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Nevada State Legislature
Assembly Bill 433
Senate Labor and Commerce Committee

Comments by
Nevada Financial Services Association
May 1, 2003

Mr. Chairman and Committee members, good morning. My name is Jim Marchesi of 6820 W. Charleston Blvd in Las Vegas, NV and I am the president of the Nevada Financial Services Association. The Association represents deferred deposit companies, installment loan companies and check cashers throughout the State of Nevada. Our members offer a wide variety of financial services to the residents of Nevada and it is estimated that up to 15% of Nevada residents use our services.

Our industry caters to middle income America. On average our customers have income levels of \$35-40 thousand dollars per year, are primarily in the 25-45 year old demographic, most have some college and many own their homes.

Our members have committed to operate under a set of Best Practices that establishes benchmarks for fair dealings with all customers, ensures that appropriate collection practices

are followed and to work within all State and Federal laws governing our business. Our members are from both very large organizations and small mom and pop companies. While we understand that the legislation that is proposed is aiming to provide further clarification of the existing legislation we believe that significant economic damage can be brought to many of the companies effected by the proposed bill.

My purpose today is to ensure that the Committee fully understands some of the impacts such a bill will have on the customer and to the business owners. The bill is very poorly written and contains many conflicts in statement and in potential execution. Many of you have heard the statement that “the devil is in the details” and this bill as written includes few details, has many conflicts and then by definition is full of devils. Many of our members have expressed their concern to me and I am here as their voice.

First let me address the issue of fairness via the disallowance of late fees that are allowed to be charged upon loan default.

- I would ask you to first understand the fundamental transaction. A customer comes into one of the loan businesses to secure a short term, small denomination loan. The typical

loan period is approximately 10-14 days upon which the full amount of the loan is to be repaid.

- If the customer fails to make the payment on the agreed date most companies attempt to collect the debt via mail and phone for 30-60 days. Current legislation only allows the collection of a return check fee and essentially no late fees. Apartment complexes, banks, day care centers, libraries and all other loan businesses not governed by NRS 604 are allowed to charge late fees.
- The current law and the suggested modifications/clarifications provide no incentive for the customer to repay. In fact the current law encourages the customer NOT to repay because there are no detrimental consequences if they do not.
- So put yourself in the position of one of our members. The customer comes in borrows \$300.00 due for repayment in 2 weeks. The customer knows there are minimal consequences for not repaying and therefore ignores the debt. The business attempts to collect the amount due but to no avail which eventually leads some proprietors to seek legal recourse. This action can take up to six months depending on court calendars etc.
- Our members do NOT want to utilize the courts to collect the debt because of the time and extra costs involved. What we want is to be repaid for the money we lend. However, if forced to seek legal remedies, the costs of this action must be recoverable from the customer in default. The lost opportunity cost of having delinquent accounts (i.e. not

having access to the money that is due and that could be loaned to others) must be recoverable.

- Collection costs, legal fees and court costs are all hard costs to any business yet this industry has been singled out to not be allowed to implement a late charge when repayment is not made.
- The legislation, if enacted, will lead to protracted collection actions, more court cases which in the end will cost the business owner, the customer and the local municipality more money. We recommend that late fees explicitly be allowed.

An issue that highlights the lack of clarity is the proposed right of rescission: Many of our members already offer this service to their customers. Some do not. Member concerns are focused in two areas: First, the costs associated with completing a loan transaction and Second, the lack of definition and the potential for a significant increase in paperwork and record retention requirements.

- Think about the process of applying for a loan. There are many steps that must be conducted to confirm and obtain approval for a loan transaction. While exact processes differ by company, there are applications to be completed, information to be verified, approval or denial decisions to be made and loan disclosures to be filled out and

distributed. These all cost money to complete. Many of our members believes that there should be some recognition of these costs and the legislation as proposed would allow no recovery of those costs if the transaction is rescinded within a 24 hour period.

- While the bill as proposed requires the need for further disclosure requirements which describe the parties' responsibilities if the rescission is elected, the primary concern of our members is the lack of definition on what must be provided to the customer and further description on what the state intends here. The requirements could be as simple as adding a couple of sentences to the disclosure agreements or to the other extreme, requiring a separate contract at loan execution and another contract for the customer to execute the rescission. The main concern here is what would be required and what additional evidence must be retained to document said transaction.

There are many other issues that are contradictory one of which is deceptive trade practices which are already covered by existing law yet is mentioned in the bill causing more confusion and possible legal conflicts.

As written, our membership is opposed to the bill primarily because of its inconsistency, lack of definition and direct bias against NRS 604 registrants.

5

Our members are firmly rooted in the belief that free markets work to the consumer's advantage to set the competitive framework that we all must compete. We also believe that fair and balanced legislation is very important to assist in establishing a uniform playing field. The small consumer finance business is very competitive and market forces have served to set how business is conducted, establish a basis of customer service expectations and have clearly been beneficial to the consumer when it comes to rates, convenience and choice. Nevada is a very competitive market. The Nevada Financial Services Association believes that NRS 604 works in its existing form and this proposed modification unfairly discriminates against NRS 604 registrants, has many conflicting clauses that will make the execution and enforcement impossible for state agencies and imposes financial conditions that market forces are already handling.

Thank you for your time and attention. I would be glad to answer any of your questions.