

SENATE BILL NO. 94—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

FEBRUARY 7, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing certain loans.
(BDR 52-581)

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

~

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

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

Legislative Counsel’s Digest:

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

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

1 **Section 1.** Chapter 604A of NRS is hereby amended by
2 adding thereto a new section to read as follows:
3 *In addition to the amounts authorized to be collected pursuant*
4 *to NRS 604A.485, a high-interest loan service may charge a fee of*
5 *not more than \$10, payable on a one-time basis, on any loan that*
6 *remains unpaid 10 days or more after the date of default.*
7 **Sec. 2.** NRS 604A.407 is hereby amended to read as follows:
8 604A.407 1. Except as otherwise provided in this section, for
9 the purposes of determining whether a loan is a high-interest loan,
10 when determining whether a lender is charging an annual percentage



1 rate of more than 40 percent, calculations must be made in
2 accordance with the Truth in Lending Act and Regulation Z, except
3 that every charge or fee, regardless of the name given to the charge
4 or fee, payable directly or indirectly by the customer and imposed
5 directly or indirectly by the lender must be included in calculating
6 the annual percentage rate, including, without limitation:

7 (a) Interest;

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

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

12 (d) Prepaid finance charges.

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

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

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

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

22 (d) Any premiums or identifiable charges for insurance
23 permitted pursuant to NRS 675.300 ~~+~~; and

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

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

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

33 604A.485 1. If a customer defaults on a loan or on any
34 extension or repayment plan relating to the loan, whichever is later,
35 the licensee may collect only the following amounts from the
36 customer, less all payments made before and after default:

37 (a) The unpaid principal amount of the loan.

38 (b) The unpaid interest, if any, accrued before the default at the
39 annual percentage rate set forth in the disclosure statement required
40 by the Truth in Lending Act and Regulation Z that is provided to the
41 customer. If there is an extension, in writing and signed by the
42 customer, relating to the loan, the licensee may charge and collect
43 interest pursuant to this paragraph for a period not to exceed 60 days
44 after the expiration of the initial loan period, unless otherwise
45 allowed by NRS 604A.480.



1 (c) The interest accrued after the expiration of the initial loan
2 period or after any extension or repayment plan that is allowed
3 pursuant to this chapter, whichever is later, at an annual percentage
4 rate not to exceed the prime rate at the largest bank in Nevada, as
5 ascertained by the Commissioner, on January 1 or July 1, as the case
6 may be, immediately preceding the expiration of the initial loan
7 period, plus 10 percent. The licensee may charge and collect interest
8 pursuant to this paragraph for a period not to exceed 90 days. After
9 that period, the licensee shall not charge or collect any interest on
10 the loan.

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

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

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

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

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

