

**ADOPTED REGULATION OF THE
COMMISSIONER OF FINANCIAL INSTITUTIONS**

LCB File No. R065-25

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

AUTHORITY: §§ 1, 4, 5 and 7-13, NRS 604A.300; § 2, NRS 604A.300 and 604A.655; §§ 3 and 14, NRS 604A.300 and 604A.303; § 6, NRS 604A.300 and 604A.405; § 15, NRS 675.170 and 675.230; § 16, NRS 675.170.

A REGULATION relating to financial services; authorizing a person who is licensed by the Commissioner of Financial Institutions to make certain types of loans to also conduct the business of making certain other types of loans for which the person is licensed under certain circumstances; imposing certain restrictions on the use by a licensee of a database established for compliance with provisions of existing law governing certain types of loans; revising provisions governing advertising by persons who are licensed to conduct the business of making certain types of loans; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person who is licensed to operate a deferred deposit loan service, high-interest loan service or title loan service from conducting the business of making loans in association or conjunction with any other business, unless authority to do so is given by the Commissioner of Financial Institutions. (NRS 604A.655) Existing law imposes a similar restriction upon a person who is licensed as an installment lender. (NRS 675.230)

Sections 2 and 15 of this regulation authorize a person to conduct the business of making deferred deposit loans, high-interest loans or title loans in association or conjunction with the business of making installment loans under certain circumstances. Under **sections 2 and 15**, a person may conduct those businesses in association or conjointly if the licensee: (1) maintains separate licenses to conduct the business of making deferred deposit loans, high-interest loans or title loans and the business of making installment loans; (2) does not issue a loan under one type of license, the proceeds of which are intended to be used to pay, in full or in part, a loan made by the licensee under the other type of license; (3) does not issue a loan to a person who, in the 3 months immediately preceding the date on which the person applies for the loan, defaulted on a loan made by the licensee under the other type of license; (4) does not issue a loan to a person who had a loan or obligation established by the licensee under the other type of license assigned, placed, outsourced, sold, transferred or otherwise conveyed to a collection agency in the 6 months immediately preceding the date on which the person applies for the current loan; (5) does not conduct the business of making loans under one type of license in an office, suite, room or place of business in which the business of making loans under the other type of license is solicited or otherwise engaged or at any other location which is less than 3 miles from a location

at which the licensee conducts the business of making loans under the other type of license; (6) maintains separate books, records and data for loans made under each type of license; (7) posts in a conspicuous place in each office or other place of business at which the licensee conducts the business of making loans certain information concerning loans offered by the licensee; and (8) maintains specific and verifiable documentation of the proceeds of a loan at the time of the disbursement of the loan.

Existing law requires the Commissioner to, by contract with a vendor or service provider or otherwise, develop, implement and maintain a database by which the Commissioner and licensees may obtain information related to deferred deposit loans, title loans and high-interest loans made by licensees to customers in this State to ensure compliance with the provisions of law governing those types of loans. (NRS 604A.303) **Section 3** of this regulation: (1) prohibits a licensee from accessing the database for marketing purposes; and (2) authorizes a licensee to perform a query of the database only to determine whether a customer who is applying for a loan is eligible for the loan.

Existing law provides that words and terms defined in the Nevada Revised Statutes have the same meaning in corresponding provisions of the Nevada Administrative Code. (NRS 0.024) **Sections 4 and 14** of this regulation remove duplicative provisions that define terms in the provisions of the Nevada Administrative Code governing deferred deposit loans, high-interest loans, title loans and check-cashing services for which a definition is already provided in the corresponding provisions of the Nevada Revised Statutes.

Assembly Bill No. 478 of the 2007 Legislative Session revised various provisions that imposed various requirements and restrictions on “short-term loans” and “short-term loan services” to, in general, impose those requirements and restrictions on “high-interest loans” and “high-interest loan services.” (Assembly Bill No. 478, chapter 265, Statutes of Nevada 2007, at page 929) **Sections 4-6, 10 and 13** of this regulation accordingly change various references to “short-term loans” and “short-term loan services” to “high-interest loans” and “high-interest loan services.”

Sections 7-11 and 13 of this regulation make conforming changes to revise references to various provisions of the Nevada Revised Statutes that have been reorganized and renumbered.

Existing regulations prohibit a person who is licensed to conduct the business of making deferred deposit loans, high-interest loans or title loans from advertising in any manner that: (1) may tend to confuse the identity of the licensee with any other unrelated licensee; or (2) states or implies that a loan of a prospective borrower with another licensee will be paid or increased if the loan is transferred to the advertising licensee. (NAC 604A.210) **Section 12** of this regulation prohibits a licensee from advertising in any manner that: (1) may tend to confuse the identity of the licensee with any other licensee; or (2) states or implies that a loan of a prospective borrower made by the licensee conducting the business of making loans under a different license or by another licensee will be paid in full or in part or increased if the loan is transferred to the advertising licensee. **Section 12** also: (1) prohibits a licensee from engaging in any unethical advertising; and (2) provides that the Commissioner reserves the right to require all licensees to submit proposed advertising for approval before its dissemination through the press, by radio or television. **Section 16** of this regulation makes similar revisions to provisions governing advertising by persons who are licensed as installment lenders.

Section 1. Chapter 604A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *A licensee may conduct the business of making loans under this chapter and chapter 604A of NRS in association or conjunction with the business of making loans under chapter 675 of NRS and the regulations adopted pursuant thereto if the licensee:*

1. Maintains separate licenses to conduct the business of making loans under this chapter and chapter 604A of NRS and the business of making loans under chapter 675 of NRS and the regulations adopted pursuant thereto.

2. Does not make a loan under this chapter and chapter 604A of NRS:

(a) From which the proceeds will be used to pay, in full or in part, a loan made by the licensee under chapter 675 of NRS and the regulations adopted pursuant thereto.

(b) To any person who, in the 3 months immediately preceding the date on which the person applies for the loan, defaulted on a loan made by the licensee pursuant to chapter 675 of NRS and the regulations adopted pursuant thereto or any obligation that originated with the licensee under chapter 675 of NRS and the regulations adopted pursuant thereto.

(c) To any person who has received a loan made, or an obligation originated, by the licensee pursuant to chapter 675 of NRS and the regulations adopted pursuant thereto and that loan or obligation, as applicable, has been assigned, placed, outsourced, sold, transferred or otherwise conveyed to a collection agency in the 6 months immediately preceding the date on which the person applies for a loan under this chapter and chapter 604A of NRS.

3. Does not conduct the business of making loans under this chapter and chapter 604A of NRS in an office, suite, room or place of business in which the business of making loans under chapter 675 of NRS and the regulations adopted pursuant thereto is solicited or

otherwise engaged or at any other location which is less than 3 miles from a location at which the licensee conducts the business of making loans under chapter 675 of NRS and the regulations adopted pursuant thereto.

4. Does not make a loan under chapter 675 of NRS and the regulations adopted pursuant thereto from which the proceeds will be used to pay, in full or in part, a loan made by the licensee under this chapter and chapter 604A of NRS.

5. Maintains separately any and all books, records and data for loans made under this chapter and chapter 604A of NRS and any loan made under chapter 675 of NRS and the regulations adopted pursuant thereto. The provisions of this subsection do not require the licensee to purchase or maintain separate software platforms to maintain the books, records and data separately.

6. Posts in a conspicuous place in each office or other place of business at which the licensee conducts the business of making loans under this chapter and chapter 604A of NRS:

(a) The fees and rates the licensee charges for the loan services which the licensee offers under this chapter and chapter 604A of NRS.

(b) A notice that explains the rights of the customer and the remedies of the licensee following a default for a loan or obligation under this chapter and chapter 604A of NRS and how those rights and remedies differ from the rights of the customer and the remedies available to the licensee following a default for a loan or obligation under chapter 675 of NRS and the regulations adopted pursuant thereto, including, without limitation, the prohibition against civil suits or alternative dispute resolution set forth in paragraph (f) of subsection 2 of NRS 604A.5057 for loans made in accordance with that subsection. The notice posted

pursuant to this paragraph must be written, organized and designed in a manner that makes the notice easy to read and understand.

7. Maintains specific and verifiable documentation of the proceeds of a loan at the time of the disbursement of the loan.

Sec. 3. 1. *A licensee shall not access the database for marketing purposes.*

2. A licensee may perform a query of the database only to determine whether a customer who is applying for a loan is eligible for the loan pursuant to this chapter and chapter 604A of NRS and not for any other purpose.

Sec. 4. NAC 604A.010 is hereby amended to read as follows:

604A.010 As used in this chapter, unless the context otherwise requires ~~it~~:

~~—1. The words and terms defined in NRS 604A.015 to 604A.125, inclusive, have the meanings ascribed to them in those sections.~~

~~—2. “License”]~~, *“license”* means a license to operate a check-cashing service, deferred deposit loan service, ~~{short-term}~~ *high-interest* loan service or title loan service pursuant to the provisions of this chapter and chapter 604A of NRS.

Sec. 5. NAC 604A.110 is hereby amended to read as follows:

604A.110 A foreign corporation, association, trust or other business entity shall not operate a check-cashing service, deferred deposit loan service, ~~{short-term}~~ *high-interest* loan service or title loan service in this State unless the foreign business entity:

1. Qualifies to do business in this State pursuant to chapter 80 of NRS; and
2. Complies with the provisions of this chapter and chapter 604A of NRS.

Sec. 6. NAC 604A.130 is hereby amended to read as follows:

604A.130 1. The notice required by paragraph (a) of subsection 1 of NRS 604A.405 must:

- (a) Comply with the applicable provisions of Regulation Z and the Truth in Lending Act.
- (b) Set forth the actual fees charged for each service.
- (c) Except as otherwise provided in subsection 2, be in substantially the following form:

NOTICE OF FEES CHARGED FOR SERVICES

Check-cashing fee \$____.

Deferred deposit loan fee \$____.

~~Short-term~~ **High-interest** loan fee \$____.

Title loan fee..... \$____.

(d) If printed, be in boldface type. Information that must be printed in all upper case letters must be printed in at least 18-point type. All other information must be printed in at least 16-point type.

(e) If handwritten or displayed digitally or by other electronic means, be in characters that are equivalent in intensity, legibility and size to the characters required for printed matter.

2. A licensee shall not include in this notice a fee for any service that he or she is not licensed to provide.

Sec. 7. NAC 604A.150 is hereby amended to read as follows:

604A.150 1. A licensee shall prominently display at each location where he or she does business a notice that sets forth the days of the week and the hours of the day that the location is open for business.

2. A customer who is entitled or required to perform an act within a prescribed period, including a customer entitled to rescind a loan pursuant to NRS ~~604A.460,~~ 604A.5023, 604A.505 or 604A.5079, may perform the act at any time before the close of business on the last day within the prescribed period. If the last day is not a business day, or the location is not otherwise open for business on that day, the period during which the customer may perform the act is extended until the next business day at that location.

3. If a licensee closes a business location earlier than the time of day set forth in the licensee's notice, the period during which the customer may perform the act is extended until the close of business on the next business day on which the location remains open for business until the time set forth in the notice.

4. For the purposes of this section, the business day of a location that is open for business after midnight shall be deemed to end at midnight.

Sec. 8. NAC 604A.160 is hereby amended to read as follows:

604A.160 1. A licensee who uses a form or standard loan agreement written in Spanish as required by NRS ~~604A.410,~~ 604A.5012, 604A.504 or 604A.5067, notice of opportunity to enter into a repayment plan written in Spanish as required by NRS ~~604A.475,~~ 604A.5027, 604A.5055 or 604A.5083, or other form or standard document written in a language other than English shall cause the document to be translated into English and maintain together a copy of the document and its English translation.

2. A document translated pursuant to this section must be:

(a) Translated by an interpreter who is:

(1) Certified by the Court Administrator in accordance with the provisions of NRS 1.510 and regulations adopted pursuant thereto; or

- (2) Approved in writing by the Division.
- (b) Accompanied by a certificate issued by the interpreter. The certificate must:
 - (1) Declare that the translated document is a true and complete translation of the document written in the language other than English;
 - (2) Identify the document written in a language other than English and its English translation;
 - (3) Include the date of translation; and
 - (4) Include the name, address, telephone number and electronic mail address, if any, of the interpreter.
- 3. The Commissioner may require a licensee to provide a translation of any nonstandard document that is written in a language other than English.
- 4. The Commissioner may assess a licensee for all costs incurred by the Commissioner to verify the licensee's compliance with this section.

Sec. 9. NAC 604A.170 is hereby amended to read as follows:

604A.170 1. A licensee who is required to provide a customer with written notice of the opportunity to enter into a repayment plan pursuant to NRS ~~604A.475 may~~ **604A.5027, 604A.5055 or 604A.5083 must** deliver the written notice to the customer using any method of delivery that generates a record of the delivery.

2. A person who delivers a notice to a customer in person must execute an affidavit of delivery.

Sec. 10. NAC 604A.180 is hereby amended to read as follows:

604A.180 1. A licensee shall maintain written documentation to establish that, except as otherwise provided in NRS ~~[604A.425]~~ 604A.5017 and ~~[604A.430,]~~ 604A.5045, the licensee has not made a:

(a) Deferred deposit loan that , *in combination with any other outstanding loan of the customer*, exceeds 25 percent of the expected gross monthly income of the customer when the loan is made; or

(b) ~~[Short-term]~~ *High-interest* loan that, under the terms of the loan agreement ~~[,]~~ *and in combination with any other outstanding loan of the customer*, requires any monthly payment that exceeds 25 percent of the expected gross monthly income of the customer.

2. A licensee shall maintain separate written documentation for each deferred deposit loan or ~~[short-term]~~ *high-interest* loan the licensee makes to a customer.

3. A licensee who fails to provide the Commissioner with the documentation required by this section is presumed to have violated NRS ~~[604A.425-]~~ 604A.5017 or 604A.5045, *as applicable.*

Sec. 11. NAC 604A.190 is hereby amended to read as follows:

604A.190 For the purposes of this chapter and chapter 604A of NRS, the Commissioner interprets the term “books and accounting records” as used in NRS 604A.700 to include, without limitation:

1. A copy of each receipt given by a licensee to a customer pursuant to NRS ~~[604A.460]~~ 604A.5023, 604A.5024, 604A.5025, 604A.5027, 604A.5033, 604A.505 to ~~[604A.475,]~~ 604A.5055, *inclusive*, 604A.5063, 604A.5079 to 604A.5083, *inclusive*, and ~~[604A.495-]~~ 604A.5088.

2. A record of each event that increases or decreases a customer's indebtedness to the licensee. The record must include sufficient information to enable the Commissioner to reconcile the amount of the customer's beginning balance with his or her ending or outstanding balance.

Sec. 12. NAC 604A.210 is hereby amended to read as follows:

604A.210 **1.** A licensee shall not advertise in any manner that:

~~(1.)~~ **(a)** May tend to confuse the identity of the licensee with any other ~~unrelated~~ licensee ~~;~~
~~—2.)~~ **; or**

(b) States or implies that a loan of a prospective borrower ~~with~~ *made by the licensee conducting the business of making loans under a different license or by* another licensee will be paid *in full or in part* or increased if the loan is transferred to the advertising licensee.

2. *A licensee shall not engage in any unethical advertising. The Commissioner reserves the right to require all licensees to submit proposed advertising for approval before its dissemination through the press, by radio or television.*

Sec. 13. NAC 604A.220 is hereby amended to read as follows:

604A.220 A licensee who accepts a check as security for a ~~short-term~~ *high-interest* loan or title loan violates NRS ~~604A.435~~ *604A.5048 or 604A.5071, as applicable*, even if:

1. The check is not negotiable; or
2. The licensee does not negotiate the check.

Sec. 14. NAC 604A.300 is hereby amended to read as follows:

604A.300 As used in NAC 604A.300 to 604A.370, inclusive, *and section 3 of this regulation*, unless the context otherwise requires, the words and terms defined in ~~NRS 604A.036, 604A.038 and 604A.057, and~~ NAC 604A.310 to 604A.325, inclusive, have the meanings ascribed to them in those sections.

Sec. 15. Chapter 675 of NAC is hereby amended by adding thereto a new section to read as follows:

A licensee may conduct the business of making loans under this chapter and chapter 675 of NRS in association or conjunction with the business of making loans under chapter 604A of NRS and the regulations adopted pursuant thereto if the licensee:

1. Maintains separate licenses to conduct the business of making loans under this chapter and chapter 675 of NRS and the business of making loans under chapter 604A of NRS and the regulations adopted pursuant thereto.

2. Does not make a loan under this chapter and chapter 675 of NRS:

(a) From which the proceeds will be used to pay, in full or in part, a loan made by the licensee under chapter 604A of NRS and the regulations adopted pursuant thereto.

(b) To any person who, in the 3 months immediately preceding the date on which the person applies for the loan, defaulted on a loan made by the licensee pursuant to chapter 604A of NRS and the regulations adopted pursuant thereto or any obligation that originated with the licensee under chapter 604A of NRS and the regulations adopted pursuant thereto.

(c) To any person who has received a loan made, or an obligation originated, by the licensee pursuant to chapter 604A of NRS and the regulations adopted pursuant thereto and that loan or obligation, as applicable, has been assigned, placed, outsourced, sold, transferred or otherwise conveyed to a collection agency in the 6 months immediately preceding the date on which the person applies for a loan under this chapter and chapter 675 of NRS.

3. Does not conduct the business of making loans under this chapter and chapter 675 of NRS in an office, suite, room or place of business in which the business of making loans under chapter 604A of NRS and the regulations adopted pursuant thereto is solicited or

otherwise engaged or at any other location which is less than 3 miles from a location at which the licensee conducts the business of making loans under chapter 604A of NRS and the regulations adopted pursuant thereto.

4. Does not make a loan under chapter 604A of NRS and the regulations adopted pursuant thereto from which the proceeds will be used to pay, in full or in part, a loan made by the licensee under this chapter and chapter 675 of NRS.

5. Maintains separately any and all books, records and data for loans made under this chapter and chapter 675 of NRS and any loan made under chapter 604A of NRS and the regulations adopted pursuant thereto. The provisions of this subsection do not require the licensee to purchase or maintain separate software platforms to maintain the books, records and data separately.

6. Posts in a conspicuous place in each office or other place of business at which the licensee conducts the business of making loans under this chapter and chapter 675 of NRS:

(a) The fees and rates the licensee charges for the loan services which the licensee offers under this chapter and chapter 675 of NRS.

(b) A notice that explains the rights of the borrower and the remedies of the licensee following a default for a loan or obligation under this chapter and chapter 675 of NRS and how those rights and remedies differ from the rights of the borrower and the remedies available to the licensee following a default for a loan or obligation under chapter 604A of NRS and the regulations adopted pursuant thereto, including, without limitation, the prohibition against civil suits or alternative dispute resolution set forth in paragraph (f) of subsection 2 of NRS 604A.5057 for loans made in accordance with that subsection. The notice

posted pursuant to this paragraph must be written, organized and designed in a manner that makes the notice easy to read and understand.

7. Maintains specific and verifiable documentation of the proceeds of a loan at the time of the disbursement of the loan.

Sec. 16. NAC 675.010 is hereby amended to read as follows:

675.010 1. ~~{No}~~ A licensee ~~{may}~~ *shall not* advertise in any manner that may tend to confuse the identity of the licensee with any other ~~{unrelated}~~ licensee.

2. ~~{No}~~ A licensee ~~{may}~~ *shall not* advertise in any manner that a loan of a prospective borrower ~~{with}~~ *made by the licensee conducting the business of making loans under a different license or by* another licensee will be paid *in full or in part* or increased if the loan is transferred to the advertising licensee.

3. ~~{No}~~ A licensee *shall not engage in any* unethical advertising . ~~{by licensees will be permitted and the}~~ *The* Commissioner of Financial Institutions reserves the right to require all licensees to submit proposed advertising for approval before its dissemination through the press, by radio or television.