

ASSEMBLY BILL NO. 318—ASSEMBLYMEN SWANK, DIAZ, KIRKPATRICK, KIRNER, ELLIOT ANDERSON; PAUL ANDERSON, ARAUJO, ARMSTRONG, BENITEZ-THOMPSON, BUSTAMANTE ADAMS, CARLTON, CARRILLO, DICKMAN, EDWARDS, ELLISON, FLORES, HAMBRICK, JOINER, JONES, MOORE, MUNFORD, NEAL, OHRENSCHALL, O’NEILL, OSCARSON, SEAMAN, SHELTON, SILBERKRAUS, SPIEGEL, SPRINKLE, STEWART, THOMPSON, TITUS, TROWBRIDGE AND WHEELER

MARCH 16, 2015

JOINT SPONSORS: SENATORS WOODHOUSE, PARKS, GUSTAVSON; DENIS, FORD, MANENDO, SEGERBLOM AND SMITH

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing financial services. (BDR 52-245)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 financial services; providing that any deferred deposit loan, high-interest loan, refund anticipation loan or title loan made to a current or former member of the military must conform to the requirements of the federal Military Lending Act; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law establishes certain restrictions and requirements regarding
2 extensions of credit to active duty members of the military, including, among other
3 things, a provision imposing a maximum annual percentage rate of interest of 36
4 percent. (Military Lending Act, 10 U.S.C. § 987) **Section 3** of this bill requires an
5 operator of a check-cashing service, deferred deposit loan service, high-interest
6 loan service or title loan service to require a customer seeking a loan to complete
7 and sign a written loan application which includes a space to indicate whether the
8 customer is a current or former member of the military. In addition, **section 3**



9 requires certain disclosures to be made to a current or former member of the
10 military in a loan agreement. **Section 4** of this bill prohibits making a deferred
11 deposit loan, high-interest loan, refund anticipation loan or title loan to a current or
12 former member of the military if the loan does not conform to the requirements of
13 the federal Military Lending Act, including, without limitation, provisions limiting
14 the annual percentage rate of interest.

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

1 **Section 1.** NRS 604A.0703 is hereby amended to read as
2 follows:

3 604A.0703 1. ~~["High-interest"]~~ *Except as otherwise provided*
4 *in NRS 604A.420, "high-interest" loan* means a loan made to a
5 customer pursuant to a loan agreement which, under its original
6 terms, charges an annual percentage rate of more than 40 percent.

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

10 3. The term does not include:

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

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

15 604A.407 1. Except as otherwise provided in this section, for
16 the purposes of determining whether a loan is a high-interest loan, for
17 when determining whether a lender is charging an annual percentage
18 rate of more than 40 percent, calculations must be made in
19 accordance with the Truth in Lending Act and Regulation Z, except
20 that every charge or fee, regardless of the name given to the charge
21 or fee, payable directly or indirectly by the customer and imposed
22 directly or indirectly by the lender must be included in calculating
23 the annual percentage rate, including, without limitation:

- 24 (a) Interest;
- 25 (b) Application fees, regardless of whether such fees are charged
26 to all applicants or credit is actually extended;
- 27 (c) Fees charged for participation in a credit plan, whether
28 assessed on an annual, periodic or nonperiodic basis; and
- 29 (d) Prepaid finance charges.

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

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



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

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

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

7 (e) The fee allowed pursuant to NRS 604A.487.

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

15 **Sec. 3.** NRS 604A.410 is hereby amended to read as follows:

16 604A.410 1. *Before making any loan to a customer, a*
17 *licensee shall have the customer complete and sign a written loan*
18 *application. The loan application must include a space for the*
19 *applicant to indicate whether he or she is a current or former*
20 *member of the military as defined in NRS 604A.420.*

21 2. Before making any loan to a customer, a licensee shall
22 provide to the customer a written loan agreement which may be kept
23 by the customer and which must be written in:

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

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

26 ~~2~~ 3. The loan agreement must include, without limitation, the
27 following information:

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

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

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

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

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

41 (f) A disclosure stating that, if the customer defaults on the loan,
42 the licensee must offer a repayment plan to the customer before the
43 licensee commences any civil action or process of alternative
44 dispute resolution or, if appropriate for the loan, before the licensee
45 repossesses a vehicle; ~~and~~



1 (g) *If the loan is being made to a current or former member of*
2 *the military, any disclosure required by the federal Military*
3 *Lending Act, 10 U.S.C. § 987, which must be given to both current*
4 *and former members of the military without regard to whether the*
5 *federal Military Lending Act, 10 U.S.C. § 987, only requires the*
6 *disclosure to be given to current members of the military; and*

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

10 **Sec. 4.** NRS 604A.420 is hereby amended to read as follows:
11 604A.420 Notwithstanding any other provision of law:

12 1. If a customer is a *current or former* member of the military,
13 a licensee shall:

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

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

21 2. If a customer is a *current or former* member of the military,
22 a licensee shall not:

23 (a) *Make a deferred deposit loan, high-interest loan, refund*
24 *anticipation loan or title loan to the customer pursuant to a loan*
25 *agreement which does not conform to the provisions of the federal*
26 *Military Lending Act, 10 U.S.C. § 987, as amended, including,*
27 *without limitation, any provision which limits the maximum*
28 *annual percentage rate of interest;*

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

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

33 3. If a customer is a member of the military and is deployed to
34 a combat or combat supporting position, a licensee shall not engage
35 in any collection activity against the customer or the customer's
36 spouse.

37 4. *In the event that the provisions of this section and any*
38 *other provision of this chapter conflict, the provisions of this*
39 *section control.*

40 5. As used in this section ~~[, "military"]~~ :

41 (a) *"Current or former member of the military" means a*
42 *person who is presently serving in the military or who has*
43 *previously served in the military and who received, upon severance*
44 *from service, an honorable discharge or certificate of satisfactory*
45 *service.*



1 **(b) “Military”** means the Armed Forces of the United States, a
2 reserve component thereof or the National Guard.

3 **Sec. 5.** This act becomes effective on July 1, 2015.

