

Assembly Bill No. 478—Assemblymen Buckley, Anderson, Ocegüera, Conklin, Leslie, Carpenter, Denis, Gerhardt, Grady, Hardy, Hogan, Kirkpatrick, Koivisto, Mabey, Manendo, McClain, Munford, Parks, Parnell, Pierce and Smith

Joint Sponsors: Senators Amodei, Coffin and Titus

CHAPTER.....

AN ACT relating to financial services; making the provisions governing certain short-term loan services applicable to any person who makes a loan pursuant to a loan agreement that charges in excess of a certain annual percentage rate regardless of the term of the loan; revising the calculation of the annual percentage rate to include certain charges and fees imposed on a customer by a licensee; revising the allowable term of certain loans; providing exemptions from certain statutory provisions; clarifying the applicability of certain provisions; making persons who violate certain provisions of federal law subject to certain remedies and penalties set forth in state law; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes standards and procedures for the licensing and regulation of loans made pursuant to loan agreements that provide for an annual percentage rate of more than 40 percent and require repayment of the loan in less than 1 year. (Chapter 604A of NRS) This bill revises the applicability of those standards and procedures to make them applicable to any person who makes a loan pursuant to a loan agreement that charges an annual percentage rate of more than 40 percent regardless of the term of the loan. This bill redefines such a loan as a "high-interest loan" and the loan service for such a loan as a "high-interest loan service." This bill also provides that, subject to certain exceptions, the original term of a deferred deposit loan or high-interest loan must not exceed 35 days.

Under existing law, the annual percentage rate of such loans is required to be calculated pursuant to the provisions of the Truth in Lending Act and Regulation Z. (NRS 604A.150) This bill provides an exception to that requirement by specifying that, subject to certain exceptions, every charge or fee, regardless of the name given to the charge or fee, payable directly or indirectly by the customer and imposed directly or indirectly by the lender must be included in calculating the annual percentage rate.

Existing law provides for the licensure of persons who make installment loans. (Chapter 675 of NRS) This bill provides for the licensure of such persons pursuant to chapter 604A of NRS if the loans are high-interest loans.

Existing law exempts certain persons and entities from the provisions of chapter 604A of NRS. (NRS 604A.250) This bill extends the exemption to national banking associations and their affiliates and subsidiaries, unless a purpose of the affiliation is to evade the provisions of that chapter.



Existing law exempts certain persons and entities from the provisions of chapter 675 of NRS. (NRS 675.040) This bill extends the exemption to national banking associations. This bill also clarifies the persons to whom chapter 675 of NRS applies.

Existing federal law imposes limitations on the terms of consumer credit that is extended to members of the Armed Forces of the United States who are on active duty and their dependents, including, without limitation, a prohibition against a lender imposing an interest rate greater than 36 percent. The federal law preempts any state law that is inconsistent with the federal law. (Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364) This bill provides that any violation of the federal law shall be deemed to be a violation of chapter 604A of NRS, thereby making violators subject to the remedies and penalties set forth in that chapter, including the imposition of an administrative fine of not more than \$10,000 for each violation, the revocation or suspension of a license issued pursuant to that chapter and civil actions for damages. (NRS 604A.820, 604A.930)

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

**Section 1.** Chapter 604A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6.5, inclusive, of this act.

**Sec. 2. 1.** *“High-interest loan” means a loan made to a customer pursuant to a loan agreement which, under its original terms, charges an annual percentage rate of more than 40 percent.*

*2. The term includes, without limitation, any single-payment loan, installment loan or open-ended loan which, under its original terms, charges an annual percentage rate of more than 40 percent.*

*3. The term does not include:*

- (a) A deferred deposit loan;*
- (b) A refund anticipation loan; or*
- (c) A title loan.*

**Sec. 3.** *“High-interest loan service” means any person engaged in the business of providing high-interest loans for a fee, service charge or other consideration.*

**Sec. 4. 1.** *Except as otherwise provided in this section, for the purposes of determining whether a loan is a high-interest loan, when determining whether a lender is charging an annual percentage rate of more than 40 percent, calculations must be made in accordance with the Truth in Lending Act and Regulation Z, except that every charge or fee, regardless of the name given to the charge or fee, payable directly or indirectly by the customer and imposed directly or indirectly by the lender must be included*



*in calculating the annual percentage rate, including, without limitation:*

*(a) Interest;*

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

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

*(d) Prepaid finance charges.*

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

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

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

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

*(d) Any premiums or identifiable charges for insurance permitted pursuant to NRS 675.300.*

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

**Sec. 5.** *1. Except as otherwise provided in this chapter, the original term of a deferred deposit loan or high-interest loan must not exceed 35 days.*

*2. The original term of a high-interest loan may be up to 90 days if:*

*(a) The loan provides for payments in installments;*

*(b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;*

*(c) The loan is not subject to any extension; and*

*(d) The loan does not require a balloon payment of any kind.*

*3. Notwithstanding the provisions of NRS 604A.480, a licensee shall not agree to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding deferred deposit loan or high-interest loan for a period that exceeds 90 days after the date of origination of the loan.*



**Sec. 6.** *A violation of any provision of section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this chapter.*

**Sec. 6.5.** *All provisions of this chapter governing enforcement or collection of an obligation originated under this chapter apply to:*

- 1. Any purchaser or assignee of the obligation; and*
- 2. Any person seeking to enforce or collect the obligation on behalf of a licensee.*

**Sec. 7.** NRS 604A.010 is hereby amended to read as follows:

604A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 604A.015 to 604A.125, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

**Sec. 8.** NRS 604A.015 is hereby amended to read as follows:

604A.015 1. "Automated loan machine" means any machine or other device, regardless of the name given to it or the technology used, that:

- (a) Is automated;
- (b) Is designed or intended to allow a customer, without any additional assistance from another person, to receive or attempt to receive a deferred deposit loan or ~~short-term~~ *high-interest* loan through the machine or other device; and
- (c) Is set up, installed, operated or maintained by or on behalf of the person making the loan or any agent, affiliate or subsidiary of the person.

2. The term does not include any machine or other device used directly by a customer to access the Internet unless the machine or other device is made available to the customer by the person making the loan or any agent, affiliate or subsidiary of the person.

**Sec. 9.** NRS 604A.040 is hereby amended to read as follows:

604A.040 "Customer" means any person who receives or attempts to receive check-cashing services, deferred deposit loan services, ~~short-term~~ *high-interest* loan services or title loan services from another person.

**Sec. 10.** NRS 604A.075 is hereby amended to read as follows:

604A.075 "Licensee" means any person who has been issued one or more licenses 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.

**Sec. 11.** NRS 604A.080 is hereby amended to read as follows:

604A.080 "Loan" means any deferred deposit loan, ~~short-term~~ *high-interest* loan or title loan, or any extension or repayment



plan relating to such a loan, made at any location or through any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

**Sec. 11.5.** NRS 604A.105 is hereby amended to read as follows:

604A.105 1. "Title loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms:

(a) Charges an annual percentage rate of more than 35 percent; and

(b) Requires the customer to secure the loan by ~~[giving]~~ **either:**

**(1) Giving** possession of the title to a vehicle legally owned by the customer to the ~~[person making the loan, or to]~~ **licensee or** any agent, affiliate or subsidiary of the ~~[person, whether or not the person making the loan or taking possession of the title perfects a security interest in the vehicle by having the person's name noted on the title as a lienholder.]~~ **licensee; or**

**(2) Perfecting a security interest in the vehicle by having the name of the licensee or any agent, affiliate or subsidiary of the licensee noted on the title as a lienholder.**

2. The term does not include ~~[-~~

~~(a) A] a loan which creates a purchase-money security interest in a vehicle or the refinancing of any such loan. [-or~~

~~(b) Any other loan for which a vehicle is used as security or collateral if the person making the loan, or any agent, affiliate or subsidiary of the person, does not take possession of the title.]~~

**Sec. 12.** NRS 604A.200 is hereby amended to read as follows:

604A.200 The provisions of this chapter apply to any person who seeks to evade its application by any device, subterfuge or pretense, including, without limitation ~~[-calling]~~ :

**1. Calling** a loan by any other name ~~[or using]~~ ;

**2. Using** any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter ~~[-]~~ ; **or**

**3. Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 604A.250, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a preponderant economic interest in the revenues generated by the loan.**



**Sec. 13.** NRS 604A.250 is hereby amended to read as follows:  
604A.250 The provisions of this chapter do not apply to:

1. ~~[A]~~ *Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, **national banking associations**, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies or insurance companies ~~[A]~~, **including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.***

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

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

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

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

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

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

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

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, ~~[short-term]~~ **high-interest** loan service or title loan service.

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

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

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

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

12. Any firm or corporation:

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



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

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

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

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

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

**Sec. 14.** NRS 604A.400 is hereby amended to read as follows:

604A.400 1. A person, including, without limitation, a person licensed pursuant to chapter 675 of NRS, shall not operate a check-cashing service, deferred deposit loan service, ~~short-term~~ *high-interest* loan service or title loan service unless the person is licensed with the Commissioner pursuant to the provisions of this chapter.

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

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

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

**Sec. 15.** NRS 604A.405 is hereby amended to read as follows:

604A.405 1. A licensee shall post in a conspicuous place in every location at which he conducts business under his license:

(a) A notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, ~~short-term~~ *high-interest* loan services or title loan services.

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

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



2. If a licensee offers loans to customers at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except for an automated loan machine prohibited by NRS 604A.400, the licensee shall, as appropriate to the location or method for making the loan, post in a conspicuous place where customers will see it before they enter into a loan, or disclose in an open and obvious manner to customers before they enter into a loan, a notice that states:

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

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

3. A licensee who provides check-cashing services shall give written notice to each customer of the fees he charges for cashing checks. The customer must sign the notice before the licensee provides the check-cashing service.

**Sec. 15.5.** NRS 604A.410 is hereby amended to read as follows:

604A.410 1. Before making any loan to a customer, a licensee shall provide to the customer a written loan agreement which may be kept by the customer and which must be written in:

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

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

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

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

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

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

(d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;

(e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;

(f) A disclosure stating that, if the customer defaults on the loan, the ~~customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at least 90 days, and that the~~ licensee must offer ~~the~~ a repayment plan to the





customer before the licensee commences any civil action or process of alternative dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle; and

(g) Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.

**Sec. 16.** NRS 604A.420 is hereby amended to read as follows:

604A.420 1. If a customer is ~~called to active duty in~~ *a member of* the military, a licensee shall:

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

~~(b)~~ Honor the terms of any repayment plan between the licensee and customer, including, without limitation, any repayment plan negotiated through military counselors or third-party credit counselors.

*(b) Honor any proclamation by a base commander that a certain branch location of the licensee is off-limits to members of the military and their spouses.*

2. ~~When collecting any defaulted loan,~~ *If a customer is a member of the military,* a licensee shall not:

(a) Garnish or threaten to garnish any wages or salary ~~paid to a customer for active service in the military;~~ *of the customer or his spouse;* or

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

3. *If a customer is a member of the military and is deployed to a combat or combat supporting position, a licensee shall not engage in any collection activity against the customer or his spouse.*

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

**Sec. 17.** NRS 604A.425 is hereby amended to read as follows:

604A.425 1. A licensee shall not:

(a) Make a deferred deposit loan that exceeds 25 percent of the expected gross monthly income of the customer when the loan is made; or

(b) Make a ~~short-term~~ *high-interest* loan which, under the terms of the loan agreement, requires any monthly payment that exceeds 25 percent of the expected gross monthly income of the customer.



2. A licensee is not in violation of the provisions of this section if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that:

(a) For a deferred deposit loan, the loan does not exceed 25 percent of his expected gross monthly income when the loan is made; or

(b) For a ~~[short-term]~~ *high-interest* loan, the monthly payment required under the terms of the loan agreement does not exceed 25 percent of his expected gross monthly income.

**Sec. 18.** NRS 604A.430 is hereby amended to read as follows:

604A.430 **1.** A licensee shall not make more than one deferred deposit loan, *single-advance, single-payment loan* or ~~[short-term]~~ *high-interest* loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:

~~[1-]~~ **(a)** The customer is seeking multiple loans that do not exceed the limits set forth in NRS 604A.425;

~~[2-]~~ **(b)** The licensee charges the same or a lower *fee or service charge per \$100 if it is a deferred deposit loan or single-advance, single-payment loan, or the same or a lower* annual percentage rate *of interest if it is a high-interest loan that is not a single-advance, single-payment loan,* for any additional loans as he charged for the initial loan;

~~[3-]~~ **(c)** Except for that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or ~~[short-term]~~ *high-interest* loans in accordance with the provisions of subsection 2 of NRS 604A.480 may charge a reasonable fee for preparing documents in an amount that does not exceed \$50; and

~~[4-]~~ **(d)** If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment ~~[1-]~~ *or one or more electronic transfers of money fail,* the licensee does not charge any fees to the customer pursuant to NRS 604A.490, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment ~~[1-]~~ *or electronic transfer of money that failed.*

**2.** *As used in this section, "single-advance, single-payment loan" means a transaction in which, pursuant to a loan agreement, a customer is given a single advance equal to the amount financed with payment in full due within 35 days after the date of the transaction.*



**Sec. 19.** NRS 604A.435 is hereby amended to read as follows:  
604A.435 A licensee shall not:

1. Accept:

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

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

(c) A check as security for a ~~[short term]~~ *high-interest* loan or title loan.

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

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

2. Take any note or promise to pay which does not disclose the date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z.

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

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

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

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

**Sec. 19.5.** NRS 604A.445 is hereby amended to read as follows:

604A.445 Notwithstanding any other provision of this chapter to the contrary:

1. The original term of a title loan must not exceed 30 days.

2. The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:



(a) Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;

(b) The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and

(c) No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan.

**3. *The original term of a title loan may be up to 210 days if:***

**(a) *The loan provides for payments in installments;***

**(b) *The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;***

**(c) *The loan is not subject to any extension; and***

**(d) *The loan does not require a balloon payment of any kind.***

**Sec. 20.** NRS 604A.460 is hereby amended to read as follows:

604A.460 1. A customer may rescind a loan on or before the close of business on the next day of business at the location where the loan was initiated. To rescind the loan, the customer must deliver to the licensee:

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

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

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

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

(b) Upon receipt of the sum of money or check pursuant to subsection 1, shall give to the customer a receipt showing the amount paid in full and:

(1) If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or written authorization stamped "void";

(2) If the customer gave to the licensee a promissory note to initiate a ~~short-term~~ **high-interest** loan, a copy of the promissory note stamped "void" or the receipt stamped "paid in full"; or



(3) If the customer gave to the licensee a title to a vehicle to initiate the title loan, the title.

**Sec. 21.** NRS 604A.465 is hereby amended to read as follows:

604A.465 1. A customer may pay a loan, or any extension thereof, in full at any time, without an additional charge or fee, before the date his final payment on the loan, or any extension thereof, is due.

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

(a) Give to the customer:

(1) If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or the written authorization stamped "void";

(2) If the customer gave to the licensee a promissory note to initiate a ~~[short-term]~~ *high-interest* loan, the promissory note stamped "void" or a receipt stamped "paid in full"; or

(3) If the customer gave to the licensee a title to a vehicle to initiate a title loan, the title; and

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

(1) The name and address of the licensee;

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

(3) The date of the payment;

(4) The amount paid;

(5) An itemization of interest, charges and fees;

(6) A statement that the loan is paid in full; and

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

**Sec. 21.5.** NRS 604A.475 is hereby amended to read as follows:

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

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

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



2. ~~[Not]~~ *If the licensee intends to commence any civil action or process of alternative dispute resolution or repossess a vehicle in an effort to collect a defaulted loan, the licensee shall deliver to the customer, not later than 15 days after the date of default, ~~[the licensee shall provide to the customer]~~ or not later than 5 days after a check is not paid upon presentment or an electronic transfer of money fails, whichever is later,* written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;

(b) State the date by which the customer must act to enter into a repayment plan;

(c) Explain the procedures the customer must follow to enter into a repayment plan;

(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days after the date of default; and

(f) Include the following amounts:

(1) The total of payments or the remaining balance on the original loan;

(2) Any payments made on the loan;

(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and

(4) The total amount due if the customer enters into a repayment plan.

3. Under the terms of any repayment plan pursuant to this section:

(a) The customer must enter into the repayment plan not later than 30 days after the date of default, unless the licensee allows a longer period;

(b) The licensee must allow the period for repayment to extend at least 90 days after the date of default, unless the customer agrees to a shorter term;

(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;

(d) For a deferred deposit loan:

(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for an



electronic transfer of money which equal the total amount due under the terms of the repayment plan;

(2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped "void" or destroy the check or written authorization; and

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

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

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

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

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

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

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

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

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

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



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

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

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

(1) Be signed by the licensee and customer; and

(2) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan.

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

(a) The name and address of the licensee;

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

(c) The date of the payment;

(d) The amount paid;

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

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

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

**Sec. 22.** NRS 604A.480 is hereby amended to read as follows:

604A.480 1. Except as otherwise provided in subsection 2, if a customer agrees *in writing* to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or ~~short-term~~ *high-interest* loan to pay the balance of the outstanding loan, the licensee shall not establish or extend ~~such a~~ *the* period beyond 60 days after the expiration of the initial loan period. *The licensee shall not add any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.*

2. This section does not apply to a *new* deferred deposit loan or ~~short-term~~ *high-interest* loan if the licensee:

(a) Makes the *new* deferred deposit loan or ~~short-term~~ *high-interest* loan to a customer pursuant to a loan agreement which, under its original terms:





- (1) Charges an annual percentage rate of less than 200 percent;
  - (2) Requires the customer to make a payment on the loan at least once every 30 days;
  - (3) Requires the loan to be paid in full in not less than 150 days; and
  - (4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;
- (b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;
  - (c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;
  - (d) Gives the customer the right to rescind the *new* deferred deposit loan or ~~[short-term]~~ *high-interest* loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;
  - (e) Participates in good faith with a counseling agency that is:
    - (1) Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and
    - (2) A member of the National Foundation for Credit Counseling, or its successor organization; and
  - (f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

**Sec. 22.5.** NRS 604A.485 is hereby amended to read as follows:

604A.485 1. ~~[Except as otherwise provided in NRS 604A.445, if]~~ *If* a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:

- (a) The *unpaid* principal amount of the loan.
- (b) The *unpaid* interest, *if any*, accrued before the ~~[expiration of the initial loan period]~~ *default* at the annual percentage rate set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer. If there is an extension, *in writing and signed by the customer*, relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 60 days after the expiration of the initial loan period, unless otherwise allowed by NRS 604A.480.
- (c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to this chapter, whichever is later, at an annual percentage



rate not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 90 days. After that period, the licensee shall not charge or collect any interest on the loan.

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

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

2. Except for the interest and fees permitted pursuant to subsection 1 and any other charges expressly permitted pursuant to NRS 604A.430, 604A.445 and 604A.475, the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such ~~an amount includes,~~ *prohibited amounts include*, without limitation:

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

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

**Sec. 22.7.** NRS 604A.490 is hereby amended to read as follows:

604A.490 1. A licensee may collect a fee of not more than \$25 if a check is not paid upon presentment *or an electronic transfer of money fails* because the account of the customer contains insufficient funds or has been closed.

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

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



4. A customer is not liable for damages pursuant to NRS 41.620 or to criminal prosecution for a violation of chapter 205 of NRS unless the customer acted with criminal intent.

**Sec. 23.** NRS 604A.655 is hereby amended to read as follows:

604A.655 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

(1) The licensee and the mortgage broker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

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

(b) A mortgage banker if:

(1) The licensee and the mortgage banker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

3. If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, ~~short-term~~ *high-interest* loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he conducts business as a pawnbroker pursuant to chapter 646 of NRS.

**Sec. 24.** NRS 604A.710 is hereby amended to read as follows:

604A.710 1. For the purpose of discovering violations of this chapter or ~~to~~ securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;



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

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

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

3. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, ~~short-term~~ *high-interest* loan or title loan is presumed to be engaged in the business of making loans.

**Sec. 25.** NRS 604A.920 is hereby amended to read as follows:

604A.920 If a person operates a check-cashing service, deferred deposit loan service, ~~short-term~~ *high-interest* loan service or title loan service without obtaining a license pursuant to this chapter:

1. Any contracts entered into by that person for the cashing of a check or for a deferred deposit loan, ~~short-term~~ *high-interest* loan or title loan are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the other party to the contract may bring a civil action against the person pursuant to NRS 604A.930.

**Sec. 26.** NRS 604A.930 is hereby amended to read as follows:

604A.930 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of NRS 604A.400, 604A.410 to 604A.500, inclusive, 604A.610, 604A.615, 604A.650 or 604A.655 *or section 6 of this act* or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for : ~~any or all of the following relief:~~

(a) Actual and consequential damages;

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

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

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

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an



additional amount, as statutory damages, which is equal to \$1,000 for each violation if the person knowingly:

(a) Operates a check-cashing service, deferred deposit loan service, ~~[short term]~~ **high-interest** loan service or title loan service without a license, in violation of NRS 604A.400;

(b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of NRS 604A.410;

(c) Violates any provision of NRS 604A.420;

(d) Accepts collateral or security for a deferred deposit loan, in violation of NRS 604A.435, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;

(e) Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of NRS 604A.440;

(f) Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of NRS 604A.440;

(g) Violates any provision of NRS 604A.485; ~~[or]~~

(h) Violates any provision of NRS 604A.490 ~~[ ]~~; or

**(i) Violates any provision of section 6 of this act.**

3. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error.

**Sec. 27.** NRS 99.050 is hereby amended to read as follows:

99.050 ~~[Parties]~~ ***Except as otherwise provided in section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto, parties*** may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees. The parties shall specify in writing the rate upon which they



agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

**Sec. 28.** Chapter 675 of NRS is hereby amended by adding thereto a new section to read as follows:

*The provisions of this chapter apply to any person who:*

*1. Makes installment loans that are not subject to regulation pursuant to chapter 604A of NRS;*

*2. Is an affiliate, subsidiary or holding company of a bank, national banking association, savings bank, trust company, savings and loan association, credit union, development corporation, mortgage broker, mortgage banker, thrift company or insurance company; or*

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

*(a) Calling a loan by any other name;*

*(b) Using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or*

*(c) Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 675.040, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a material economic interest in the revenues generated by the loan.*

**Sec. 29.** NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. ~~FA~~ *Except as otherwise provided in section 28 of this act, a person doing business under the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.*

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

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

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

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



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

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

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

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

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

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

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

10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.

**Sec. 29.5.** NRS 675.060 is hereby amended to read as follows:

675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this chapter for each office or other place of business at which the person engages in such business, except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service, as those terms are defined in chapter 604A of NRS, the person must obtain a license from the Commissioner pursuant to chapter 604A of NRS before the person may engage in any such business.

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

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

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

**Sec. 29.7.** NRS 675.365 is hereby amended to read as follows:

675.365 In addition to the interest allowed pursuant to NRS 675.363, a licensee may, pursuant to the agreement for a loan for an indefinite term, receive from the borrower or add to the unpaid balance in that borrower's account:

1. Any fees imposed on the licensee pursuant to this chapter;

2. Any charge for insurance under NRS 675.300;



3. A charge not exceeding 25 cents for each transaction in which a loan or advance is made pursuant to the agreement or an annual fee for the use of an open-end account in an amount not to exceed \$20;

4. If the interest calculated for any billing cycle pursuant to NRS 675.363 is less than 50 cents:

(a) For a billing cycle which is monthly or longer, a charge in an amount not exceeding 50 cents; or

(b) For a billing cycle less than monthly, a charge in an amount equal to that portion of 50 cents which bears the same relation to 50 cents as the number of days in the billing cycle bear to 365 divided by 12;

5. For any check written by the borrower to the licensee which is returned ~~for~~, *or any electronic transfer of money that fails, because of* insufficient funds, a charge of \$10 or in an amount equal to the charges imposed on the licensee because of his reliance on that check ~~or~~ *or electronic transfer of money*, whichever amount is greater; and

6. Any charge assessed the licensee by a third party for the printing and distribution of any checks, drafts or other instruments to be used by the borrower in obtaining advances pursuant to the agreement.

**Sec. 30.** NRS 604A.095 and 604A.100 are hereby repealed.

**Sec. 31.** Any license to operate a short-term loan service that was issued by the Commissioner of Financial Institutions pursuant to chapter 604A of NRS before October 1, 2007, shall be deemed to be a license to operate a high-interest loan service which was issued by the Commissioner pursuant to the provisions of chapter 604A of NRS and which expires on the date on which the license to operate a short-term loan service would have expired pursuant to the provisions of NRS 604A.640.

**Sec. 32.** 1. A license to engage in the business of lending in this State which was issued by the Commissioner of Financial Institutions pursuant to chapter 675 of NRS before October 1, 2007, to a person who, pursuant to the provisions of this act, is subject to regulation only pursuant to chapter 604A of NRS, shall be deemed to be a license issued by the Commissioner pursuant to chapter 604A of NRS. Such a license expires on December 31, 2007, and may be renewed on or before its expiration in accordance with NRS 604A.640. Upon the renewal of such a license, the Commissioner shall issue to the holder of the license a license pursuant to chapter 604A of NRS in lieu of the license issued pursuant to chapter 675 of NRS.





2. Any person who is licensed pursuant to chapter 675 of NRS to engage in the business of lending in this State on September 30, 2007, may continue to operate in the same location upon becoming licensed pursuant to chapter 604A of NRS, notwithstanding any ordinance or other zoning regulation to the contrary. This subsection does not exempt such a person from any provision of chapter 604A of NRS or any regulation adopted pursuant thereto.

**Sec. 33.** The amendatory provisions of this act do not apply to loans entered into before October 1, 2007.

**Sec. 34.** This act becomes effective on October 1, 2007.

