
SENATE BILL NO. 537—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF FINANCIAL INSTITUTIONS)

MARCH 26, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises certain provisions governing financial institutions. (BDR 55-582)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 finances; increasing the minimum amount of initial equities required to organize or incorporate certain businesses; requiring a majority of the members of the board of directors of a banking corporation organized under the laws of this State to be residents of this State; authorizing a family trust to act as a fiduciary only for certain persons; revising provisions governing the regulation of financial institutions, check-cashing services and installment and other short-term lenders; providing an incremental bond schedule for persons who are licensed to issue instruments for the transmission or payment of money; prohibiting a manager of a collection agency from holding himself out as a manager under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Sections 1, 9 and 49** of this bill increase minimum equities required to
2 organize or incorporate certain financial institutions. (NRS 661.015, 669.100,
3 677.210) **Section 2** of this bill requires a majority of the members of the board of
4 directors of a banking corporation organized under the laws of this State to be
5 residents of this State. (NRS 661.135) **Sections 4, 5, 9 and 12** of this bill provide
6 for the organization and operation of trust companies that do not provide fiduciary
7 services to the general public. (NRS 669.100, 669.210) **Sections 6, 14, 16, 23, 36,**



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8 **43, 46, 48 and 51** of this bill provide for certain documents filed with or compiled
9 by the Commissioner of Financial Institutions to be confidential in certain
10 circumstances.

11 **Section 8** of this bill reduces the number of persons and businesses who are not
12 subject to the provisions of NRS governing trust companies. (NRS 669.080)

13 **Section 10** of this bill decreases the period during which an applicant for a license
14 to operate a trust company must complete an application before the Commissioner
15 will consider the application withdrawn. (NRS 669.150) **Section 11** of this bill
16 deletes the requirement that the Commissioner investigate the facts of an
17 application for a license to organize a trust company within 60 days after receiving
18 the application. (NRS 669.160)

19 **Sections 13, 15, 17, 20, 30, 35, 37, 45, 47, 50 and 53** authorize the
20 Commissioner to require licensees to pay restitution to persons who have suffered
21 economic loss because of certain violations committed by licensees. **Section 18** of
22 this bill requires persons licensed to issue instruments for the transmission or
23 payment of money to maintain a separate bank account for customers' funds.
24 **Section 19** of this bill provides for an incremental bonding schedule for persons
25 licensed to issue certain instruments. (NRS 671.100)

26 **Section 26** of this bill reduces the number of persons and businesses who are
27 not subject to the provisions of NRS governing deferred deposit loans, short-term
28 loans, title loans and check-cashing services. (NRS 604A.250) **Section 27** of this
29 bill prohibits a check-cashing service from cashing a check for an amount less than
30 the face value of the check, minus any fee charged for the service. (NRS 604A.400)
31 **Section 28** of this bill extends provisions governing multiple deferred deposit and
32 short-term loans to one customer to also apply to multiple title loans to one
33 customer. (NRS 604A.430) **Section 29** of this bill provides that the repayment
34 period that certain loan providers must allow for a borrower in default may not
35 extend beyond 180 days. (NRS 604A.675)

36 **Section 31** of this bill reduces the number of associations and businesses that
37 are excluded from the definition of collection agency. (NRS 649.020) **Section 33** of
38 this bill provides for certain certificates of exemption to be issued by the
39 Commissioner. (NRS 649.075) **Section 34** of this bill requires a person holding
40 himself out as the qualified manager of a collection agency to devote a majority of
41 working hours to the actual management of the agency. (NRS 649.315)

42 **Sections 39-43** of this bill add requirements for providers of installment loans.

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

1 **Section 1.** NRS 661.015 is hereby amended to read as follows:
2 661.015 No bank may be:

3 1. Organized unless its initial stockholders' or members' equity
4 is ~~[\$300,000]~~ \$5,000,000 or more, or such greater amount as may be
5 required by the Commissioner. The full amount of the initial
6 stockholders' or members' equity of any bank must be paid in cash,
7 exclusive of all organization expenses, except as otherwise provided
8 in this title, before it may be authorized to commence the business
9 of banking.

10 2. Organized or authorized to do banking or banking and trust
11 business unless its deposit accounts are insured by the Federal
12 Deposit Insurance Corporation.



1 **Sec. 2.** NRS 661.135 is hereby amended to read as follows:
2 661.135 1. The affairs and business of a banking corporation
3 organized under the laws of this State must be managed or
4 controlled by a board of directors of not less than five in number ~~to~~

5 ~~who~~:

6 (a) *Who* must be selected from the stockholders at the annual
7 meeting of stockholders in such manner as may be provided by the
8 bylaws of the corporation ~~to~~; and

9 (b) *A majority of whom must be residents of this State.*

10 2. The affairs and business of a banking company so organized
11 must be managed or controlled by no fewer than three managers
12 selected from the members as provided in the operating agreement.

13 **Sec. 3.** Chapter 669 of NRS is hereby amended by adding
14 thereto the provisions set forth as sections 4, 5 and 6 of this act.

15 **Sec. 4.** *“Family trust” means a trust company that:*

16 1. *Does not offer fiduciary services to members of the public;*
17 *and*

18 2. *Acts only as a fiduciary of a trust created during the*
19 *lifetime or upon the death of:*

20 (a) *A natural person;*

21 (b) *A child, grandchild or great-grandchild of a person*
22 *identified in paragraph (a), but not a stepchild, step-grandchild or*
23 *step-great-grandchild of that person; or*

24 (c) *A spouse or former spouse of a person identified in*
25 *paragraph (a) or (b).*

26 **Sec. 5.** *A family trust organized or operated pursuant to the*
27 *provisions of subsection 2 of NRS 669.100 may act only as the*
28 *fiduciary of a trust created during the lifetime or upon the death of*
29 *a person specified in subsection 2 of section 4 of this act.*

30 **Sec. 6.** 1. *Except as otherwise provided in this section, a*
31 *complaint filed with the Commissioner, all documents and other*
32 *information filed with the complaint and all documents and other*
33 *information compiled as a result of an investigation conducted to*
34 *determine whether to initiate disciplinary action pursuant to NRS*
35 *669.280 to 669.295, inclusive, are confidential.*

36 2. *The complaint or other documents filed by the*
37 *Commissioner to initiate disciplinary action and all documents*
38 *and information considered by the Commissioner when*
39 *determining whether to impose discipline pursuant to NRS*
40 *669.280 to 669.295, inclusive, are public records.*

41 **Sec. 7.** NRS 669.020 is hereby amended to read as follows:

42 669.020 As used in this chapter, unless the context otherwise
43 requires, the words and terms defined in NRS 669.029 to 669.070,
44 inclusive, *and section 4 of this act* have the meanings ascribed to
45 them in those sections.



1 **Sec. 8.** NRS 669.080 is hereby amended to read as follows:

2 669.080 1. This chapter does not apply to a person who:

3 (a) Does business under the laws of this State, the United States
4 or another state relating to banks, savings banks, savings and loan
5 associations or thrift companies, but if the business conducted in
6 this State is not subject to supervision by a regulatory authority of
7 another jurisdiction, the person must be licensed pursuant to this
8 chapter;

9 (b) Is appointed as a fiduciary pursuant to NRS 662.245;

10 (c) Is acting in the performance of his duties as an attorney at
11 law;

12 (d) Acts as a trustee under a deed of trust;

13 (e) ~~Acts as a resident agent for a domestic or foreign~~
14 ~~corporation, limited liability company, limited partnership or~~
15 ~~limited liability partnership;~~

16 ~~—(f)~~ (f) Acts as a trustee of a trust holding real property for the
17 primary purpose of facilitating any transaction with respect to real
18 estate if he is not regularly engaged in the business of acting as a
19 trustee for such trusts;

20 ~~[(g)]~~ (f) Engages in the business of a collection agency pursuant
21 to chapter 649 of NRS;

22 ~~[(h)]~~ Engages in the business of an escrow agency, escrow agent
23 or escrow officer pursuant to the provisions of chapter 645A or
24 692A of NRS;

25 ~~—(i)~~ (g) Acts as a trustee of a trust created for charitable or
26 nonprofit purposes if he is not regularly engaged in the business of
27 acting as trustee for such trusts;

28 ~~[(j)]~~ Receives money or other property as a real estate broker
29 licensed under chapter 645 of NRS on behalf of a principal;

30 ~~—(k)~~ Engages in transactions as a broker-dealer or sales
31 representative pursuant to chapter 90 of NRS;

32 ~~—(l)~~ (h) Acts as a fiduciary under a court trust; *or*

33 ~~[(m)]~~ Does business as an insurer authorized to issue policies of
34 life insurance and annuities or endowment contracts in this State and
35 is subject to regulation and control of the Commissioner of
36 Insurance; *or*

37 ~~—(n)~~ (i) Acts as a fiduciary if:

38 (1) The fiduciary relationship is not one of his principal
39 occupations; *or*

40 (2) He serves as a fiduciary, *other than a fiduciary for a*
41 *family trust*, for a relative by blood or marriage.

42 2. A bank, savings bank, savings and loan association or thrift
43 company claiming an exemption from this chapter pursuant to
44 paragraph (a) of subsection 1 must notify the Commissioner ~~of~~
45 ~~Financial Institutions~~ of its intention to engage in the business of a



1 trust company in this State and present proof satisfactory to the
2 Commissioner ~~[of Financial Institutions]~~ that its fiduciary activities
3 in this State will be subject to regulation by another jurisdiction.

4 **Sec. 9.** NRS 669.100 is hereby amended to read as follows:

5 669.100 ~~[No]~~

6 *1. Except as otherwise provided in subsection 2, no* trust
7 company may be organized or operated with a stockholders' equity
8 of less than ~~[\$300,000,]~~ *\$2,000,000* or in such greater amount as
9 may be required by the Commissioner.

10 *2. A family trust may be organized or operated with a*
11 *stockholders' equity of less than \$300,000 or in such greater*
12 *amount as may be required by the Commissioner.*

13 *3.* The full amount of the initial stockholders' equity must be
14 paid in cash, exclusive of all organization expenses, before the trust
15 company is authorized to commence business.

16 **Sec. 10.** NRS 669.150 is hereby amended to read as follows:

17 669.150 1. An applicant must file an application for a license
18 to transact trust company business with the Commissioner on forms
19 prescribed by the Commissioner, which must contain or be
20 accompanied by such information as the Commissioner requires.

21 2. A nonrefundable fee of not more than \$2,000 must
22 accompany the application. The applicant must also pay such
23 reasonable additional expenses incurred in the process of
24 investigation as the Commissioner deems necessary. In addition, a
25 fee of not less than \$200 or more than \$500, prorated on the basis of
26 the licensing year as provided by the Commissioner, must be paid at
27 the time of making the application.

28 3. A trust company may maintain offices in this and other
29 states. For every branch location of a trust company organized under
30 the laws of this State, and every branch location in this State of a
31 foreign trust company authorized to do business in this State, a
32 request for approval and licensing must be filed with the
33 Commissioner on such forms as he prescribes. A nonrefundable fee
34 of not more than \$500 must accompany each request. In addition, a
35 fee of not more than \$200, prorated on the basis of the licensing
36 year as provided by the Commissioner, must be paid at the time of
37 making the request.

38 4. The Commissioner shall adopt regulations establishing the
39 amount of the fees required pursuant to this section. All money
40 received by the Commissioner pursuant to this section must be
41 placed in the Investigative Account created by NRS 232.545.

42 5. The Commissioner shall consider an application to be
43 withdrawn if the Commissioner has not received all information and
44 fees required to complete the application within ~~[12]~~ *6* months after
45 the date the application is first submitted to the Commissioner or



1 within ~~[such]~~ a later period as the Commissioner determines in
2 accordance with any existing policies of joint regulatory partners. If
3 an application is deemed to be withdrawn pursuant to this
4 subsection or if an applicant otherwise withdraws an application, the
5 Commissioner may not issue a license to the applicant unless the
6 applicant submits a new application and pays any required fees.

7 **Sec. 11.** NRS 669.160 is hereby amended to read as follows:

8 669.160 1. ~~[Within 60 days after]~~ *After* the application for a
9 license is filed, the Commissioner shall investigate the facts of the
10 application and the other requirements of this chapter to determine:

11 (a) That the persons who will serve as directors or officers of the
12 corporation, or the managers or members acting in a managerial
13 capacity of the limited-liability company, as applicable:

14 (1) Have a good reputation for honesty, trustworthiness and
15 integrity and display competence to transact the business of a trust
16 company in a manner which safeguards the interests of the general
17 public. The applicant must submit satisfactory proof of these
18 qualifications to the Commissioner.

19 (2) Have not been convicted of, or entered a plea of nolo
20 contendere to, a felony or any crime involving fraud,
21 misrepresentation or moral turpitude.

22 (3) Have not made a false statement of material fact on the
23 application.

24 (4) Have not had a license that was issued pursuant to the
25 provisions of this chapter suspended or revoked within the 10 years
26 immediately preceding the date of the application.

27 (5) Have not had a license as a trust company which was
28 issued in any other state, district or territory of the United States or
29 any foreign country suspended or revoked within the 10 years
30 immediately preceding the date of the application.

31 (6) Have not violated any of the provisions of this chapter or
32 any regulation adopted pursuant to the provisions of this chapter.

33 (b) That the financial status of the directors and officers of the
34 corporation or the managers or members acting in a managerial
35 capacity of the limited-liability company is consistent with their
36 responsibilities and duties.

37 (c) That the name of the proposed company complies with the
38 provisions of NRS 657.200.

39 (d) That the initial stockholders' equity is not less than the
40 required minimum.

41 2. Notice of the entry of an order refusing a license to a trust
42 company must be given in writing, served personally or sent by
43 certified mail or by telegram to the company affected. The
44 company, upon application, is entitled to a hearing before a hearing
45 officer appointed by the Director of the Department of Business and



1 Industry, but if no such application is made within 30 days after the
2 entry of an order refusing a license to any company, the
3 Commissioner shall enter a final order.

4 3. If the hearing officer affirms the order of the Commissioner
5 refusing the license, the applicant may file a petition for judicial
6 review pursuant to NRS 233B.130.

7 **Sec. 12.** NRS 669.210 is hereby amended to read as follows:

8 669.210 1. Each licensed trust company may:

9 (a) Act as trustee under any mortgage or bond of any person or
10 of any municipality or body politic.

11 (b) Accept and execute any municipal or corporate or individual
12 trust not inconsistent with the laws of this State.

13 (c) Act under the order or appointment of any court as guardian,
14 administrator, receiver or trustee.

15 (d) Act as executor or trustee under any will.

16 (e) Act as fiscal or transfer agent of any state, municipality,
17 body politic or corporation, and in such capacity receive and
18 disburse money and register, transfer and countersign certificates of
19 stock, bonds and other evidences of indebtedness.

20 (f) Act as local or resident agent of *a* foreign ~~corporations.~~
21 *trust company.*

22 (g) Accept and execute any trust business permitted by any law.

23 (h) Acquire the fiduciary rights, powers, duties and liabilities of
24 a bank, savings and loan association, thrift company, trust company
25 or credit union licensed pursuant to titles 55 and 56 of NRS, and
26 upon the effective date of such an acquisition, the fiduciary rights,
27 powers, duties and liabilities of the bank, savings and loan
28 association, thrift company, trust company or credit union vest in
29 and must be performed by the acquiring trust company.

30 (i) Do and perform all acts necessary to exercise the powers
31 enumerated in this subsection and authorized by this chapter and
32 any other applicable laws of this State.

33 2. *The provisions of subsection 1 do not apply to a family*
34 *trust.*

35 3. A trust company may not engage in any banking business by
36 accepting deposits or making loans.

37 4. *As used in this section, "local or resident agent" means an*
38 *agent appointed by a foreign trust company upon whom process or*
39 *a notice or demand authorized by law to be served upon the trust*
40 *company may be served.*

41 **Sec. 13.** NRS 669.295 is hereby amended to read as follows:

42 669.295 In addition to any other remedy or penalty, the
43 Commissioner may ~~impose~~:

44 1. *Impose* an administrative fine of not more than \$10,000
45 upon a person who:



1 ~~H-1~~ (a) Without a license, conducts any business or activity for
2 which a license is required pursuant to the provisions of this chapter;
3 or

4 ~~F-2~~ (b) Violates any provision of this chapter or any regulation
5 adopted pursuant thereto ~~F-1~~; or

6 *2. Require a licensee to pay restitution to a person who has*
7 *suffered economic loss because of a violation by the licensee of*
8 *any provision of this chapter or any regulation adopted pursuant*
9 *thereto.*

10 **Sec. 14.** Chapter 670 of NRS is hereby amended by adding
11 thereto a new section to read as follows:

12 *1. Except as otherwise provided in this section, a complaint*
13 *filed with the Commissioner, all documents and other information*
14 *filed with the complaint and all documents and other information*
15 *compiled as a result of an investigation conducted to determine*
16 *whether to initiate an action to collect a fee pursuant to NRS*
17 *670.320 or impose an administrative fine or restitution pursuant to*
18 *NRS 670.330 are confidential.*

19 *2. The complaint or other documents filed by the*
20 *Commissioner to initiate such an action and all documents and*
21 *information considered by the Commissioner when determining*
22 *whether to collect a fee or impose an administrative fine or*
23 *restitution specified in subsection 1 are public records.*

24 **Sec. 15.** NRS 670.330 is hereby amended to read as follows:
25 670.330 In addition to any other remedy or penalty, the
26 Commissioner may ~~impose~~:

27 *1. Impose* an administrative fine of not more than \$10,000
28 upon a person who:

29 ~~H-1~~ (a) Without a license, conducts any business or activity for
30 which a license is required pursuant to the provisions of this chapter;
31 or

32 ~~F-2~~ (b) Violates any provision of this chapter or any regulation
33 adopted pursuant thereto ~~F-1~~; or

34 *2. Require a licensee to pay restitution to a person who has*
35 *suffered economic loss because of a violation by the licensee of*
36 *any provision of this chapter or any regulation adopted pursuant*
37 *thereto.*

38 **Sec. 16.** Chapter 670A of NRS is hereby amended by adding
39 thereto a new section to read as follows:

40 *1. Except as otherwise provided in this section, a complaint*
41 *filed with the Commissioner, all documents and other information*
42 *filed with the complaint and all documents and other information*
43 *compiled as a result of an investigation conducted to determine*
44 *whether to initiate an action to collect a fee pursuant to NRS*



1 *670A.310 or impose an administrative fine or restitution pursuant*
2 *to NRS 670A.320 are confidential.*

3 *2. The complaint or other documents filed by the*
4 *Commissioner to initiate such an action and all documents and*
5 *information considered by the Commissioner when determining*
6 *whether to collect a fee or impose an administrative fine or*
7 *restitution specified in subsection 1 are public records.*

8 **Sec. 17.** NRS 670A.320 is hereby amended to read as follows:

9 670A.320 In addition to any other remedy or penalty, the
10 Commissioner may ~~impose~~:

11 *1. Impose an administrative fine of not more than \$10,000*
12 *upon a person who:*

13 ~~1-~~ *(a) Without a license, conducts any business or activity for*
14 *which a license is required pursuant to the provisions of this chapter;*
15 *or*

16 ~~2-~~ *(b) Violates any provision of this chapter or any regulation*
17 *adopted pursuant thereto ~~1-~~; or*

18 *2. Require a licensee to pay restitution to a person who has*
19 *suffered economic loss because of a violation by the licensee of*
20 *any provision of this chapter or any regulation adopted pursuant*
21 *thereto.*

22 **Sec. 18.** Chapter 671 of NRS is hereby amended by adding
23 thereto a new section to read as follows:

24 *In addition to the provisions of NRS 671.150:*

25 *1. Each licensee shall at all times maintain a separate*
26 *account in a bank or credit union in which must be deposited all*
27 *money collected. The account must be maintained in a bank or*
28 *credit union located in this State and bear some title sufficient to*
29 *distinguish it from the licensee's personal or general checking*
30 *account and to designate it as a trust account, such as "customers'*
31 *trust fund account." The trust account must at all times contain*
32 *sufficient money to pay all money due or owing to all customers.*

33 *2. Each licensee maintaining a separate custodial or trust*
34 *account shall keep a record of all money deposited in the account,*
35 *which must indicate clearly the date and from whom the money*
36 *was received, the date deposited, the dates of withdrawals and*
37 *other pertinent information concerning the transaction, and must*
38 *show clearly for whose account the money is deposited and to*
39 *whom the money belongs.*

40 **Sec. 19.** NRS 671.100 is hereby amended to read as follows:

41 671.100 1. Except as *otherwise* provided in NRS 671.110,
42 each licensee shall have in force a surety bond payable to the State
43 of Nevada for the use and benefit of any holder of any outstanding
44 check sold or issued by a licensee in the normal course of business
45 and for value in the following minimum principal sums:



- 1 (a) For the first location granted in the license, \$10,000; and
2 (b) For each additional location in this State where its business
3 is conducted directly or through an agent, \$5,000.
4 ➤ The maximum amount of any surety bond required under this
5 subsection is \$250,000.
- 6 2. The bond must be in a form satisfactory to the
7 Commissioner, issued by a bonding company authorized to do
8 business in this State, and must secure the faithful performance of
9 the obligations of the licensee respecting the sale or issuance of
10 checks and receipt for transmission or transmission of money or
11 credits.
- 12 3. A licensee shall, within 10 days after the commencement of
13 any action or notice of entry of any judgment against him by any
14 creditor or claimant arising out of business regulated by this chapter,
15 give notice thereof to the Commissioner by registered or certified
16 mail with details sufficient to identify the action or judgment. The
17 surety shall, within 10 days after it pays any claim or judgment to a
18 creditor or claimant, give notice thereof to the Commissioner by
19 registered or certified mail with details sufficient to identify the
20 creditor or claimant and the claim or judgment so paid.
- 21 4. Whenever the principal sum of the bond is reduced by
22 recoveries or payments thereon, the licensee shall furnish:
- 23 (a) A new or additional bond so that the total or aggregate
24 principal sum of the bonds equals the sum required under subsection
25 1; or
26 (b) An endorsement, duly executed by the surety reinstating the
27 bond to the required principal sum.
- 28 5. The liability of the surety on the bond to a creditor or
29 claimant is not affected by any misrepresentation, breach of
30 warranty, failure to pay a premium or other act or omission of the
31 licensee, or by any insolvency or bankruptcy of the licensee.
- 32 6. The liability of the surety continues as to all transactions
33 entered into in good faith by the creditors and claimants with the
34 licensee's agents within 30 days after:
- 35 (a) The licensee's death or the dissolution or liquidation of his
36 business; or
37 (b) The termination of the bond,
38 ➤ whichever event occurs first.
- 39 7. Whenever the Commissioner determines that the protection
40 of the public so requires, he may order that an increase be made in
41 the principal sum of the bond of any licensee, except that the
42 Commissioner may not order an increase of more than \$10,000 if
43 the licensee has submitted a current financial statement, or more
44 than \$15,000 otherwise.



1 8. Neither a licensee nor his surety may cancel or alter a bond
2 except after notice to the Commissioner by registered or certified
3 mail. The cancellation or alteration is not effective until 10 days
4 after receipt of the notice by the Commissioner. A cancellation or
5 alteration does not affect any liability incurred or accrued on the
6 bond before the expiration of the 30-day period designated in
7 subsection 6.

8 *9. Not later than 3 months after the issuance of a license and*
9 *semiannually thereafter, the Commissioner shall, in accordance*
10 *with the following schedule, determine the appropriate amount of*
11 *bond or appropriate substitute which must be maintained by the*
12 *licensee in accordance with the licensee's average monthly*
13 *balance in the trust account maintained pursuant to section 18 of*
14 *this act:*

<i>AVERAGE MONTHLY BALANCE</i>	<i>AMOUNT OF BOND REQUIRED</i>
<i>Less than \$100,000.....</i>	<i>\$35,000</i>
<i>\$100,000 or more but less than \$150,000.....</i>	<i>40,000</i>
<i>\$150,000 or more but less than \$200,000.....</i>	<i>50,000</i>
<i>\$200,000 or more.....</i>	<i>60,000</i>

22 **Sec. 20.** NRS 671.185 is hereby amended to read as follows:
23 671.185 In addition to any other remedy or penalty, the
24 Commissioner may ~~impose~~ :

25 *1. Impose* an administrative fine of not more than \$10,000
26 upon a person who:

27 ~~1-1~~ (a) Without a license, conducts any business or activity for
28 which a license is required pursuant to the provisions of this chapter;
29 or

30 ~~1-2~~ (b) Violates any provision of this chapter or any regulation
31 adopted pursuant thereto ~~1-3~~ : or

32 *2. Require a licensee to pay restitution to a person who has*
33 *suffered economic loss because of a violation by the licensee of*
34 *any provision of this chapter or any regulation adopted pursuant*
35 *thereto.*

36 **Sec. 21.** NRS 97.299 is hereby amended to read as follows:
37 97.299 1. The ~~Commissioner of Financial Institutions~~
38 *Department* shall prescribe, by regulation, forms for the application
39 for credit and contracts to be used in the sale of vehicles if:

- 40 (a) The sale involves the taking of a security interest to secure
- 41 all or a part of the purchase price of the vehicle;
- 42 (b) The application for credit is made to or through the seller of
- 43 the vehicle;
- 44 (c) The seller is a dealer; and
- 45 (d) The sale is not a commercial transaction.



1 2. The forms prescribed pursuant to subsection 1 must meet the
2 requirements of NRS 97.165, must be accepted and acted upon by
3 any lender to whom the application for credit is made and, in
4 addition to the information required in NRS 97.185 and required to
5 be disclosed in such a transaction by federal law, must:

6 (a) Identify and itemize the items embodied in the cash sale
7 price, including the amount charged for a contract to service the
8 vehicle after it is purchased.

9 (b) In specifying the amount of the buyer's down payment,
10 identify the amounts paid in money and allowed for property given
11 in trade and the amount of any manufacturer's rebate applied to the
12 down payment.

13 (c) Contain a description of any property given in trade as part
14 of the down payment.

15 (d) Contain a description of the method for calculating the
16 unearned portion of the finance charge upon prepayment in full of
17 the unpaid total of payments as prescribed in NRS 97.225.

18 (e) Include the following notice in at least 10-point bold type:
19

20 NOTICE TO BUYER

21
22 Do not sign this agreement before you read it or if it
23 contains any blank spaces. You are entitled to a completed
24 copy of this agreement. If you pay the amount due before the
25 scheduled date of maturity of the indebtedness and you are
26 not in default in the terms of the contract for more than 2
27 months, you are entitled to a refund of the unearned portion
28 of the finance charge. If you fail to perform your obligations
29 under this agreement, the vehicle may be repossessed and you
30 may be liable for the unpaid indebtedness evidenced by this
31 agreement.
32

33 3. The ~~Commissioner~~ *Department* shall arrange for or
34 otherwise cause the translation into Spanish of the forms prescribed
35 pursuant to subsection 1.

36 4. If a change in state or federal law requires the
37 ~~Commissioner~~ *Director* to amend the forms prescribed pursuant to
38 subsection 1, the ~~Commissioner~~ *Director* need not comply with
39 the provisions of chapter 233B of NRS when making those
40 amendments.

41 5. As used in this section:

42 (a) "Commercial transaction" means any sale of a vehicle to a
43 buyer who purchases the vehicle solely or primarily for commercial
44 use or resale.

45 (b) "Dealer" has the meaning ascribed to it in NRS 482.020.



1 (c) *“Department” means the Department of Motor Vehicles.*

2 **Sec. 22.** Chapter 604A of NRS is hereby amended by adding
3 thereto the provisions set forth as sections 23 and 24 of this act.

4 **Sec. 23. 1.** *Except as otherwise provided in this section, a*
5 *complaint filed with the Commissioner, all documents and other*
6 *information filed with the complaint and all documents and other*
7 *information compiled as a result of an investigation conducted to*
8 *determine whether to initiate disciplinary action pursuant to NRS*
9 *604A.820, 604A.830 or 604A.910 are confidential.*

10 **2.** *The complaint or other documents filed by the*
11 *Commissioner to initiate disciplinary action and all documents*
12 *and information considered by the Commissioner when*
13 *determining whether to impose discipline pursuant to NRS*
14 *604A.820, 604A.830 or 604A.910 are public records.*

15 **Sec. 24.** *“Kiosk” means a structure or portion of a structure*
16 *from which a natural person operates a check-cashing service,*
17 *deferred deposit loan service, short-term loan service or title loan*
18 *service. The term does not include an automated loan machine.*

19 **Sec. 25.** NRS 604A.010 is hereby amended to read as follows:

20 604A.010 As used in this chapter, unless the context otherwise
21 requires, the words and terms defined in NRS 604A.015 to
22 604A.125, inclusive, *and section 24 of this act* have the meanings
23 ascribed to them in those sections.

24 **Sec. 26.** NRS 604A.250 is hereby amended to read as follows:

25 604A.250 The provisions of this chapter do not apply to:

26 1. A person doing business pursuant to the authority of any law
27 of this State or of the United States relating to banks, savings banks,
28 trust companies, savings and loan associations, credit unions,
29 development corporations ~~[, mortgage brokers, mortgage bankers,]~~
30 *or* thrift companies. ~~[or insurance companies.]~~

31 2. A person who is primarily engaged in the retail sale of goods
32 or services who:

33 (a) As an incident to or independently of a retail sale or service,
34 from time to time cashes checks for a fee or other consideration of
35 not more than \$2; and

36 (b) Does not hold himself out as a check-cashing service.

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

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

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



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

4 ~~[7.— A pawnbroker, unless the pawnbroker operates a check-~~
5 ~~cashing service, deferred deposit loan service, short term loan~~
6 ~~service or title loan service.~~

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

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

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

14 ~~—11.— A real estate broker rendering services in the performance~~
15 ~~of his duties as a real estate broker if the loan is secured by real~~
16 ~~property.~~

17 ~~—12.— Any firm or corporation:~~

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

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

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

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

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

28 ~~—15.]~~ 6. A person who makes a refund anticipation loan, unless
29 the person operates a check-cashing service, deferred deposit loan
30 service, short-term loan service or title loan service.

31 **Sec. 27.** NRS 604A.400 is hereby amended to read as follows:

32 604A.400 1. A person, including, without limitation, a person
33 licensed pursuant to chapter 675 of NRS, shall not operate a check-
34 cashing service, deferred deposit loan service, short-term loan
35 service or title loan service unless the person is licensed **[with] by**
36 the Commissioner pursuant to the provisions of this chapter.

37 2. A person must have a license regardless of the location or
38 method that the person uses to operate such a service, including,
39 without limitation, at a kiosk, through the Internet, through any
40 telephone, facsimile machine or other telecommunication device or
41 through any other machine, network, system, device or means,
42 except that the person shall not operate such a service through any
43 automated loan machine in violation of the provisions of
44 subsection 3.



1 3. A person shall not operate a deferred deposit loan service or
2 short-term loan service through any automated loan machine, and
3 the Commissioner shall not issue a license that authorizes the
4 licensee to conduct business through any automated loan machine.

5 4. *A check-cashing service shall not cash a check for an*
6 *amount that is less than the face value of the check, less any fee,*
7 *service charge or other consideration charged for cashing the*
8 *check.*

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

12 **Sec. 28.** NRS 604A.430 is hereby amended to read as follows:

13 604A.430 A licensee shall not make more than one deferred
14 deposit loan , ~~or~~ short-term loan *or title loan* to the same customer
15 at one time or before any outstanding balance is paid in full on an
16 existing loan made by that licensee to the customer unless:

17 1. The customer is seeking multiple loans that do not exceed
18 the limits set forth in NRS 604A.425;

19 2. The licensee charges the same or a lower annual percentage
20 rate for any additional loans as he charged for the initial loan;

21 3. Except for that part of the finance charge which consists of
22 interest only, the licensee does not impose any other charge or fee to
23 initiate any additional loans, except that a licensee who makes
24 deferred deposit loans or short-term loans in accordance with the
25 provisions of subsection 2 of NRS 604A.480 may charge a
26 reasonable fee for preparing documents in an amount that does not
27 exceed \$50; and

28 4. If the additional loans are deferred deposit loans and the
29 customer provides one or more additional checks that are not paid
30 upon presentment, the licensee does not charge any fees to the
31 customer pursuant to NRS 604A.490, except for the fees allowed
32 pursuant to that section for the first check that is not paid upon
33 presentment.

34 **Sec. 29.** NRS 604A.475 is hereby amended to read as follows:

35 604A.475 1. Before a licensee attempts to collect the
36 outstanding balance on a loan in default by commencing any civil
37 action or process of alternative dispute resolution or by repossessing
38 a vehicle, the licensee shall offer the customer an opportunity to
39 enter into a repayment plan. The licensee:

40 (a) Is required to make the offer available to the customer for a
41 period of at least 30 days after the date of default; and

42 (b) Is not required to make such an offer more than once for
43 each loan.



- 1 2. Not later than 15 days after the date of default, the licensee
2 shall provide to the customer written notice of the opportunity to
3 enter into a repayment plan. The written notice must:
- 4 (a) Be in English, if the initial transaction was conducted in
5 English, or in Spanish, if the initial transaction was conducted in
6 Spanish;
- 7 (b) State the date by which the customer must act to enter into a
8 repayment plan;
- 9 (c) Explain the procedures the customer must follow to enter
10 into a repayment plan;
- 11 (d) If the licensee requires the customer to make an initial
12 payment to enter into a repayment plan, explain the requirement and
13 state the amount of the initial payment and the date the initial
14 payment must be made;
- 15 (e) State that the customer has the opportunity to enter into a
16 repayment plan with a term of at least 90 days after the date of
17 default; and
- 18 (f) Include the following amounts:
- 19 (1) The total of payments or the remaining balance on the
20 original loan;
- 21 (2) Any payments made on the loan;
- 22 (3) Any charges added to the loan amount allowed pursuant
23 to the provisions of this chapter; and
- 24 (4) The total amount due if the customer enters into a
25 repayment plan.
- 26 3. Under the terms of any repayment plan pursuant to this
27 section:
- 28 (a) The customer must enter into the repayment plan not later
29 than 30 days after the date of default, unless the licensee allows a
30 longer period;
- 31 (b) The licensee must allow the period for repayment to extend
32 at least 90 days *and not more than 180 days* after the date of
33 default, unless the customer agrees to a shorter term;
- 34 (c) The licensee may require the customer to make an initial
35 payment of not more than 20 percent of the total amount due under
36 the terms of the repayment plan;
- 37 (d) For a deferred deposit loan:
- 38 (1) The licensee may require a customer to provide, as
39 security, one or more checks or written authorizations for an
40 electronic transfer of money which equal the total amount due under
41 the terms of the repayment plan;
- 42 (2) The licensee shall, if the customer makes a payment in
43 the amount of a check or written authorization taken as security for
44 that payment, return to the customer the check or written



1 authorization stamped "void" or destroy the check or written
2 authorization; and

3 (3) The licensee shall not charge any fee to the customer
4 pursuant to NRS 604A.490 for a check which is provided as security
5 during the repayment plan and which is not paid upon presentment
6 if, in connection with that loan, the licensee has previously charged
7 at least one such fee.

8 4. If the licensee and customer enter into a repayment plan
9 pursuant to this section, the licensee shall honor the terms of the
10 repayment plan, and the licensee shall not:

11 (a) Except as otherwise provided by this chapter, charge any
12 other amount to a customer, including, without limitation, any
13 amount or charge payable directly or indirectly by the customer and
14 imposed directly or indirectly by the licensee as an incident to or as
15 a condition of entering into a repayment plan. Such an amount
16 includes, without limitation:

17 (1) Any interest, regardless of the name given to the interest,
18 other than the interest charged pursuant to the original loan
19 agreement at a rate which does not exceed the annual percentage
20 rate charged during the term of the original loan agreement; or

21 (2) Any origination fees, set-up fees, collection fees,
22 transaction fees, negotiation fees, handling fees, processing fees,
23 late fees, default fees or any other fees, regardless of the name given
24 to the fee;

25 (b) Except as otherwise provided in this section, accept any
26 additional security or collateral from the customer to enter into the
27 repayment plan;

28 (c) Sell to the customer any insurance or require the customer to
29 purchase insurance or any other goods or services to enter into the
30 repayment plan;

31 (d) Make any other loan to the customer, unless the customer is
32 seeking multiple loans that do not exceed the limit set forth in
33 NRS 604A.425;

34 (e) During the term of the repayment plan, attempt to collect the
35 outstanding balance by commencing any civil action or process of
36 alternative dispute resolution or by repossessing a vehicle, unless
37 the customer defaults on the repayment plan; or

38 (f) Attempt to collect an amount that is greater than the amount
39 owed under the terms of the repayment plan.

40 5. If the licensee and customer enter into a repayment plan
41 pursuant to this section, the licensee shall:

42 (a) Prepare a written agreement establishing the repayment plan;
43 and

44 (b) Give the customer a copy of the written agreement. The
45 written agreement must:



- 1 (1) Be signed by the licensee and customer; and
2 (2) Contain all of the terms of the repayment plan, including,
3 without limitation, the total amount due under the terms of the
4 repayment plan.

5 6. Each time a customer makes a payment pursuant to a
6 repayment plan, the licensee shall give to the customer a receipt
7 with the following information:

- 8 (a) The name and address of the licensee;
9 (b) The identification number assigned to the loan agreement or
10 other information that identifies the loan;
11 (c) The date of the payment;
12 (d) The amount paid;
13 (e) The balance due on the loan or, when the customer makes
14 the final payment, a statement that the loan is paid in full; and
15 (f) If more than one loan made by the licensee to the customer
16 was outstanding at the time the payment was made, a statement
17 indicating to which loan the payment was applied.

18 7. If the customer defaults on the repayment plan, the licensee
19 may, to collect the outstanding balance, commence any civil action
20 or process of alternative dispute resolution or repossess a vehicle as
21 otherwise authorized pursuant to this chapter.

22 **Sec. 30.** NRS 604A.820 is hereby amended to read as follows:

23 604A.820 1. If the Commissioner has reason to believe that
24 grounds for revocation or suspension of a license exist, he shall give
25 20 days' written notice to the licensee stating the contemplated
26 action and, in general, the grounds therefor and set a date for a
27 hearing.

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

29 (a) Enter a written order either dismissing the charges, revoking
30 the license or suspending the license for a period of not more than
31 60 days, which period must include any prior temporary suspension.
32 The Commissioner shall send a copy of the order to the licensee by
33 registered or certified mail.

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

37 (c) If a fine is imposed pursuant to this section, enter such order
38 as is necessary to recover the costs of the proceeding, including his
39 investigative costs and attorney's fees.

40 3. *At the conclusion of a hearing, the Commissioner may*
41 *require the licensee to pay restitution to a person who has suffered*
42 *economic loss because of a violation by the licensee of any*
43 *provision of this chapter or any regulation adopted pursuant*
44 *thereto.*



1 4. The grounds for revocation or suspension of a license are
2 that:

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

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

7 (c) The licensee has failed to pay a tax as required pursuant to
8 the provisions of chapter 363A of NRS;

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

12 (e) The licensee:

13 (1) Failed to open an office for the conduct of the business
14 authorized by his license within 180 days after the date his license
15 was issued; or

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

18 ~~[4.]~~ 5. Any revocation or suspension applies only to the
19 license granted to a person for the particular office for which
20 grounds for revocation or suspension exist.

21 ~~[5.]~~ 6. An order suspending or revoking a license becomes
22 effective 5 days after being entered unless the order specifies
23 otherwise or a stay is granted.

24 **Sec. 31.** NRS 649.020 is hereby amended to read as follows:

25 649.020 1. "Collection agency" means all persons engaging,
26 directly or indirectly, and as a primary or a secondary object,
27 business or pursuit, in the collection of or in soliciting or obtaining
28 in any manner the payment of a claim owed or due or asserted to be
29 owed or due to another.

30 2. "Collection agency" does not include any of the following
31 unless they are conducting collection agencies:

32 (a) Individuals regularly employed on a regular wage or salary,
33 in the capacity of credit men or in other similar capacity upon the
34 staff of employees of any person not engaged in the business of a
35 collection agency or making or attempting to make collections as an
36 incident to the usual practices of their primary business or
37 profession.

38 (b) Banks.

39 (c) ~~Nonprofit cooperative associations.~~

40 ~~—(d) Unit owners' associations and the board members, officers,~~
41 ~~employees and units' owners of those associations when acting~~
42 ~~under the authority of and in accordance with chapter 116 of NRS~~
43 ~~and the governing documents of the association, except for those~~
44 ~~community managers included within the term "collection agency"~~
45 ~~pursuant to subsection 3.~~



1 ~~—(e) Abstract companies doing an escrow business.~~
2 ~~—(f) Duly licensed real estate brokers, except for those real estate~~
3 ~~brokers who are community managers included within the term~~
4 ~~“collection agency” pursuant to subsection 3.~~

5 ~~—(g)}~~ Attorneys and counselors at law licensed to practice in this
6 State, so long as they are retained by their clients to collect or to
7 solicit or obtain payment of such clients’ claims in the usual course
8 of the practice of their profession and the collection, solicitation or
9 obtainment is incidental to the usual course of the practice of their
10 profession.

11 3. “Collection agency”:

12 (a) Includes a community manager while engaged in the
13 management of a common-interest community if the community
14 manager, or any employee, agent or affiliate of the community
15 manager, performs or offers to perform any act associated with the
16 foreclosure of a lien pursuant to NRS 116.31162 to 116.31168,
17 inclusive; and

18 (b) Does not include any other community manager while
19 engaged in the management of a common-interest community.

20 4. As used in this section ~~f~~:

21 ~~—(a) “Community”~~, “community manager” has the meaning
22 ascribed to it in NRS 116.023.

23 ~~[(b) “Unit owners’ association” has the meaning ascribed to it in~~
24 ~~NRS 116.011.]~~

25 **Sec. 32.** NRS 649.025 is hereby amended to read as follows:

26 649.025 “Collection agent” means any person, whether or not
27 regularly employed at a regular wage or salary, who in the capacity
28 of a credit man or in any other similar capacity makes a collection,
29 solicitation or investigation of a claim at a place or location other
30 than the business premises of the collection agency, but does not
31 include:

32 1. Employees of a collection agency whose activities and
33 duties are restricted to the business premises of the collection
34 agency.

35 2. The individuals, ~~[corporations and associations]~~ banks and
36 attorneys and counselors at law enumerated in subsection 2 of
37 NRS 649.020.

38 **Sec. 33.** NRS 649.075 is hereby amended to read as follows:

39 649.075 1. Except as otherwise provided in this section, a
40 person shall not conduct within this State a collection agency or
41 engage within this State in the business of collecting claims for
42 others, or of soliciting the right to collect or receive payment for
43 another of any claim, or advertise, or solicit, either in print, by letter,
44 in person or otherwise, the right to collect or receive payment for
45 another of any claim, or seek to make collection or obtain payment



1 of any claim on behalf of another without having first applied for
2 and obtained a license from the Commissioner.

3 2. A person is not required to obtain a license if:

4 (a) The collection agency he works for is located outside of this
5 State;

6 (b) His activities in this State are limited to the collection of
7 claims from residents of this State on behalf of residents of another
8 state; ~~[and]~~

9 (c) His contact with persons in this State is limited to interstate
10 communications by telephone, mail or facsimile ~~[F.]~~; and

11 *(d) He has been issued a certificate of exemption by the*
12 *Commissioner.*

13 3. *An application for a certificate of exemption required*
14 *pursuant to subsection 2 must:*

15 *(a) Be submitted in writing; and*

16 *(b) Include any information reasonably related to the*
17 *applicant's qualifications for the certificate which the*
18 *Commissioner determines to be necessary.*

19 4. A person is not required to obtain a license if the person
20 holds a certificate of registration as a foreign collection agency
21 issued by the Commissioner pursuant to NRS 649.171.

22 **Sec. 34.** NRS 649.315 is hereby amended to read as follows:

23 649.315 ~~[Each]~~

24 *1. Except as otherwise provided in subsection 2, each* license
25 and certificate issued under this chapter must be framed in a suitable
26 frame under glass and hung in a conspicuous place upon the walls of
27 the place of business designated in the license or certificate.

28 *2. A person who has been issued a manager's certificate*
29 *pursuant to NRS 649.225 shall not display the certificate as*
30 *required pursuant to subsection 1 or in any way hold himself out*
31 *as the manager of a collection agency unless he:*

32 *(a) Shares equally with the holder of a license to conduct a*
33 *collection agency the responsibility for the operation of the*
34 *collection agency; and*

35 *(b) Devotes a majority of the hours he works as an employee of*
36 *the collection agency to the actual management, operation and*
37 *administration of that collection agency.*

38 **Sec. 35.** NRS 649.440 is hereby amended to read as follows:

39 649.440 In addition to any other remedy or penalty, the
40 Commissioner may ~~[impose]~~ :

41 *1. Impose* an administrative fine of not more than \$10,000
42 upon a person who:

43 ~~[F.]~~ *(a) Without a license or certificate, conducts any business*
44 *or activity for which a license or certificate is required pursuant to*
45 *the provisions of this chapter; or*



1 ~~(2)~~ (b) Violates any provision of this chapter or any regulation
2 adopted pursuant thereto ~~(1)~~; or

3 2. *Require a licensee to pay restitution to a person who has*
4 *suffered economic loss because of a violation by the licensee of*
5 *any provision of this chapter or any regulation adopted pursuant*
6 *thereto.*

7 **Sec. 36.** Chapter 673 of NRS is hereby amended by adding
8 thereto a new section to read as follows:

9 1. *Except as otherwise provided in this section, a complaint*
10 *filed with the Commissioner, all documents and other information*
11 *filed with the complaint and all documents and other information*
12 *compiled as a result of an investigation conducted to determine*
13 *whether to initiate a suspension or revocation of a charter*
14 *pursuant to NRS 673.484 or to take any other action against an*
15 *association pursuant to this chapter are confidential.*

16 2. *The complaint or other documents filed by the*
17 *Commissioner to initiate any such action and all documents and*
18 *information considered by the Commissioner when determining*
19 *whether to suspend or revoke a charter pursuant to NRS 673.484*
20 *or to impose any other discipline are public records.*

21 **Sec. 37.** NRS 673.820 is hereby amended to read as follows:

22 673.820 In addition to any other remedy or penalty:

23 1. Any association which violates any provisions of this
24 chapter or fraudulently misrepresents the terms of any contract or of
25 any securities, and thereby secures a sale therefor, shall be punished
26 by an administrative fine of not more than \$10,000 and forfeiture
27 and revocation of all licenses issued to it under the provisions of this
28 chapter.

29 2. The Commissioner may ~~impose~~:

30 (a) *Impose* an administrative fine of not more than \$10,000
31 upon a person who:

32 ~~(a)~~ (1) Without a license, conducts any business or activity for
33 which a license is required pursuant to the provisions of this chapter;
34 or

35 ~~(b)~~ (2) Violates any provision of this chapter or any regulation
36 adopted pursuant thereto ~~(1)~~; or

37 (b) *Require a licensee to pay restitution to a person who has*
38 *suffered economic loss because of a violation by the licensee of*
39 *any provision of this chapter or any regulation adopted pursuant*
40 *thereto.*

41 **Sec. 38.** Chapter 675 of NRS is hereby amended by adding
42 thereto the provisions set forth as sections 39 to 43, inclusive, of this
43 act.

44 **Sec. 39.** *Notwithstanding any provision of this chapter to the*
45 *contrary:*



1 *1. Before making any loan to a borrower, a licensee shall*
2 *provide to the borrower a written loan agreement which may be*
3 *kept by the borrower and which must be written in:*

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

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

6 *2. The loan agreement must include, without limitation, the*
7 *following information:*

8 *(a) The name and address of the licensee and the borrower;*

9 *(b) The nature of the security for the loan, if any;*

10 *(c) The date and amount of the loan, amount financed, annual*
11 *percentage rate, finance charge, total of payments, payment*
12 *schedule and a description and the amount of every fee charged,*
13 *regardless of the name given to the fee and regardless of whether*
14 *the fee is required to be included in the finance charge under the*
15 *Truth in Lending Act and Regulation Z; and*

16 *(d) Any other disclosures required under the Truth in Lending*
17 *Act and Regulation Z or under any other applicable federal or*
18 *state statute or regulation.*

19 **Sec. 40.** *1. If a borrower defaults on a loan, the licensee*
20 *may collect the debt owed to the licensee only in a professional,*
21 *fair and lawful manner. When collecting such a debt, the licensee*
22 *must act in accordance with and must not violate sections 803 to*
23 *812, inclusive, of the federal Fair Debt Collection Practices Act, as*
24 *amended, 15 U.S.C. §§ 1692a to 1692j, inclusive, even if the*
25 *licensee is not otherwise subject to the provisions of that Act.*

26 *2. If a licensee commences a civil action against a borrower*
27 *to collect a debt, the court may award:*

28 *(a) Court costs;*

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

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

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

41 *(a) A licensee intends to commence a civil action in a justice*
42 *court against a borrower to collect a debt; and*

43 *(b) The borrower resides in the county where the loan was*
44 *made,*



1 ↪ the licensee is required to commence the civil action in the
2 justice court for the township where the loan was made unless,
3 after the date of default and before the licensee commences the
4 civil action, the borrower signs an affidavit agreeing to try the
5 action in another justice court having jurisdiction over the subject
6 matter and the parties. A licensee shall not, directly or indirectly,
7 require, intimidate, threaten or coerce a borrower to sign such an
8 affidavit.

9 **Sec. 41.** 1. If a borrower is called to active duty in the
10 military, a licensee shall:

11 (a) Defer for the duration of the active duty all collection
12 activity against the borrower and his property, including, without
13 limitation, any community property in which the borrower has an
14 interest; and

15 (b) Honor the terms of any repayment plan between the
16 licensee and borrower, including, without limitation, any
17 repayment plan negotiated through military counselors or third-
18 party credit counselors.

19 2. When collecting any defaulted loan, a licensee shall not:

20 (a) Garnish or threaten to garnish any wages or salary paid to
21 a borrower for active service in the military; or

22 (b) Contact or threaten to contact the military chain of
23 command of a borrower in an effort to collect the defaulted loan.

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

27 **Sec. 42.** Notwithstanding any provision of this chapter to the
28 contrary, a licensee shall not:

29 1. Accept:

30 (a) Collateral as security for a loan, except that a title to a
31 vehicle may be accepted as security for a title loan.

32 (b) An assignment of wages, salary, commissions or other
33 compensation for services, whether earned or to be earned, as
34 security for a loan.

35 (c) A check as security for a short-term loan or title loan.

36 (d) More than one check or written authorization for an
37 electronic transfer of money for each deferred deposit loan.

38 (e) A check or written authorization for an electronic transfer
39 of money for any deferred deposit loan in an amount which
40 exceeds the total of payments set forth in the disclosure statement
41 required by the Truth in Lending Act and Regulation Z that is
42 provided to the borrower.

43 2. Take any note or promise to pay which does not disclose
44 the date and amount of the loan, amount financed, annual
45 percentage rate, finance charge, total of payments, payment



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

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

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

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

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

16 **Sec. 43.** 1. *Except as otherwise provided in this section, a*
17 *complaint filed with the Commissioner, all documents and other*
18 *information filed with the complaint and all documents and other*
19 *information compiled as a result of an investigation conducted to*
20 *determine whether to initiate a suspension or revocation of a*
21 *license pursuant to NRS 675.440 or to take any other action*
22 *against a licensee pursuant to this chapter are confidential.*

23 2. *The complaint or other documents filed by the*
24 *Commissioner to initiate any such action and all documents and*
25 *information considered by the Commissioner when determining*
26 *whether to suspend or revoke a license pursuant to NRS 675.440*
27 *or to impose any other discipline are public records.*

28 **Sec. 44.** NRS 675.020 is hereby amended to read as follows:

29 675.020 As used in this chapter, unless the context otherwise
30 requires:

31 1. "Amount of cash advance" means the amount of cash or its
32 equivalent actually received by a borrower or paid out at his
33 direction or on his behalf.

34 2. "Amount of loan obligation" means the amount of cash
35 advance plus the aggregate of charges added thereto pursuant to
36 authority of this chapter.

37 3. "Commissioner" means the Commissioner of Financial
38 Institutions.

39 4. "Community" means a contiguous area of the same
40 economic unit or metropolitan area as determined by the
41 Commissioner, and may include all or part of a city or several towns
42 or cities.

43 5. "*Deferred deposit loan*" *has the meaning ascribed to it in*
44 *NRS 604A.050.*



1 6. "License" means a license, issued under the authority of this
2 chapter, to make loans in accordance with the provisions of this
3 chapter, at a single place of business.

4 ~~6.~~ 7. "Licensee" means a person to whom one or more
5 licenses have been issued.

6 8. *"Regulation Z" has the meaning ascribed to it in*
7 *NRS 604A.090.*

8 9. *"Short-term loan" has the meaning ascribed to it in*
9 *NRS 604A.095.*

10 10. *"Title loan" has the meaning ascribed to it in*
11 *NRS 604A.105.*

12 11. *"Truth in Lending Act" has the meaning ascribed to it in*
13 *NRS 604A.120.*

14 **Sec. 45.** NRS 675.490 is hereby amended to read as follows:

15 675.490 In addition to any other remedy or penalty, the
16 Commissioner may ~~impose~~:

17 1. *Impose* an administrative fine of not more than \$10,000
18 upon a person who, without a license, conducts any business or
19 activity for which a license is required pursuant to the provisions of
20 this chapter ~~;~~; *or*

21 2. *Require a licensee to pay restitution to a person who has*
22 *suffered economic loss because of a violation by the licensee of*
23 *any provision of this chapter or any regulation adopted pursuant*
24 *thereto.*

25 **Sec. 46.** Chapter 676 of NRS is hereby amended by adding
26 thereto a new section to read as follows:

27 1. *Except as otherwise provided in this section, a complaint*
28 *filed with the Commissioner, all documents and other information*
29 *filed with the complaint and all documents and other information*
30 *compiled as a result of an investigation conducted to determine*
31 *whether to initiate a denial, suspension or revocation of a license*
32 *pursuant to NRS 676.290 or to take any other action against a*
33 *licensee pursuant to this chapter are confidential.*

34 2. *The complaint or other documents filed by the*
35 *Commissioner to initiate any such action and all documents and*
36 *information considered by the Commissioner when determining*
37 *whether to deny, suspend or revoke a license pursuant to NRS*
38 *676.290 or to impose any other discipline are public records.*

39 **Sec. 47.** NRS 676.335 is hereby amended to read as follows:

40 676.335 In addition to any other remedy or penalty, the
41 Commissioner may ~~impose~~:

42 1. *Impose* an administrative fine of not more than \$10,000
43 upon a person who, without a license, conducts any business or
44 activity for which a license is required pursuant to the provisions of
45 this chapter ~~;~~; *or*



1 2. *Require a licensee to pay restitution to a person who has*
2 *suffered economic loss because of a violation by the licensee of*
3 *any provision of this chapter or any regulation adopted pursuant*
4 *thereto.*

5 **Sec. 48.** Chapter 677 of NRS is hereby amended by adding
6 thereto a new section to read as follows:

7 1. *Except as otherwise provided in this section, a complaint*
8 *filed with the Commissioner, all documents and other information*
9 *filed with the complaint and all documents and other information*
10 *compiled as a result of an investigation conducted to determine*
11 *whether to initiate a revocation or suspension of a license*
12 *pursuant to NRS 677.510 or to take any other action against a*
13 *licensee pursuant to this chapter are confidential.*

14 2. *The complaint or other documents filed by the*
15 *Commissioner to initiate any such action and all documents and*
16 *information considered by the Commissioner when determining*
17 *whether to revoke or suspend a license pursuant to NRS 677.510*
18 *or to impose any other discipline are public records.*

19 **Sec. 49.** NRS 677.210 is hereby amended to read as follows:

20 677.210 The stockholders' equity of any corporation formed to
21 do business under this chapter must not be less than ~~[\$325,000,]~~
22 **\$5,000,000** plus an additional \$25,000 for each of its branch offices.

23 **Sec. 50.** NRS 677.805 is hereby amended to read as follows:

24 677.805 In addition to any other remedy or penalty, the
25 Commissioner may ~~impose~~:

26 1. *Impose* an administrative fine of not more than \$10,000
27 upon a person who, without a license, conducts any business or
28 activity for which a license is required pursuant to the provisions of
29 this chapter ~~;~~; *or*

30 2. *Require a licensee to pay restitution to a person who has*
31 *suffered economic loss because of a violation by the licensee of*
32 *any provision of this chapter or any regulation adopted pursuant*
33 *thereto.*

34 **Sec. 51.** Chapter 678 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 1. *Except as otherwise provided in this section, a complaint*
37 *filed with the Commissioner, all documents and other information*
38 *filed with the complaint and all documents and other information*
39 *compiled as a result of an investigation conducted to determine*
40 *whether to initiate a suspension or revocation of a license*
41 *pursuant to NRS 678.284 or the imposition of an administrative*
42 *fine pursuant to NRS 678.890 are confidential.*

43 2. *The complaint or other documents filed by the*
44 *Commissioner to initiate such an action and all documents and*
45 *information considered by the Commissioner when determining*



1 *whether to suspend or revoke a license or impose an*
2 *administrative fine specified in subsection 1 are public records.*

3 **Sec. 52.** NRS 678.344 is hereby amended to read as follows:

4 678.344 **1.** The Commissioner shall issue a certificate of
5 authority to a foreign credit union if he is satisfied that:

6 ~~[1.]~~ **(a)** The members of the credit union to be served in this
7 State are adequately protected by any form of security which is
8 comparable to that required of credit unions organized under the
9 provisions of this chapter.

10 ~~[2.]~~ **(b)** The officer who supervises the credit union in the state
11 in which it was organized has authorized it to do business in Nevada
12 and agrees to furnish, upon request, copies of reports relating to the
13 credit union.

14 ~~[3.]~~ **(c)** The members to be served in this State have a need for
15 the service and adequate service is not available through existing
16 credit unions.

17 ~~[4.]~~ **(d)** A resident agent has been designated.

18 ~~[5.]~~ **(e)** The state in which the credit union was organized issues
19 comparable authorization to credit unions organized under the
20 provisions of this chapter.

21 **2.** *As used in this section, "resident agent" means the agent*
22 *appointed by a foreign credit union upon whom process or a*
23 *notice or demand authorized by law to be served upon the credit*
24 *union may be served.*

25 **Sec. 53.** NRS 678.890 is hereby amended to read as follows:

26 678.890 In addition to any other remedy or penalty, the
27 Commissioner may ~~impose~~ :

28 **1. Impose** an administrative fine of not more than \$10,000
29 upon a person who:

30 ~~[1.]~~ **(a)** Without a license, conducts any business or activity for
31 which a license is required pursuant to the provisions of this chapter;
32 or

33 ~~[2.]~~ **(b)** Violates any provision of this chapter or any regulation
34 adopted pursuant thereto ~~[1.]~~ ; or

35 **2. Require a licensee to pay restitution to a person who has**
36 *suffered economic loss because of a violation by the licensee of*
37 *any provision of this chapter or any regulation adopted pursuant*
38 *thereto.*

39 **Sec. 54.** Any regulations adopted by the Commissioner of
40 Financial Institutions pursuant to NRS 97.299 before October 1,
41 2007, become the regulations of the Department of Motor Vehicles
42 and remain in effect until amended or repealed by the Department.

