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:

Existing federal law establishes certain restrictions and requirements regarding extensions of credit to active duty members of the military, including, among other things, a provision imposing a maximum annual percentage rate of interest of 36 percent. (Military Lending Act, 10 U.S.C. § 987) Section 3 of this bill requires an operator of a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service to require a customer seeking a loan to complete and sign a written loan application which includes a space to indicate whether the customer is a current or former member of the military. In addition, section 3
requires certain disclosures to be made to a current or former member of the military in a loan agreement. Section 4 of this bill prohibits making a deferred deposit loan, high-interest loan, refund anticipation loan or title loan to a current or former member of the military if the loan does not conform to the requirements of the federal Military Lending Act, including, without limitation, provisions limiting the annual percentage rate of interest.

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

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

604A.0703 1. [“High-interest] Except as otherwise provided in NRS 604A.420, “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. 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;
(d) Any premiums or identifiable charges for insurance permitted pursuant to NRS 675.300; and
(e) The fee allowed pursuant to NRS 604A.487.
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)] (h) of subsection [2] 3 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.410 is hereby amended to read as follows:
604A.410 1. Before making any loan to a customer, a licensee shall have the customer complete and sign a written loan application. The loan application must include a space for the applicant to indicate whether he or she is a current or former member of the military as defined in NRS 604A.420.

2. 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.

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

(h) 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. 4. NRS 604A.420 is hereby amended to read as follows:

604A.420 Notwithstanding any other provision of law:

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

   (a) 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. If a customer is a current or former member of the military, a licensee shall not:

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

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

   [(b)] (c) Contact or threaten to contact the military chain of command of a customer in an effort to collect the 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 the customer’s spouse.

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

5. As used in this section [], “military”:

   (a) “Current or former member of the military” means a person who is presently serving in the military or who has previously served in the military and who received, upon severance from service, an honorable discharge or certificate of satisfactory service.
(b) "Military" means the Armed Forces of the United States, a
reserve component thereof or the National Guard.

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