

Senate Bill No. 94—Committee on
Commerce, Labor and Energy

CHAPTER.....

AN ACT relating to financial services; authorizing certain licensees to charge a late fee on a loan in default under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain limitations on the amounts that a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service may charge after a customer defaults on a loan. (NRS 604A.485) This bill authorizes certain licensees to charge not more than \$15, payable on a one-time basis, for any installment payment that remains unpaid 10 days or more after the date of default.

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

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 a new section to read as follows:

In addition to the amounts authorized to be collected pursuant to NRS 604A.485, a licensee who makes a high-interest loan in accordance with the provisions of subsection 2 of NRS 604A.480 may charge a fee of not more than \$15, payable on a one-time basis, for any installment payment that remains unpaid 10 days or more after the date of default.

Sec. 2. NRS 604A.407 is hereby amended to read as follows:

604A.407 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 ~~+~~; **and**

(e) The fee allowed pursuant to section 1 of this act.

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. 3. NRS 604A.485 is hereby amended to read as follows:

604A.485 1. 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 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, *and section 1 of this act*, 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 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.

