
ASSEMBLY BILL NO. 433—ASSEMBLYMEN BROWN, BUCKLEY,
MARVEL AND SHERER

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions regulating persons providing check-cashing and deferred deposit services. (BDR 52-935)

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 a person may rescind a deferred deposit transaction under certain circumstances; providing that a person may redeem a check presented pursuant to a deferred deposit transaction under certain circumstances; defining the term “check” to include certain electronic transfers; limiting the number of fees a person may be charged pursuant to a deferred deposit transaction under certain circumstances; revising the disclosures that must be provided in an agreement for a deferred deposit; prohibiting registrants and collection agencies from engaging in certain business practices; limiting the applicability of certain remedies for unpaid checks; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 604 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.
3 **Sec. 2. 1. *A person may rescind a deferred deposit***
4 ***transaction entered into with a registrant if, not later than 1***
5 ***business day after the person enters into the deferred deposit***



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1 *transaction, the person delivers to the registrant at the location*
2 *where the person entered into the transaction:*

3 (a) *A sum of money equal to the face value of the check the*
4 *person provided to the registrant, less any fee charged to the*
5 *person for the provision of the deferred deposit; or*

6 (b) *The original check, if any, provided to the person by the*
7 *registrant pursuant to the deferred deposit transaction.*

8 2. *If a person rescinds a deferred deposit transaction*
9 *pursuant to this section, the registrant:*

10 (a) *Shall not charge the person any fee for cancelling the*
11 *contract; and*

12 (b) *Upon receipt of the sum of money or check required*
13 *pursuant to subsection 1, shall return to the person the check that*
14 *was provided by the person to the registrant at the time the person*
15 *and the registrant entered into the deferred deposit transaction.*

16 **Sec. 3.** 1. *A person may redeem a check that was provided*
17 *to a registrant pursuant to a deferred deposit transaction at any*
18 *time prior to the deposit of the check by the registrant.*

19 2. *To redeem a check pursuant to the provisions of this*
20 *section, the person shall present to the registrant a sum of money*
21 *equal to the face value of the check.*

22 3. *If a person redeems a check pursuant to this section, the*
23 *registrant shall, upon receipt of the sum of money required*
24 *pursuant to subsection 2, return to the person the check that was*
25 *provided by the person to the registrant at the time the person and*
26 *the registrant entered into the deferred deposit transaction.*

27 **Sec. 4.** NRS 604.030 is hereby amended to read as follows:

28 604.030 1. "Check" means a check, draft, ~~for~~ money order
29 ~~or~~ *written authorization to transfer money from a deposit*
30 *account via an electronic transfer of money or funds-transfer*
31 *system, but does not include a traveler's check or an instrument of*
32 *payment drawn on a foreign account in foreign money.*

33 2. *As used in this section:*

34 (a) *"Electronic transfer of money" has the meaning ascribed*
35 *to it in subsection 2 of NRS 660.045; and*

36 (b) *"Funds-transfer system" has the meaning ascribed to it in*
37 *paragraph (e) of subsection 1 of NRS 104A.4105.*

38 **Sec. 5.** NRS 604.162 is hereby amended to read as follows:

39 604.162 1. If a check is not paid upon presentment because
40 of insufficient funds, the registrant may collect a fee of not more
41 than \$25. ~~Only~~

42 2. *Except as otherwise provided in subsection 3, the registrant*
43 *may collect only* two such fees ~~may be charged~~ *of \$25* regardless
44 of the number of times the check is presented for payment.



1 *3. If the check is provided to the registrant pursuant to a*
2 *deferred deposit transaction, and the check is not paid upon*
3 *presentment because of insufficient funds, the registrant may*
4 *collect only one such fee of \$25 regardless of the number of times*
5 *the check is presented for payment.*

6 **Sec. 6.** NRS 604.164 is hereby amended to read as follows:
7 604.164 A registrant, before deferring a deposit, shall provide
8 each borrower with a written agreement, approved by the
9 Commissioner, which the borrower may keep and which contains
10 the following information, in English:

11 1. The identity of the registrant deferring the deposit and the
12 name of the registrant and the name and title of the employee who
13 signs the agreement;

14 2. An itemization of the fees and interest to be paid by the
15 borrower;

16 3. Disclosures required for a similar transaction by the federal
17 Truth in Lending Act;

18 4. Disclosures required under any applicable state statute or
19 regulation; ~~and~~

20 5. A clear description of the borrower’s obligations under the
21 deferred deposit ~~and~~;

22 *6. A disclosure of the right of the borrower to rescind a*
23 *deferred deposit transaction pursuant to the provisions of section 2*
24 *of this act; and*

25 *7. A disclosure of the right of the borrower to redeem a check*
26 *pursuant to the provisions of section 3 of this act.*

27 **Sec. 7.** NRS 604.180 is hereby amended to read as follows:
28 604.180 It is unlawful for a registrant to:

29 1. Use or threaten to use the criminal process in this or any
30 other state, or any civil process not available to creditors generally,
31 to collect on a deferred deposit.

32 2. *Threaten the criminal process provided under the*
33 *provisions of NRS 205.130, 205.132 and 205.134, unless the*
34 *district attorney whose jurisdiction includes this matter determines*
35 *that the person who issued the check intended to defraud the*
36 *registrant by issuing a check drawn on a deposit account that the*
37 *person knew was closed or did not exist.*

38 3. Make a loan made in the form of a deferred deposit that
39 exceeds one-third of the borrower’s expected monthly net income
40 during the term of the deferred deposit unless justified by particular
41 circumstances. A registrant is not in violation of the provisions of
42 this subsection if the borrower presents evidence of monthly net
43 income to the registrant and represents to the registrant in writing
44 that the deferred deposit does not exceed one-third of the borrower’s



1 expected monthly net income during the term of the deferred
2 deposit.

3 ~~[3-]~~ 4. Charge to cash a check representing the proceeds of a
4 deferred deposit.

5 ~~[4-]~~ 5. Make more than one loan in the form of a deferred
6 deposit to the same borrower at one time unless the borrower is
7 seeking multiple loans in the form of a deferred deposit that do not
8 exceed the limit set forth in subsection ~~[2-]~~ 3.

9 ~~[5-]~~ 6. *Accept more than one check for deferred deposit per*
10 *deferred deposit transaction.*

11 7. Establish or extend the period for the repayment, renewal,
12 refinancing or consolidation of an outstanding loan made in the
13 form of a deferred deposit to the same borrower beyond 10 weeks
14 after the expiration of the initial loan period.

15 ~~[6-]~~ 8. Accept any collateral for a loan made in the form of a
16 deferred deposit.

17 ~~[7-]~~ 9. Include in the written agreement required by NRS
18 604.164 for a loan made in the form of a deferred deposit:

19 (a) A promise by the borrower to hold the lender harmless;

20 (b) A confession of judgment by the borrower;

21 (c) An assignment or order for payment of wages or other
22 compensation due the borrower; or

23 (d) A waiver of any claim or defense arising out of the
24 agreement or a waiver of any provision of this chapter.

25 *10. Engage in a deceptive trade practice, including, without*
26 *limitation, making a false representation in connection with a*
27 *deferred deposit transaction.*

28 *11. Engage in deceptive advertising, including, without*
29 *limitation, making any false, misleading or deceptive statement or*
30 *representation with regard to providing services related to deferred*
31 *deposits.*

32 **Sec. 8.** NRS 41.620 is hereby amended to read as follows:

33 41.620 1. Any person who:

34 (a) Makes, utters, draws or delivers a check or draft for the
35 payment of money drawn upon any financial institution or other
36 person, when he has no account with the drawee of the instrument or
37 has insufficient money, property or credit with the drawee to pay; or

38 (b) Uses a credit card or debit card to obtain money, goods,
39 property, services or anything of value, when he knows or should
40 have known the credit card or debit card is no longer valid,

41 and who fails to pay the amount in cash to the payee, issuer or other
42 creditor within 30 days after a demand therefor in writing is mailed
43 to him by certified mail, is liable to the payee, issuer or other
44 creditor for the amount of the check, draft or extension of credit, and



1 damages equal to three times the amount of the check, draft or
2 extension of credit, but not less than \$100 nor more than \$500.

3 2. *The provisions of paragraph (a) of subsection 1 do not*
4 *apply to any check or draft provided to a registrant pursuant to an*
5 *agreement for a deferred deposit.*

6 3. As used in this section, unless the context otherwise
7 requires:

8 (a) "Credit card" has the meaning ascribed to it in NRS 205.630;
9 (b) "Debit card" has the meaning ascribed to it in NRS 205.635;

10 ~~and~~

11 (c) *"Deferred deposit" has the meaning ascribed to it in*
12 *NRS 604.060;*

13 (d) "Issuer" has the meaning ascribed to it in NRS 205.650 ~~;~~;
14 *and*

15 (e) *"Registrant" has the meaning ascribed to it in*
16 *NRS 604.080.*

17 **Sec. 9.** Chapter 649 of NRS is hereby amended by adding
18 thereto a new section to read as follows:

19 1. *A collection agency engaged by a customer who is a*
20 *registrant to solicit or obtain the payment of a claim arising out of*
21 *an agreement for a deferred deposit shall comply with the*
22 *provisions of subsection 2 of NRS 41.620, NRS 604.166 and*
23 *604.180 as if the collection agency was the registrant.*

24 2. *As used in this section:*

25 (a) *"Deferred deposit" has the meaning ascribed to it in*
26 *NRS 604.060.*

27 (b) *"Registrant" has the meaning ascribed to it in*
28 *NRS 604.080.*

