EMERGENCY REQUEST OF SPEAKER OF THE ASSEMBLY

ASSEMBLY BILL NO. 515—ASSEMBLYMEN FRIERSON AND SWANK

MAY 25, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing deferred deposit loans, title loans and high-interest loans. (BDR 52-1227)

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

AN ACT relating to financial services; requiring the Commissioner of Financial Institutions to develop, implement and maintain a database storing certain information relating to deferred deposit loans, title loans and high-interest loans made to customers in this State; providing that information in such a database is confidential under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes standards and procedures for the licensing and regulation of certain short-term loans, commonly referred to as “payday loans,” high-interest loans and title loans. (Chapter 604A of NRS) 

Section 1 of this bill requires the Commissioner of Financial Institutions to develop, implement and maintain, by contract with a vendor or service provider or otherwise, a database of all deferred deposit loans, title loans and high-interest loans in this State. Under section 1, a licensee who makes such loans must enter and update certain information concerning each deferred deposit loan, title loan and high-interest loan made by the licensee. Section 1 further requires the Commissioner to establish a fee which must be charged and collected by the vendor or service provider from a licensee who is required to enter information into the database. The fee must be used to pay for the administration and operation of the database. Finally, sections 1 and 2 of this bill provide that information in the database or obtained by the Commissioner from the database is confidential, except that the Commissioner may use such information for statistical purposes if the identity of a person is not discernible from the information disclosed.
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:

1. The Commissioner shall, by contract with a vendor or
service provider or otherwise, develop, implement and maintain a
database by which the Commissioner may generate a report
related to deferred deposit loans, title loans and high-interest loans
made by licensees to customers in this State which includes,
without limitation:

(a) Whether a customer has a deferred deposit loan, title loan
or high-interest loan outstanding with more than one licensee;
(b) Whether a customer has had such a loan outstanding with
one or more licensees within the 30 days immediately preceding
the making of a loan;
(c) Whether a customer has had a total of three or more such
loans outstanding with one or more licensees within the 6 months
immediately preceding the making of the loan; and
(d) Any other information necessary to determine compliance
with the provisions of this chapter.

2. After the development and implementation of the database
created pursuant to subsection 1, a licensee who makes a deferred
deposit loan, title loan or high-interest loan shall enter or update
the following information in the database for each such loan made
to a customer at the time a transaction takes place:

(a) The date on which the loan was made;
(b) The type of loan made;
(c) The principal amount of the loan;
(d) The fees charged for the loan;
(e) The annual percentage rate of the loan;
(f) The total finance charge associated with the loan;
(g) If the customer defaults on the loan, the date of default;
(h) If the customer enters into a repayment plan pursuant to
NRS 604A.475, the date on which the customer enters into the
repayment plan; and
(i) The date on which the customer pays the loan in full.

3. The Commissioner shall establish, and cause the vendor or
service provider administering the database created pursuant to
subsection 1 to charge and collect, a fee for each loan entered into
the database by the licensee. The money collected pursuant to this

Section 3 of this bill provides that the provisions of this bill do not apply to any
loan made before October 1, 2017.
subsection must be used to pay for the operation and administration of the database.

4. Except as otherwise provided in this subsection, any information in the database created pursuant to subsection 1 is confidential and shall not be considered a public book or record pursuant to NRS 239.010. The information may be used by the Commissioner for statistical purposes if the identity of the person is not discernible from the information disclosed.

5. The Commissioner shall adopt regulations that:
   (a) Prescribe the specifications for the information entered into the database created pursuant to subsection 1;
   (b) Establish standards for the retention, access, reporting, archiving and deletion of information entered into or stored by the database;
   (c) Establish the amount of the fee required pursuant to subsection 3; and
   (d) Are necessary for the administration of the database.

6. For the purposes of this section, the term “high-interest loan” does not include a high-interest loan made to a customer if the licensee:
   (a) Makes the high-interest loan 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 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, 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. 2. NRS 239.010 is hereby amended to read as follows:

and section 1 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memorandum of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or
record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:
   (a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.
   (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 3. The provisions of this act do not apply to any contract or agreement entered into pursuant to chapter 604A of NRS before October 1, 2017, and any such contract or agreement remains in effect in accordance with the provisions of the contract or agreement.

Sec. 4. This act becomes effective:
   1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
   2. On October 1, 2017, for all other purposes.