation or alteration shall not impair or affect the obligation of any preexisting lawful loan agreement between any licensee and any customer.

Sec. 20. Any loan lawfully made outside this State as permitted by the laws of the state in which the loan was made may be collected or otherwise enforced in this State in accordance with its terms.

Sec. 21. The provisions of this chapter do not apply to:

1. Except as otherwise provided in section 16 of this act, 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, 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 while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

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

4. A pawnbroker, unless the pawnbroker operates a traditional installment loan service.

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

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

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

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

9. Any firm or corporation:

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

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



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

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

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

12. A person who makes a refund anticipation loan, unless the person operates a traditional installment loan service.

13. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

Sec. 22. The provisions of this chapter do not apply to:

1. Except as otherwise provided in section 16 of this act, 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, mortgage companies, 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 while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

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

4. A pawnbroker, unless the pawnbroker operates a traditional installment loan service.

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

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

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

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

9. Any firm or corporation:

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

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

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



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

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

12. A person who makes a refund anticipation loan, unless the person operates a traditional installment loan service.

13. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

Sec. 23. All provisions of this chapter governing enforcement or collection of an obligation originated under this chapter apply to:

1. Any purchaser or assignee of the obligation; and

2. Any person seeking to enforce or collect the obligation on behalf of a licensee.

Sec. 24. The Commissioner shall adopt any other regulations as are necessary to carry out the provisions of this chapter.

Sec. 25. 1. Except as otherwise provided in subsection 3, an officer or employee of the Division of Financial Institutions of the Department of Business and Industry shall not:

(a) Be directly or indirectly interested in or act on behalf of any licensee;

(b) Receive, directly or indirectly, any payment from any licensee;

(c) Be indebted to any licensee;

(d) Engage in the negotiation of loans for others with any licensee; or

(e) Obtain credit or services from a licensee conditioned upon a fraudulent practice or undue or unfair preference over other customers.

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

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

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

Sec. 26. If the Commissioner receives information from a registered agent pursuant to NRS 77.410 which indicates that a



1 person may be violating the provisions of this chapter, the
2 Commissioner shall investigate the person and take any
3 appropriate action pursuant thereto.

4 **Sec. 27. 1.** A person, including, without limitation, a
5 person licensed pursuant to chapter 675 of NRS, shall not operate
6 a traditional installment loan service unless the person is licensed
7 with the Commissioner pursuant to the provisions of this chapter.

8 2. A person must have a license regardless of the location or
9 method that the person uses to operate such a service, including,
10 without limitation, at a kiosk, through the Internet, through any
11 telephone, facsimile machine or other telecommunication device
12 or through any other machine, network, system, device or means,
13 except that the person shall not operate such a service through
14 any automated loan machine in violation of the provisions of
15 subsection 3.

16 3. A person shall not operate a traditional installment loan
17 service through any automated loan machine, and the
18 Commissioner shall not issue a license that authorizes the licensee
19 to conduct business through any automated loan machine.

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

23 **Sec. 28. 1.** A licensee shall post in a conspicuous place in
24 every location at which the licensee conducts business under his
25 or her license:

26 (a) A notice that states the fees the licensee charges for
27 providing traditional installment loan services.

28 (b) A notice that states that if the customer defaults on a loan,
29 the licensee must offer a repayment plan to the customer before
30 the licensee commences any civil action or process of alternative
31 dispute resolution or repossesses a vehicle.

32 (c) A notice that states a toll-free telephone number to the
33 Office of the Commissioner to handle concerns or complaints of
34 customers.

35 (d) A notice that states the process for filing a complaint with
36 the Commissioner.

37 ➤ The Commissioner shall adopt regulations prescribing the form
38 and size of the notices required by this subsection.

39 2. If a licensee offers loans to customers at a kiosk, through
40 the Internet, through any telephone, facsimile machine or other
41 telecommunication device or through any other machine, network,
42 system, device or means, except for an automated loan machine
43 prohibited by section 27 of this act, the licensee shall, as
44 appropriate to the location or method for making the loan, post in
45 a conspicuous place where customers will see it before they enter



1 into a loan, or disclose in an open and obvious manner to
2 customers before they enter into a loan, a notice that states:

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

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

8 **Sec. 29.** Notwithstanding any other provision of law, a
9 violation of any provision of section 670 of the John Warner
10 National Defense Authorization Act for Fiscal Year 2007, Public
11 Law 109-364, or any regulation adopted pursuant thereto shall be
12 deemed to be a violation of this chapter.

13 **Sec. 30.** 1. Except as otherwise provided in this section, for
14 the purposes of determining whether a loan is a high-interest loan,
15 when determining whether a lender is charging an annual
16 percentage rate of more than 40 percent, calculations must be
17 made in accordance with the Truth in Lending Act and Regulation
18 Z, except that every charge or fee, regardless of the name given to
19 the charge or fee, payable directly or indirectly by the customer
20 and imposed directly or indirectly by the lender must be included
21 in calculating the annual percentage rate, including, without
22 limitation:

23 (a) Interest;

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

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

28 (d) Prepaid finance charges.

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

32 (a) Any fees allowed pursuant to NRS 675.365 or section 47 of
33 this act for a check not paid upon presentment or an electronic
34 transfer of money that fails;

35 (b) Interest accrued after default pursuant to paragraph (c) of
36 subsection 1 of section 45 of this act;

37 (c) Charges for an unanticipated late payment, exceeding a
38 credit limit, or a delinquency, default or similar occurrence;

39 (d) Any premiums or identifiable charges for insurance
40 permitted pursuant to NRS 675.300; and

41 (e) The fee allowed pursuant to section 46 of this act.

42 3. Calculation of the annual percentage rate in the manner
43 specified in this section is limited only to the determination of
44 whether a loan is a high-interest loan and must not be used in
45 compliance with the disclosure requirements of paragraph (g) of



1 subsection 2 of section 33 of this act or any other provisions of this
2 chapter requiring disclosure of an annual percentage rate in the
3 making of a loan.

4 **Sec. 31. 1.** Except as otherwise provided in this chapter, the
5 original term of a traditional installment loan must not be less
6 than 6 months or greater than 37 months.

7 2. Notwithstanding the provisions of section 44 of this act, a
8 licensee who operates a traditional installment loan service shall
9 not agree to establish or extend the period for the repayment,
10 renewal, refinancing or consolidation of an outstanding
11 traditional installment loan for a period that exceeds 37 months
12 after the date of origination of the loan.

13 **Sec. 32. 1.** A licensee who operates a traditional
14 installment loan service shall not make a traditional installment
15 loan pursuant to this chapter unless the licensee determines
16 pursuant to subsection 2 that the customer has the ability to repay
17 the traditional installment loan and that the traditional installment
18 loan complies with the provisions of section 36 and subsection 2 of
19 section 44 of this act, as applicable.

20 2. For the purposes of subsection 1, a customer has the
21 ability to repay a traditional installment loan if the customer has a
22 reasonable ability to repay the traditional installment loan, as
23 determined by the licensee after considering, to the extent
24 available, the following underwriting factors:

25 (a) The current or reasonably expected income of the
26 customer;

27 (b) The current employment status of the customer based on
28 evidence including, without limitation, a pay stub or bank deposit;

29 (c) The credit history of the customer;

30 (d) The amount due under the original term of the traditional
31 installment loan, the monthly payment on the traditional
32 installment loan or the potential repayment plan if the customer
33 defaults on the traditional installment loan; and

34 (e) Other evidence, including, without limitation, bank
35 statements, electronic bank statements and written representations
36 to the licensee.

37 3. For the purposes of subsection 1, a licensee who operates a
38 traditional installment loan service shall not consider the ability of
39 any person other than the customer to repay the traditional
40 installment loan.

41 **Sec. 33. 1.** Before making a traditional installment loan to
42 a customer, a licensee who operates a traditional installment loan
43 service shall provide to the customer a written loan agreement
44 which may be kept by the customer and which must be written in:



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

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

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

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

(b) The nature of the security for the traditional installment loan, if any;

(c) The date and amount of the traditional installment 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 traditional installment loan pursuant to the provisions of this chapter;

(e) A disclosure of the right of the customer to pay his or her traditional installment 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 traditional installment loan, the licensee must offer a repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution; 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.

Sec. 34. 1. If a customer defaults on a traditional installment loan, the licensee who operates a traditional installment loan service may collect the debt owed to the licensee only in a professional, fair and lawful manner. When collecting such a debt, the licensee must act in accordance with and must not violate sections 803 to 812, inclusive, of the federal Fair Debt Collection Practices Act, as amended, 15 U.S.C. §§ 1692a to 1692j, inclusive, even if the licensee is not otherwise subject to the provisions of that Act.

2. If a licensee who operates a traditional installment loan service commences a civil action against a customer to collect a debt, the court may award:

(a) Court costs;

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



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

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

(a) A licensee who operates a traditional installment loan service intends to commence a civil action in a justice court against a customer to collect a debt; and

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

↳ the licensee is required to commence the civil action in the justice court for the township where the traditional installment 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 court having jurisdiction over the subject matter and the parties. A licensee who operates a traditional installment loan service shall not, directly or indirectly, require, intimidate, threaten or coerce a customer to sign such an affidavit.

Sec. 35. Notwithstanding any other provision of law:

1. If a customer who receives or attempts to receive traditional installment loan services is a member of the military, a licensee who operates a traditional installment loan service shall:

(a) 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. If a customer who receives or attempts to receive traditional installment loan services is a member of the military, a licensee who operates a traditional installment loan service shall not:

(a) Garnish or threaten to garnish any wages or salary of the customer or the customer's spouse; or

(b) Contact or threaten to contact the military chain of command of a customer in an effort to collect the traditional installment loan.

3. If a customer who receives or attempts to receive traditional installment loan services is a member of the military and is deployed to a combat or combat supporting position, a licensee who operates a traditional installment loan service shall



1 not engage in any collection activity against the customer or the
2 customer's spouse.

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

6 **Sec. 36.** 1. A licensee who operates a traditional
7 installment loan service shall not make a traditional installment
8 loan which, under the terms of the loan agreement, requires any
9 monthly payment that exceeds 25 percent of the expected gross
10 monthly income of the customer.

11 2. A licensee who operates a traditional installment loan
12 service is not in violation of the provisions of this section if the
13 customer presents evidence of his or her gross monthly income to
14 the licensee and represents to the licensee in writing that the
15 monthly payment required under the terms of the loan agreement
16 for the traditional installment loan does not exceed 25 percent of
17 the customer's expected gross monthly income.

18 **Sec. 37.** A licensee who operates a traditional installment
19 loan service shall not make more than one traditional installment
20 loan to the same customer at one time or before any outstanding
21 balance is paid in full on an existing loan made by that licensee to
22 the customer unless:

23 1. The customer is seeking multiple loans that do not exceed
24 the limits set forth in section 36 of this act;

25 2. The licensee charges the same or a lower annual
26 percentage rate of interest for any additional traditional
27 installment loans as the licensee charged for the initial loan; and

28 3. Except for that part of the finance charge which consists of
29 interest only, the licensee does not impose any other charge or fee
30 to initiate any additional loans, except that a licensee who makes
31 traditional installment loans in accordance with the provisions of
32 subsection 2 of section 44 of this act may charge a reasonable fee
33 for preparing documents in an amount that does not exceed \$50.

34 **Sec. 38.** A licensee who operates a traditional installment
35 loan service shall not:

36 1. Accept:

37 (a) Collateral as security for a traditional installment loan.

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

41 (c) A check as security for a traditional installment loan.

42 2. Take any note or promise to pay which does not disclose
43 the date and amount of the traditional installment loan, amount
44 financed, annual percentage rate, finance charge, total of
45 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 are left to be filled in after the traditional installment loan is made.

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

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

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

Sec. 39. A licensee who operates a traditional installment loan service shall not:

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

2. Commence a civil action or any process of alternative dispute resolution before the customer defaults under the original term of a loan agreement or before the customer defaults under any repayment plan or extension negotiated and agreed to by the licensee and customer, unless otherwise authorized pursuant to this chapter.

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

4. Include in any written agreement:

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

(b) A confession of judgment by the customer;

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

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

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

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



7. Reinitiate an electronic debit transaction that has been returned by a customer's bank except in accordance with the rules prescribed by the National Automated Clearing House Association or its successor organization.

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

Sec. 40. 1. A customer may rescind a traditional installment loan on or before the close of business on the next day of business at the location where the traditional installment loan was initiated. To rescind the traditional installment loan, the customer must deliver to the licensee:

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

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

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

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

(b) Upon receipt of the sum of money or check pursuant to subsection 1, shall give to the customer a receipt showing the account paid in full and a copy of the promissory note given to initiate the traditional installment loan which must be stamped "void" or the receipt stamped "paid in full."

Sec. 41. 1. A customer may pay a traditional installment loan, or any extension thereof, in full at any time, without an additional charge or fee, before the date the customer's final payment on the traditional installment loan, or any extension thereof, is due.

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

(a) Give to the customer the promissory note used to initiate the traditional installment loan which must be stamped "void" or a receipt stamped "paid in full"; and

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

(1) The name and address of the licensee;

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



- (3) The date of the payment;
(4) The amount paid;
(5) An itemization of interest, charges and fees;
(6) A statement that the traditional installment loan is paid in full; and
(7) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 42. 1. A customer may make a partial payment on a traditional installment loan, or any extension thereof, at any time without an additional charge or fee.

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

- (a) The name and address of the licensee;
(b) The identification number assigned to the loan agreement or other information that identifies the traditional installment loan;
(c) The date of the payment;
(d) The amount paid;
(e) An itemization of interest, charges and fees;
(f) The balance due on the traditional installment loan; and
(g) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 43. 1. Before a licensee who operates a traditional installment loan service attempts to collect the outstanding balance on a traditional installment loan in default by commencing any civil action or process of alternative dispute resolution, 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 traditional installment loan.

2. If a licensee who operates a traditional installment loan service intends to commence any civil action or process of alternative dispute resolution in an effort to collect a defaulted traditional installment loan, the licensee shall deliver to the customer, not later than 15 days after the date of default, or not later than 5 days after a check is not paid upon presentment or an electronic transfer of money fails, whichever is later, 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 traditional installment loan;

(2) Any payments made on the traditional installment loan;

(3) Any charges added to the traditional installment 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; and

(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.

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 limits set forth in section 36 of this act, as applicable;

(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, 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.

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

(a) The name and address of the licensee;

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

(c) The date of the payment;

(d) The amount paid;

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

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



7. If a customer who enters into a repayment plan pursuant to this section defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence any civil action or process of alternative dispute resolution as otherwise authorized pursuant to this chapter.

Sec. 44. 1. Except as otherwise provided in subsection 2, if a customer agrees in writing to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding traditional installment loan by using the proceeds of a new traditional installment loan to pay the balance of the outstanding traditional installment loan, the licensee shall not establish or extend the period beyond 60 days after the expiration of the initial loan period. The licensee shall not add any unpaid interest or other charges accrued during the original term of the outstanding traditional installment loan or any extension of the outstanding traditional installment loan to the principal amount of the new traditional installment loan.

2. This section does not apply to a new traditional installment loan if the licensee:

(a) Makes the new traditional installment 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; and

(3) 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 traditional installment 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 of 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. 45. 1. If a customer defaults on a traditional installment loan or on any extension or repayment plan relating to



1 the traditional installment loan, whichever is later, the licensee
2 may collect only the following amounts from the customer, less all
3 payments made before and after default:

4 (a) The unpaid principal amount of the traditional installment
5 loan.

6 (b) The unpaid interest, if any, accrued before the default at
7 the annual percentage rate set forth in the disclosure statement
8 required by the Truth in Lending Act and Regulation Z that is
9 provided to the customer. If there is an extension, in writing and
10 signed by the customer, relating to the traditional installment loan,
11 the licensee may charge and collect interest pursuant to this
12 paragraph for a period not to exceed 60 days after the expiration
13 of the initial loan period, unless otherwise allowed by section 44 of
14 this act.

15 (c) The interest accrued after the expiration of the initial loan
16 period or after any extension or repayment plan that is allowed
17 pursuant to this chapter, whichever is later, at an annual
18 percentage rate not to exceed the prime rate at the largest bank in
19 Nevada, as ascertained by the Commissioner, on January 1 or
20 July 1, as the case may be, immediately preceding the expiration
21 of the initial loan period, plus 10 percent. The licensee may charge
22 and collect interest pursuant to this paragraph for a period not to
23 exceed 90 days. After that period, the licensee shall not charge or
24 collect any interest on the traditional installment loan.

25 (d) Any fees allowed pursuant to section 47 of this act for a
26 check that is not paid upon presentment or an electronic transfer
27 of money that fails because the account of the customer contains
28 insufficient funds or has been closed.

29 ➔ The sum of all amounts collected pursuant to paragraphs (b),
30 (c) and (d) must not exceed the principal amount of the traditional
31 installment loan.

32 2. Except for the interest and fees permitted pursuant to
33 subsection 1 and any other charges expressly permitted pursuant
34 to sections 37, 43 and 46 of this act, the licensee shall not charge
35 any other amount to a customer who receives a traditional
36 installment loan, including, without limitation, any amount or
37 charge payable directly or indirectly by the customer and imposed
38 directly or indirectly by the licensee as an incident to or as a
39 condition of the extension of the period for the payment of the
40 traditional installment loan or the extension of credit. Such
41 prohibited amounts include, without limitation:

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

44 (b) Any origination fees, set-up fees, collection fees,
45 transaction fees, negotiation fees, handling fees, processing fees,



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late fees, default fees or any other fees, regardless of the name given to the fee.

Sec. 46. In addition to the amounts authorized to be collected pursuant to section 45 of this act, a licensee who makes a traditional installment loan in accordance with the provisions of subsection 2 of section 44 of this act may charge a fee of not more than \$15, payable on a one-time basis, for any installment payment that remains unpaid 10 days or more after the date of default.

Sec. 47. 1. A licensee who operates a traditional installment loan service may collect a fee of not more than \$25 if a check is not paid upon presentment or an electronic transfer of money fails because the account of the customer contains insufficient funds or has been closed.

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

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

4. A customer who receives or attempts to receive a traditional installment loan is not liable for damages pursuant to NRS 41.620 or to criminal prosecution for a violation of chapter 205 of NRS unless the customer acted with criminal intent.

Sec. 48. In addition to any other provision in this chapter, each time a customer who receives a traditional installment loan makes a payment to a licensee who operates a traditional installment loan service, the licensee shall give to the customer a receipt with the following information:

1. The name and address of the licensee;

2. The identification number assigned to the loan agreement or other information that identifies the traditional installment loan;

3. The date of the payment;

4. The amount paid;

5. The balance due on the traditional installment loan or, when the customer makes a final payment, a statement that the traditional installment loan is paid in full; and

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

Sec. 49. 1. A person shall not act as an agent for or assist a licensee who operates a traditional installment loan service in the



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1 *making of a traditional installment loan unless the licensee*
2 *complies with all applicable federal and state laws, regulations*
3 *and guidelines.*

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

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

11 (b) *Does not sell, assign or transfer a preponderant economic*
12 *interest in the traditional installment loan to the agent or assistant*
13 *or an affiliate or subsidiary of the state or federally chartered*
14 *bank, thrift company, savings and loan association, savings bank*
15 *or industrial loan company, unless selling, assigning or*
16 *transferring a preponderant economic interest is expressly*
17 *permitted by the primary regulator of the state or federally*
18 *chartered bank, thrift company, savings and loan association,*
19 *savings bank or industrial loan company.*

20 3. *If a licensee who operates a traditional installment loan*
21 *service acts as an agent for or assists a state or federally chartered*
22 *bank, thrift company, savings and loan association, savings bank*
23 *or industrial loan company in the making of a traditional*
24 *installment loan and the licensee can show that the standards set*
25 *forth in subsection 2 are satisfied, the licensee must comply with*
26 *all other provisions in this chapter to the extent they are not*
27 *preempted by other state or federal law.*

28 **Sec. 50.** *The provisions of sections 50 to 61, inclusive, of this*
29 *act may be cited as the Traditional Installment Loan Best*
30 *Practices Act.*

31 **Sec. 51.** *In addition to the requirements of any other*
32 *provision of this chapter, or any applicable law or regulation of*
33 *this State or federal law or regulation, a licensee who has been*
34 *issued a license to operate a traditional installment loan service*
35 *pursuant to this chapter shall comply with the provisions of*
36 *sections 50 to 61, inclusive, of this act.*

37 **Sec. 52.** 1. *A licensee who has been issued a license to*
38 *operate a traditional installment loan service pursuant to this*
39 *chapter shall comply with the disclosure requirements of section*
40 *28 of this act and the Federal Truth in Lending Act. A loan*
41 *agreement between such a licensee and a customer must fully*
42 *disclose the terms of the transaction, including, without limitation,*
43 *the amount of any fees charged for providing traditional*
44 *installment loan services represented in both a dollar amount and*
45 *as an annual percentage rate.*



2. A licensee described in subsection 1 shall prominently disclose in the loan agreement all fees charged for providing traditional installment loan services to a customer before he or she enters into the transaction process.

Sec. 53. A licensee who has been issued a license to operate a traditional installment loan service pursuant to this chapter shall not charge a fee for providing traditional installment loan services that is prohibited by an applicable law or regulation of this State or federal law or regulation.

Sec. 54. A licensee who has been issued a license to operate a traditional installment loan service pursuant to this chapter shall comply with the provisions of subsection 6 of section 39 of this act prohibiting advertisements that are false, misleading or deceptive with regard to the rates, terms or conditions for traditional installment loans.

Sec. 55. A licensee who has been issued a license to operate a traditional installment loan service pursuant to this chapter shall place the following notices on marketing materials and television, print, radio and Internet advertising when space or time reasonably permits:

1. Traditional installment loans should be used for short-term financial needs only and not as a long-term financial solution; and

2. Customers with credit difficulties should seek credit counseling before entering into any traditional installment loan transaction.

Sec. 56. A licensee who has been issued a license to operate a traditional installment loan service pursuant to this chapter shall not allow a customer to extend, rollover, renew, refinance or consolidate any traditional installment loan for a period longer than the period set forth in subsection 2 of section 31 of this act.

Sec. 57. A licensee who has been issued a license to operate a traditional installment loan service pursuant to this chapter shall provide each customer with the ability to rescind any traditional installment loan in accordance with the provisions of section 40 of this act.

Sec. 58. A licensee who has been issued a license to operate a traditional installment loan service pursuant to this chapter must collect past due accounts in a professional, fair and lawful manner in accordance with the provisions of section 39 of this act and applicable provisions of the Federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., as amended. Such a licensee shall not use unlawful threats, intimidation or harassment to collect unpaid accounts.



1 **Sec. 59.** *A licensee who has been issued a license to operate*
2 *a traditional installment loan service pursuant to this chapter shall*
3 *report to the Commissioner any person the licensee knows, or*
4 *reasonably should know, is in violation of the provisions of this*
5 *chapter within 30 days after the date the licensee knows, or*
6 *reasonably should know, of the violation.*

7 **Sec. 60.** *A licensee who has been issued a license to operate*
8 *a traditional installment loan service pursuant to this chapter shall*
9 *provide to any customer who is unable to repay a traditional*
10 *installment loan in accordance with the loan agreement between*
11 *the licensee and the customer the opportunity to enter into a*
12 *repayment plan pursuant to section 43 of this act. Such a licensee*
13 *shall disclose the availability of such a repayment plan to any*
14 *customer who is unable to repay a traditional installment loan.*

15 **Sec. 61.** *A licensee that offers traditional installment loan*
16 *services through an Internet website must be licensed in each*
17 *state, as applicable, where any of its customers reside and shall*
18 *comply with any state or federal law or regulation applicable to*
19 *such jurisdiction.*

20 **Sec. 62.** 1. *An application for a license pursuant to the*
21 *provisions of this chapter must be made in writing, under oath and*
22 *on a form prescribed by the Commissioner. The application must*
23 *include:*

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

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

28 (1) *Partner;*

29 (2) *Officer;*

30 (3) *Director;*

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

32 *and*

33 (5) *Registered agent,*

34 ↳ *of the business entity.*

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

38 (1) *Partners;*

39 (2) *Officers;*

40 (3) *Directors; and*

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

43 (d) *The address of each location at which the applicant*
44 *proposes to do business under the license, including, without*
45 *limitation, each location where the applicant will operate at a*



kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the applicant shall not propose to do business through any automated loan machine prohibited by section 27 of this act.

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

(a) A nonrefundable application fee;

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

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

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

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

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.

Sec. 63. 1. In addition to any other requirements set forth in this chapter, each applicant must submit:

(a) Proof satisfactory to the Commissioner that the applicant:

(1) 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.

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

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

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

(5) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(6) If the applicant is a natural person:



(I) Is at least 21 years of age; and

(II) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(b) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

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.

Sec. 64. 1. Except as otherwise provided in section 65 of this act, each application for a license pursuant to the provisions of this chapter must be accompanied by a surety bond payable to the State of Nevada in the amount of \$50,000 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.

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

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



certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

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

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

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

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

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

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

(b) The termination of the bond,
↳ whichever event occurs first.

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

Sec. 65. 1. In lieu of any surety bond, or any portion of the principal sum thereof as required pursuant to the provisions of this chapter, a licensee may deposit with the State Treasurer or with any bank, credit union or trust company authorized to do business in this State as the licensee may select, with the approval of the Commissioner:

(a) Interest-bearing stocks;

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

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

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

2. The securities must be held to secure the same obligation as would any surety bond, but the depositor may receive any



1 *interest or dividends and, with the approval of the Commissioner,*
2 *substitute other suitable securities for those deposited.*

3 **Sec. 66. 1.** *A person may apply for a license for an office or*
4 *other place of business located outside this State from which the*
5 *applicant will conduct business in this State if the applicant or a*
6 *subsidiary or affiliate of the applicant has a license issued*
7 *pursuant to this chapter for an office or other place of business*
8 *located in this State and if the applicant submits with the*
9 *application for a license a statement signed by the applicant which*
10 *states that the applicant agrees to:*

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

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

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

22 **2.** *This section applies, without limitation, to any office or*
23 *other place of business located outside this State from which the*
24 *applicant will conduct business in this State at a kiosk, through*
25 *the Internet, through any telephone, facsimile machine or other*
26 *telecommunication device or through any other machine, network,*
27 *system, device or means, except that the applicant shall not*
28 *conduct business in this State through any automated loan*
29 *machine prohibited by section 27 of this act.*

30 **Sec. 67. 1.** *Upon the filing of the application and the*
31 *payment of the fees required pursuant to section 62 of this act, the*
32 *Commissioner shall investigate the facts concerning the*
33 *application and the requirements provided for in sections 63 and*
34 *69 of this act.*

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

44 **3.** *The Commissioner shall make his or her order granting or*
45 *denying the application within 10 days after the date of the closing*



1 of the hearing, unless the period is extended by written agreement
2 between the applicant and the Commissioner.

3 **Sec. 68.** If the Commissioner finds that any applicant does
4 not possess the requirements specified in this chapter, he or she
5 shall:

6 1. Enter an order denying the application and notify the
7 applicant of the denial.

8 2. Within 10 days after the entry of such an order, file his or
9 her findings and a summary of the evidence supporting those
10 findings and deliver a copy thereof to the applicant.

11 **Sec. 69.** 1. The Commissioner shall enter an order granting
12 an application if he or she finds that:

13 (a) The financial responsibility, experience, character and
14 general fitness of the applicant are such as to command the
15 confidence of the public and to warrant belief that the business
16 will be operated lawfully, honestly, fairly and efficiently; and

17 (b) The applicant has satisfied the requirements set forth in
18 section 63 of this act.

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

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

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

26 3. Each licensee shall prominently display his or her license
27 at the location where he or she does business. The Commissioner
28 may issue additional licenses to the same licensee for each branch
29 location at which the licensee is authorized to operate under the
30 license, including, without limitation, each branch location where
31 the licensee is authorized to operate at a kiosk, through the
32 Internet, through any telephone, facsimile machine or other
33 telecommunication device or through any other machine, network,
34 system, device or means, except that the Commissioner shall not
35 issue any license that would authorize the licensee to operate
36 through any automated loan machine prohibited by section 27 of
37 this act. Nothing in this subsection requires a license for any place
38 of business devoted to accounting, recordkeeping or administrative
39 purposes only.

40 4. Each license must:

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

43 (b) State fully:



- 1 (1) *The name and address of the licensee;*
- 2 (2) *If the licensee is a copartnership or association, the*
- 3 *names of its members; and*
- 4 (3) *If the licensee is a corporation, the date and place of its*
- 5 *incorporation.*

6 5. *A license is not transferable or assignable.*

7 **Sec. 70.** 1. *A license issued pursuant to the provisions of*

8 *this chapter expires annually on the anniversary of the issuance of*

9 *the license. A licensee must renew the license on or before the date*

10 *on which the license expires by paying:*

11 (a) *A renewal fee of not more than \$500; and*

12 (b) *An additional fee of not more than \$100 for each branch*

13 *location at which the licensee is authorized to operate under the*

14 *license.*

15 2. *A licensee who fails to renew his or her license within the*

16 *time required by this section is not licensed pursuant to the*

17 *provisions of this chapter.*

18 3. *The Commissioner may reinstate an expired license upon*

19 *receipt of the renewal fee and a fee for reinstatement.*

20 4. *The Commissioner shall adopt regulations establishing the*

21 *amount of the fees required pursuant to this section.*

22 **Sec. 71.** 1. *A licensee shall immediately notify the*

23 *Commissioner of any change of control of the licensee.*

24 2. *A person who acquires stock, partnership or member*

25 *interests resulting in a change of control of the licensee shall*

26 *apply to the Commissioner for approval of the transfer. The*

27 *application must contain information which shows that the*

28 *requirements for obtaining a license pursuant to the provisions of*

29 *this chapter will be satisfied after the change of control. If the*

30 *Commissioner determines that those requirements will not be*

31 *satisfied, he or she may deny the application and forbid the*

32 *applicant from participating in the business of the licensee.*

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

34 (a) *A transfer of voting stock, partnership or member interests*

35 *which results in giving a person, directly or indirectly, the power*

36 *to direct the management and policy of a licensee; or*

37 (b) *A transfer of at least 25 percent of the outstanding voting*

38 *stock, partnership or member interests of the licensee.*

39 **Sec. 72.** 1. *A licensee shall not conduct the business of*

40 *making loans under any name, at any place or by any method,*

41 *including, without limitation, at a kiosk, through the Internet,*

42 *through any telephone, facsimile machine or other*

43 *telecommunication device or through any other machine, network,*

44 *system, device or means, except as permitted in the license or*

45 *branch license issued to the licensee.*



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.

Sec. 73. 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, traditional installment loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he or she conducts business as a pawnbroker pursuant to chapter 646 of NRS.

Sec. 74. 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any



* A B 3 6 0 *

1 office, suite, room or place of business in which any other lending
2 business is solicited or engaged in, except an insurance agency or
3 notary public, or in association or conjunction with any other
4 business, unless authority to do so is given by the Commissioner.

5 2. A licensee may conduct the business of making loans in
6 the same office or place of business as a mortgage company if:

7 (a) The licensee and the mortgage company:

8 (1) Maintain separate accounts, books and records;

9 (2) Are subsidiaries of the same parent corporation; and

10 (3) Maintain separate licenses; and

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

15 3. If a pawnbroker is licensed to operate a check-cashing
16 service, deferred deposit loan service, traditional installment loan
17 service or title loan service, the pawnbroker may operate that
18 service at the same office or place of business from which he or
19 she conducts business as a pawnbroker pursuant to chapter 646 of
20 NRS.

21 **Sec. 75.** 1. A licensee who wishes to change the address of
22 an office or other place of business for which he or she has a
23 license pursuant to the provisions of this chapter must, at least 10
24 days before changing the address, give written notice of the
25 proposed change to the Commissioner.

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

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

32 4. This section applies, without limitation, to any office or
33 other place of business at which the licensee intends to operate a
34 kiosk, through the Internet, through any telephone, facsimile
35 machine or other telecommunication device or through any other
36 machine, network, system, device or means, except that the
37 licensee shall not operate any automated loan machine prohibited
38 by section 27 of this act.

39 **Sec. 76.** 1. Each licensee shall keep and use in his or her
40 business such books and accounting records as are in accord with
41 generally accepted accounting practices.

42 2. Each licensee shall maintain a separate written or
43 electronic record or ledger card for the account of each customer
44 and shall set forth separately the amount of cash advance and the
45 total amount of interest and charges, but such a record may set



1 forth precomputed declining balances based on the scheduled
2 payments, without a separation of principal and charges.

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

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

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

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

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

18 5. As used in this section, "amount of cash advance" means
19 the amount of cash or its equivalent actually received by a
20 customer or paid out at the customer's direction or in his or her
21 behalf.

22 **Sec. 77. 1.** For the purpose of discovering violations of this
23 chapter or securing information lawfully required under this
24 chapter, the Commissioner or his or her duly authorized
25 representatives may at any time investigate the business and
26 examine the books, accounts, papers and records used therein of:

27 (a) Any licensee;

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

31 (c) Any registered agent who represents a licensee or any other
32 person engaged in the business of making loans; and

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

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

41 3. The investigation of a registered agent pursuant to
42 subsection 1, including, without limitation, any books, accounts,
43 papers and records used therein, must be kept confidential except
44 to the extent necessary to enforce any provision of this chapter.



4. For the purposes of this section, any person who advertises for, solicits or holds himself or herself out as willing to make any traditional installment loan is presumed to be engaged in the business of making loans.

5. This section does not entitle the Commissioner or his or her authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his or her capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 78. 1. The Commissioner may require the attendance of any person and examine him or her under oath regarding:

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

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

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

Sec. 79. 1. At least once each year, the Commissioner or his or her authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, accounts, papers and records of the licensee so far as they pertain to the business for which he or she is licensed pursuant to the provisions of this chapter.

2. If, after auditing one or more branch locations of the licensee, the Commissioner or his or her 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 or she deems necessary.

Sec. 80. 1. The Commissioner shall charge and collect from each licensee a fee at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.

2. The Commissioner shall bill each licensee upon the completion of the activity for the fee required pursuant to subsection 1. The licensee shall pay the fee within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after the date due must include a



1 penalty of 10 percent of the fee plus an additional 1 percent of the
2 fee for each month, or portion of a month, that the fee is not paid.
3 The Commissioner may waive the penalty for good cause.

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

7 Sec. 81. 1. Annually, on or before April 15, each licensee
8 shall file with the Commissioner a report of operations of the
9 licensed business for the preceding calendar year.

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

12 Sec. 82. 1. If a licensee fails to submit any report required
13 pursuant to this chapter or any regulation adopted pursuant
14 thereto within the prescribed period, the Commissioner may
15 impose and collect a fee of not more than \$10 for each day the
16 report is overdue.

17 2. The Commissioner shall adopt regulations establishing the
18 amount of the fee that may be imposed pursuant to this section.

19 Sec. 83. If the Commissioner finds that probable cause for
20 revocation of any license exists and that enforcement of the
21 provisions of this chapter requires immediate suspension of a
22 license pending investigation, the Commissioner may, upon 5
23 days' written notice and a hearing, enter an order suspending a
24 license for a period not exceeding 20 days, pending a hearing
25 upon the revocation.

26 Sec. 84. 1. Whenever the Commissioner has reasonable
27 cause to believe that any person is violating or is threatening to or
28 intends to violate any provision of this chapter, the Commissioner
29 may, in addition to all actions provided for in this chapter and
30 without prejudice thereto, enter an order requiring the person to
31 desist or to refrain from such violation.

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

37 3. In addition to all other means provided by law for the
38 enforcement of a restraining order or injunction, the court in
39 which an action is brought may impound, and appoint a receiver
40 for, the property and business of the defendant, including books,
41 papers, documents and records pertaining thereto, or so much
42 thereof as the court may deem reasonably necessary to prevent
43 violations of this chapter through or by means of the use of
44 property and business, whether such books, papers, documents
45 and records are in the possession of the defendant, a registered



1 *agent acting on behalf of the defendant or any other person. A*
2 *receiver, when appointed and qualified, has such powers and*
3 *duties as to custody, collection, administration, winding up and*
4 *liquidation of such property and business as may from time to time*
5 *be conferred upon the receiver by the court.*

6 **Sec. 85. 1.** *If the Commissioner has reason to believe that*
7 *grounds for revocation or suspension of a license exist, the*
8 *Commissioner shall give 20 days' written notice to the licensee*
9 *stating the contemplated action and, in general, the grounds*
10 *therefor and set a date for a hearing.*

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

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

17 *(b) Impose upon the licensee an administrative fine of not*
18 *more than \$10,000 for each violation by the licensee of any*
19 *provision of this chapter or any regulation adopted pursuant*
20 *thereto.*

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

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

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

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

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

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

36 *(e) The licensee:*

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

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

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



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

Sec. 86. 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 to this chapter.

Sec. 87. A licensee may surrender any license issued pursuant to the provisions of this chapter by delivering it to the Commissioner with written notice of its surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed prior thereto.

Sec. 88. A revocation, suspension, expiration or surrender of any license does not impair or affect the obligation of any preexisting lawful loan agreement between the licensee and any customer. Such a loan agreement and all lawful charges thereon may be collected by the licensee, its successors or assigns.

Sec. 89. 1. Except as otherwise provided in this section, if a licensee willfully:

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

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

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

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

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

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

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

Sec. 90. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$50,000 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.



1 **Sec. 91.** *If a person operates a traditional installment loan*
2 *service without obtaining a license pursuant to this chapter:*

3 1. *Any contracts entered into by that person for a traditional*
4 *installment loan are voidable by the other party to the contract;*
5 *and*

6 2. *In addition to any other remedy or penalty, the other party*
7 *to the contract may bring a civil action against the person*
8 *pursuant to section 92 of this act.*

9 **Sec. 92.** 1. *Subject to the affirmative defense set forth in*
10 *subsection 3, in addition to any other remedy or penalty, if a*
11 *person violates any provision of sections 27, 29, 32 to 49,*
12 *inclusive, 64, 65, 72 or 73 of this act, or any regulation adopted*
13 *pursuant thereto, the customer may bring a civil action against the*
14 *person for:*

15 (a) *Actual and consequential damages;*

16 (b) *Punitive damages, which are subject to the provisions of*
17 *NRS 42.005;*

18 (c) *Reasonable attorney's fees and costs; and*

19 (d) *Any other legal or equitable relief that the court deems*
20 *appropriate.*

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

26 (a) *Operates a traditional installment loan service without a*
27 *license, in violation of section 27 of this act;*

28 (b) *Fails to include in a loan agreement a disclosure of the*
29 *right of the customer to rescind the loan, in violation of section 33*
30 *of this act;*

31 (c) *Violates any provision of section 35 of this act;*

32 (d) *Uses or threatens to use the criminal process in this State*
33 *or any other state to collect on a loan made to the customer, in*
34 *violation of section 39 of this act;*

35 (e) *Includes in any written agreement a promise by the*
36 *customer to hold the person harmless, a confession of judgment by*
37 *the customer or an assignment or order for the payment of wages*
38 *or other compensation due the customer, in violation of section 39*
39 *of this act;*

40 (f) *Violates any provision of section 45 of this act;*

41 (g) *Violates any provision of section 47 of this act; or*

42 (h) *Violates any provision of section 29 of this act.*

43 3. *A person may not be held liable in any civil action brought*
44 *pursuant to this section if the person proves, by a preponderance*
45 *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. 93. 1. A court of this State may exercise jurisdiction over a party to a civil action arising under the provisions of this chapter on any basis not inconsistent with the Constitution of the State of Nevada or the Constitution of the United States.

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

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

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

Sec. 94. NRS 604A.250 is hereby amended to read as follows:
604A.250 The provisions of this chapter do not apply to:

1. 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, 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 or herself out as a check-cashing service.

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



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

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

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

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

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

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

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

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

12. Any firm or corporation:

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

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

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

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

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

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

16. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

17. A person licensed to do business pursuant to sections 2 to 93, inclusive, of this act with regard to those services regulated pursuant to those sections.

Sec. 95. NRS 77.410 is hereby amended to read as follows:

77.410 1. If a registered agent knows or reasonably should know that the entity for which he or she is the registered agent engages in any business activity that is regulated pursuant to



chapter 604A or 675 of NRS *or sections 2 to 93, inclusive, of this act*, and the registered agent or a subsidiary or affiliate of the registered agent performs any service for the represented entity other than:

(a) Delivering documents for filing to state or local governmental entities;

(b) Forwarding unopened mail;

(c) Any service described in NRS 77.400;

(d) Accounting services incidental to the formation of the entity for which he or she serves as registered agent provided in accordance with chapter 628 of NRS; or

(e) Legal services incidental to the formation of the entity for which he or she serves as registered agent if the registered agent is an attorney who is licensed to practice law in this State or performs such services under the supervision of an attorney who is licensed to practice law in this State,

→ the registered agent shall verify with the Division of Financial Institutions of the Department of Business and Industry that the represented entity is licensed pursuant to chapter 604A or 675 of NRS *or sections 2 to 93, inclusive, of this act*, as applicable.

2. Except as otherwise provided in this subsection, if a registered agent determines pursuant to subsection 1 that the represented entity is not licensed as required pursuant to chapter 604A or 675 of NRS *or sections 2 to 93, inclusive, of this act*, the registered agent shall notify the Commissioner of Financial Institutions. This subsection does not require a registered agent who is an attorney to notify the Commissioner if doing so would violate any privilege pursuant to NRS 49.035 to 49.115, inclusive, or the Nevada Rules of Professional Conduct.

3. A registered agent who accepts an appointment to act as the registered agent for a represented entity whom the registered agent knows or reasonably should know engages in business activities which are regulated pursuant to chapter 604A or 675 of NRS *or sections 2 to 93, inclusive, of this act* shall not perform any financial transactions on behalf of the represented entity in his or her capacity as registered agent.

Sec. 96. NRS 77.420 is hereby amended to read as follows:

77.420 1. If the Commissioner of Financial Institutions determines, after investigation, that a represented entity of a registered agent has failed to comply with the provisions of chapter 604A or 675 of NRS *or sections 2 to 93, inclusive, of this act*, the Commissioner may issue an order to the registered agent to cease and refrain from providing all services for the represented entity other than those services set forth in NRS 77.400.



2. A registered agent who receives an order pursuant to subsection 1 shall immediately notify the represented entity. The represented entity shall be deemed to have received the order on the date that it is received by the registered agent.

3. Any contract between a registered agent, its subsidiary or affiliate and the represented entity entered into on or after July 1, 2008, shall be deemed to include a provision that provides for the termination of the contract or agreement without liability to the registered agent, its subsidiary or affiliate, upon the issuance of an order issued pursuant to this section, except for any agreement for the provision of the services set forth in NRS 77.400. Any provision of a contract which conflicts with this subsection is void. Failure to include such a provision in a contract is not a defense in an action brought to enforce or terminate the contract.

4. An order issued pursuant to subsection 1 is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS. A registered agent shall comply with any such order pending judicial review.

5. If the Commissioner of Financial Institutions finds that a registered agent has failed to comply with an order issued pursuant to this section, the Commissioner may impose an administrative fine of not more than \$1,000 upon the registered agent. Any fine collected pursuant to this section must be deposited with the State Treasurer for credit to the State General Fund.

Sec. 97. NRS 232.545 is hereby amended to read as follows:

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

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

(b) Required by law to be placed therein.

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

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

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

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

3. As used in this section, "financial institution" means an institution for which licensing or registration is required by the



provisions of titles 55 and 56 and chapters 604A and 649 of NRS ***and sections 2 to 93, inclusive, of this act.***

Sec. 98. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,



1 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
2 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,
3 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
4 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
5 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
6 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
7 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
8 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
9 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
10 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
11 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
12 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
13 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
14 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
15 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
16 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
17 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
18 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
19 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
20 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
21 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
22 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
23 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
24 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
25 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
26 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
27 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,
28 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
29 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
30 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
31 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,
32 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38
33 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
34 chapter 391, Statutes of Nevada 2013 *and section 77 of this act*, and
35 unless otherwise declared by law to be confidential, all public books
36 and public records of a governmental entity must be open at all
37 times during office hours to inspection by any person, and may be
38 fully copied or an abstract or memorandum may be prepared from
39 those public books and public records. Any such copies, abstracts or
40 memoranda may be used to supply the general public with copies,
41 abstracts or memoranda of the records or may be used in any other
42 way to the advantage of the governmental entity or of the general
43 public. This section does not supersede or in any manner affect the
44 federal laws governing copyrights or enlarge, diminish or affect in



1 any other manner the rights of a person in any written book or
2 record which is copyrighted pursuant to federal law.

3 2. A governmental entity may not reject a book or record
4 which is copyrighted solely because it is copyrighted.

5 3. A governmental entity that has legal custody or control of a
6 public book or record shall not deny a request made pursuant to
7 subsection 1 to inspect or copy or receive a copy of a public book or
8 record on the basis that the requested public book or record contains
9 information that is confidential if the governmental entity can
10 redact, delete, conceal or separate the confidential information from
11 the information included in the public book or record that is not
12 otherwise confidential.

13 4. A person may request a copy of a public record in any
14 medium in which the public record is readily available. An officer,
15 employee or agent of a governmental entity who has legal custody
16 or control of a public record:

17 (a) Shall not refuse to provide a copy of that public record in a
18 readily available medium because the officer, employee or agent has
19 already prepared or would prefer to provide the copy in a different
20 medium.

21 (b) Except as otherwise provided in NRS 239.030, shall, upon
22 request, prepare the copy of the public record and shall not require
23 the person who has requested the copy to prepare the copy himself
24 or herself.

25 **Sec. 99.** NRS 363A.050 is hereby amended to read as follows:

26 363A.050 1. Except as otherwise provided in subsection 2,
27 “financial institution” means:

28 (a) An institution licensed, registered or otherwise authorized to
29 do business in this State pursuant to the provisions of title 55 or 56
30 of NRS or chapter 604A, 645B or 645E of NRS **or sections 2 to**
31 **93, inclusive, of this act,** or a similar institution chartered or
32 licensed pursuant to federal law;

33 (b) A person licensed or registered or required to be licensed or
34 registered pursuant to NRS 90.310, 90.330, 90.453, 686A.340
35 or 688C.190;

36 (c) A person holding or required to hold a solicitation permit or
37 license pursuant to NRS 692B.040, 692B.190 or 692B.260;

38 (d) A person designated or registered or required to be
39 designated or registered pursuant to the Commodity Exchange Act,
40 the Securities Exchange Act of 1934, the Public Utility Holding
41 Company Act of 1935, the Investment Company Act of 1940 or the
42 Investment Advisers Act of 1940, as amended;

43 (e) A person licensed pursuant to 7 U.S.C. § 2009cc-3 to operate
44 as a rural business investment company;



(f) A person registered or required to be registered as a savings and loan holding company pursuant to 12 U.S.C. § 1467a;

(g) A person registered or required to be registered as a bank holding company pursuant to 12 U.S.C. § 1844;

(h) An investment bank holding company supervised pursuant to 15 U.S.C. § 78q;

(i) A person electing to be treated as a business development company pursuant to 15 U.S.C. § 80a-53;

(j) A person licensed pursuant to 15 U.S.C. § 681 to operate as a small business investment company;

(k) A person granted final approval pursuant to 15 U.S.C. § 689c to operate as a new markets venture capital company;

(l) A person qualifying as and electing to be considered a real estate investment trust pursuant to 26 U.S.C. § 856;

(m) A bank, as defined in 12 U.S.C. § 1813(a);

(n) A savings association, as defined in 12 U.S.C. § 1813(b);

(o) A savings bank, as defined in 12 U.S.C. § 1813(g);

(p) A thrift institution, as defined in 12 U.S.C. § 1841(i);

(q) A national banking association organized under the National Bank Act;

(r) An entity that is related to any of the entities described in paragraphs (a), (b), (d) to (k), inclusive, and (m) to (q), inclusive, regardless of whether the entity described in any of those paragraphs is doing business in this State; and

(s) An issuer or a service provider,
➤ who is conducting a business activity in this State.

2. The term does not include:

(a) A credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act;

(b) A federal land credit association, farm credit bank, agricultural credit association or similar institution organized under the provisions of the Farm Credit Act;

(c) A person who sells, solicits or negotiates insurance and whose business primarily consists of the sale, solicitation or negotiation of insurance; and

(d) Any person or other entity that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

3. For the purposes of this section:

(a) "Credit card" has the meaning ascribed to it in NRS 97A.050.

(b) "Entity" includes, without limitation, any corporation, limited-liability company, association, organization, company, firm, partnership, joint venture, trust, business trust, receiver, trustee,



1 syndicate, cooperative or assignee, or any other group or
2 combination acting as a unit.

3 (c) "Issuer" has the meaning ascribed to it in NRS 97A.100,
4 except that the term does not include a seller of goods or provider of
5 services who issues a credit card for the purpose of providing or
6 extending credit only in connection with the goods he or she sells or
7 the services he or she provides.

8 (d) A business "primarily consists of the sale, solicitation or
9 negotiation of insurance" if more than 50 percent of the annual
10 income of the business from commissions is derived from the sale,
11 solicitation or negotiation of insurance.

12 (e) Entities are "related" if at least 50 percent of the interest,
13 either by vote or value, in each entity is owned, either directly or
14 indirectly, by the same entity, including either of those entities.

15 (f) "Service provider" has the meaning ascribed to it in NRS
16 97A.130, except that the term does not include a service provider
17 who acts in that capacity solely on behalf of a seller of goods or
18 provider of services who issues a credit card for the purpose of
19 providing or extending credit only in connection with the goods he
20 or she sells or the services he or she provides.

21 **Sec. 100.** NRS 645B.0119 is hereby amended to read as
22 follows:

23 645B.0119 "Financial services license or registration" means
24 any license or registration issued in this State or any other state,
25 district or territory of the United States that authorizes the person
26 who holds the license or registration to engage in any business or
27 activity described in the provisions of this chapter, title 55 or 56 of
28 NRS or chapter 604A, 645, 645A, 645C, 645E, 645G or 649 of
29 NRS ***or sections 2 to 93, inclusive, of this act.***

30 **Sec. 101.** NRS 675.035 is hereby amended to read as follows:
31 675.035 The provisions of this chapter apply to any person
32 who:

33 1. Makes installment loans that are not subject to regulation
34 pursuant to chapter 604A of NRS ***or sections 2 to 93, inclusive,***
35 ***of this act;***

36 2. Is an affiliate, subsidiary or holding company of a bank,
37 national banking association, savings bank, trust company, savings
38 and loan association, credit union, mortgage broker, mortgage
39 banker, mortgage servicer as that term is defined in NRS 645F.063,
40 thrift company or insurance company; and

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

43 (a) Calling a loan by any other name;
44 (b) Using any agents, affiliates or subsidiaries in an attempt to
45 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 material economic interest in the revenues generated by the loan.

Sec. 102. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. Except as otherwise provided in NRS 675.035, a person doing business under 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, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.

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

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

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

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

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

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

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

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

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

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

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

10. A person licensed to do business pursuant to chapter 604A of NRS *or sections 2 to 93, inclusive, of this act* with regard to those services regulated pursuant to chapter 604A of NRS.

11. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.



Sec. 103. NRS 675.060 is hereby amended to read as follows:
675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this chapter for each office or other place of business at which the person engages in such business, except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, high-interest loan service or title loan service, as those terms are defined in chapter 604A of NRS, *or a traditional installment loan service, as that term is defined in section 13 of this act*, the person must obtain a license from the Commissioner pursuant to chapter 604A of NRS *or sections 2 to 93, inclusive, of this act, as applicable*, before the person may engage in any such business.

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

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

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

Sec. 104. NRS 676A.700 is hereby amended to read as follows:

676A.700 1. A provider may not, directly or indirectly:

(a) Misappropriate or misapply money held in trust;

(b) Settle a debt on behalf of an individual for more than 50 percent of the outstanding amount of the debt owed a creditor, unless the individual assents to the settlement after the creditor has assented;

(c) Take a power of attorney that authorizes it to settle a debt, unless the power of attorney expressly limits the provider's authority to settle debts for not more than 50 percent of the outstanding amount of the debt owed a creditor;

(d) Exercise or attempt to exercise a power of attorney after an individual has terminated an agreement;

(e) Initiate a transfer from an individual's account at a bank or with another person unless the transfer is:

(1) A return of money to the individual; or

(2) Before termination of an agreement, properly authorized by the agreement and this chapter and for:

(I) Payment to one or more creditors pursuant to an agreement; or

(II) Payment of a fee;

(f) Offer a gift or bonus, premium, reward or other compensation to an individual for executing an agreement;



(g) Offer, pay or give a gift or bonus, premium, reward or other compensation to a person for referring a prospective customer, if the person making the referral has a financial interest in the outcome of debt-management services provided to the customer, unless neither the provider nor the person making the referral communicates to the prospective customer the identity of the source of the referral;

(h) Receive a bonus, commission or other benefit for referring an individual to a person;

(i) Structure a plan in a manner that would result in a negative amortization of any of an individual's debts, unless a creditor that is owed a negatively amortizing debt agrees to refund or waive the finance charge upon payment of the principal amount of the debt;

(j) Compensate its employees on the basis of a formula that incorporates the number of individuals the employee induces to enter into agreements;

(k) Settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the individual receives a certification by the creditor that the payment is in full settlement of the debt or is part of a payment plan, the terms of which are included in the certification, that on completion will lead to full settlement of the debt;

(l) Make a representation that:

(1) The provider will furnish money to pay bills or prevent attachments;

(2) Payment of a certain amount will permit satisfaction of a certain amount or range of indebtedness; or

(3) Participation in a plan will or may prevent litigation, garnishment, attachment, repossession, foreclosure, eviction or loss of employment;

(m) Misrepresent that it is authorized or competent to furnish legal advice or perform legal services;

(n) Represent in its agreements, disclosures required by this chapter, advertisements or Internet website that it is a not-for-profit entity unless it is organized and properly operating as a not-for-profit entity under the law of the state in which it was formed or a tax-exempt entity unless it has received certification of tax-exempt status from the Internal Revenue Service and is properly operating as a not-for-profit entity under the law of the state in which it was formed;

(o) Take a confession of judgment or power of attorney to confess judgment against an individual;

(p) Employ an unfair, unconscionable or deceptive act or practice, including, without limitation, the knowing omission of any material information;



(q) Receive any compensation from the creditors of an individual, unless the compensation is a donation for the operating costs of the provider; or

(r) If the provider furnishes debt settlement services, represent that the provider is able to prevent telephone calls from creditors.

2. If a provider furnishes debt-management services to an individual, the provider may not, directly or indirectly:

(a) Purchase a debt or obligation of the individual;

(b) Receive from or on behalf of the individual:

(1) A promissory note or other negotiable instrument other than a check or a demand draft; or

(2) A postdated check or demand draft;

(c) Lend money or provide credit to the individual, except as a deferral of a settlement fee at no additional expense to the individual;

(d) Obtain a mortgage or other security interest from any person in connection with the services provided to the individual;

(e) Except as permitted by federal law, disclose the identity or identifying information of the individual or the identity of the individual's creditors, except to:

(1) The Commissioner, upon proper demand;

(2) A creditor of the individual, to the extent necessary to secure the cooperation of the creditor in a plan; or

(3) The extent necessary to administer the plan;

(f) Except as otherwise provided in subsection 6 of NRS 676A.580, provide the individual less than the full benefit of a compromise of a debt arranged by the provider;

(g) Charge the individual for or provide credit or other insurance, coupons for goods or services, membership in a club, access to computers or the Internet or any other matter not directly related to debt-management services or educational or counseling services concerning personal finance, except to the extent such services are expressly authorized by the Commissioner;

(h) Furnish legal advice or perform legal services, unless the person furnishing that advice to or performing those services for the individual is licensed to practice law; or

(i) With respect to debt settlement services:

(1) Have an ownership interest in, or any control of, the settlement account of an individual to whom the provider is providing debt settlement services; or

(2) Provide debt settlement services with respect to a secured debt, a debt which was at any time a secured debt or a loan to which chapter 604A of NRS *or sections 2 to 93, inclusive, of this act* applies or include a secured debt, debt which was at any time a secured debt or a loan to which chapter 604A of NRS *or sections 2*



1 *to 93, inclusive, of this act* applies in the calculation of the
2 provider's fee.

3 3. A provider, or an employee, officer or agent of a provider,
4 may not provide legal services or advice or represent that the
5 provider, or an employee, officer or agent of the provider, is
6 authorized or competent to provide legal services or advice, unless
7 the person providing legal services or advice, or about whom the
8 representations concerning the provision of legal services or advice
9 were made, is authorized to practice law in this State. As used in this
10 subsection, "legal services or advice" includes, without limitation,
11 an analysis of the rights of a creditor or debtor with respect to a
12 debt, advice concerning a response to legal filings or actions and
13 predictions of the likely outcome of litigation or arbitration
14 concerning a debt.

15 4. This chapter does not authorize any person to engage in the
16 practice of law.

17 5. A provider may not receive a gift or bonus, premium, reward
18 or other compensation, directly or indirectly, for advising, arranging
19 or assisting an individual in connection with obtaining an extension
20 of credit or other service from a lender or service provider, except
21 for educational or counseling services required in connection with a
22 government-sponsored program.

23 6. Unless a person supplies goods, services or facilities
24 generally and supplies them to the provider at a cost no greater than
25 the cost the person generally charges to others, a provider may not
26 purchase goods, services or facilities from the person if an employee
27 or a person that the provider should reasonably know is an affiliate
28 of the provider:

29 (a) Owns more than 10 percent of the person; or

30 (b) Is an employee or affiliate of the person.

31 **Sec. 105.** 1. A person who, on July 1, 2019, operates a
32 traditional installment loan service and who holds, on July 1, 2019,
33 a valid license that was issued by the Commissioner of Financial
34 Institutions pursuant to chapter 604A of NRS before July 1, 2019,
35 shall be deemed to be licensed as a traditional installment loan
36 service pursuant to the provisions of sections 2 to 93, inclusive, of
37 this act.

38 2. As used in this section, "traditional installment loan service"
39 has the meaning ascribed to it in section 13 of this act.

40 **Sec. 106.** 1. This section and sections 1 to 21, inclusive, 23
41 to 73, inclusive, and 75 to 105, inclusive, of this act become
42 effective on July 1, 2019.

43 2. Sections 22 and 74 of this act become effective on
44 January 1, 2020.



* A B 3 6 0 *

1 3. Sections 21 and 73 of this act expire by limitation on
2 December 31, 2019.

③



* A B 3 6 0 *