
ASSEMBLY BILL NO. 305—ASSEMBLYMEN FLORES; BENITEZ-
THOMPSON, JAUREGUI, MUNK, PETERS AND TORRES

MARCH 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to certain financial transactions. (BDR 52-1060)

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

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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; requiring certain persons who provide money to a consumer who is a party to a pending legal action in this State to register with the Commissioner of Financial Institutions; prohibiting such persons from charging an annual percentage rate greater than 40 percent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Sections 2-15** of this bill establish provisions relating to transactions in which a
2 person provides a consumer who is a party to a pending legal action in this State
3 with money and the consumer confers to that person the right to receive the
4 proceeds or a part of the proceeds of the settlement, insurance payment, award of
5 damages or any other money expected as a result of the legal action of the
6 consumer. **Section 9** of this bill designates this type of transaction as a
7 “presettlement funding transaction.” **Section 8** of this bill designates the provider of
8 money to a consumer in such a transaction as a “presettlement funding provider.”
9 **Section 12** of this bill requires a person who wishes to act as a presettlement
10 funding provider to register with the Commissioner of Financial Institutions.
11 **Sections 12-14** of this bill establish certain requirements for the registration of
12 presettlement funding providers. **Section 15** of this bill: (1) prohibits a
13 presettlement funding provider from entering into a presettlement funding
14 transaction with a consumer if the annual percentage rate charged is more than 40
15 percent; and (2) provides that a presettlement funding contract entered into in
16 violation of **section 15** is void.



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

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 15, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 15, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 2 to 11, inclusive, of this act have the meanings*
7 *ascribed to them in those sections.*

8 **Sec. 3.** *“Commissioner” means the Commissioner of*
9 *Financial Institutions.*

10 **Sec. 4.** *“Consumer” means a natural person who:*

11 1. *Resides or is domiciled in this State; or*

12 2. *Is a party to a legal action pending before a federal or state*
13 *court located in this State.*

14 **Sec. 5.** 1. *“Legal action” means:*

15 (a) *A bona fide civil action or statutory or regulatory claim for*
16 *which damages may be awarded to the claiming party; or*

17 (b) *A cause of action or legal claim upon which a civil action*
18 *or statutory or regulatory claim described in paragraph (a) may be*
19 *based.*

20 2. *The term includes, without limitation:*

21 (a) *Any settlement or negotiation toward a settlement of a civil*
22 *action or statutory or regulatory claim described in paragraph (a)*
23 *of subsection 1; or*

24 (b) *Any agreement or negotiations toward an agreement*
25 *pursuant to which a civil action or statutory or regulatory claim*
26 *based upon a cause of action described in paragraph (b) of*
27 *subsection 1 would not be initiated.*

28 **Sec. 6.** *“Presettlement funding” means the money provided*
29 *directly or indirectly to a consumer by a presettlement funding*
30 *provider in a presettlement funding transaction.*

31 **Sec. 7.** *“Presettlement funding contract” means a written or*
32 *oral agreement between a consumer and a presettlement funding*
33 *provider that provides for a presettlement funding transaction.*

34 **Sec. 8.** 1. *“Presettlement funding provider” means a*
35 *person who enters into a presettlement funding transaction with a*
36 *consumer.*

37 2. *The term includes, without limitation:*

38 (a) *An affiliate or subsidiary of a presettlement funding*
39 *provider;*

40 (b) *A person who buys a whole or partial interest in*
41 *presettlement funding;*



1 (c) A person who acts as an agent to provide presettlement
2 funding from a third party for a fee; and

3 (d) A person who acts as an agent for a third party in
4 providing presettlement funding for a fee, regardless of whether
5 approval or acceptance by the third party is necessary to create a
6 legal obligation for the third party.

7 3. The term does not include an attorney who provides
8 professional services to a consumer on a contingency basis in
9 relation to the legal claim of the consumer.

10 **Sec. 9.** "Presettlement funding transaction" means a
11 transaction in which:

12 1. A presettlement funding provider provides presettlement
13 funding to a consumer; and

14 2. The consumer assigns, conveys or otherwise confers to the
15 presettlement funding provider the right to receive the proceeds or
16 part thereof, of the settlement, insurance payment or award of
17 damages obtained in the legal action of the consumer or any other
18 money expected as a result of the legal action of the consumer.

19 **Sec. 10.** "Regulation Z" means the federal regulations, as
20 amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in
21 Lending Act and commonly known as Regulation Z.

22 **Sec. 11.** "Truth in Lending Act" means the federal Truth in
23 Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.

24 **Sec. 12.** 1. A person shall not act as a presettlement
25 funding provider unless the person is registered with the
26 Commissioner as a presettlement funding provider.

27 2. A person who wishes to register with the Commissioner as
28 a presettlement funding provider must submit to the Commissioner
29 the fee established pursuant to subsection 5 and an application, on
30 a form prescribed by the Commissioner, which must contain:

31 (a) The name and address of the applicant; and

32 (b) Such other information as the Commissioner may require
33 by regulation.

34 3. Each applicant for initial registration as a presettlement
35 funding provider shall submit with the application a complete set
36 of his or her fingerprints and written permission authorizing the
37 Department of Financial Institutions of the Department of
38 Business and Industry to forward the fingerprints to the Central
39 Repository for Nevada Records of Criminal History for submission
40 to the Federal Bureau of Investigation for its report.

41 4. Registration as a presettlement funding provider expires on
42 December 31 of each year and may be renewed upon submission
43 of an application for renewal containing such information as the
44 Commissioner may require by regulation.



1 5. *The Commissioner shall establish by regulation fees for*
2 *the issuance and renewal of registration as a presettlement*
3 *funding provider in an amount necessary to cover the costs of*
4 *carrying out sections 2 to 15, inclusive, of this act.*

5 **Sec. 13.** *1. In addition to the requirements set forth in*
6 *section 12 of this act, a natural person who applies for registration*
7 *or the renewal of registration as a presettlement funding provider*
8 *shall:*

9 (a) *Include the social security number of the applicant in the*
10 *application submitted to the Commissioner; and*

11 (b) *Submit to the Commissioner the statement prescribed by*
12 *the Division of Welfare and Supportive Services of the Department*
13 *of Health and Human Services pursuant to NRS 425.520. The*
14 *statement must be completed and signed by the applicant.*

15 2. *The Commissioner shall include the statement required*
16 *pursuant to subsection 1 in:*

17 (a) *The application or any other forms that must be submitted*
18 *for the issuance or renewal of the registration; or*

19 (b) *A separate form prescribed by the Commissioner.*

20 3. *Registration as a presettlement funding provider may not*
21 *be issued or renewed by the Commissioner if the applicant:*

22 (a) *Fails to submit the statement required pursuant to*
23 *subsection 1; or*

24 (b) *Indicates on the statement submitted pursuant to*
25 *subsection 1 that the applicant is subject to a court order for the*
26 *support of a child and is not in compliance with the order or a*
27 *plan approved by the district attorney or other public agency*
28 *enforcing the order for the repayment of the amount owed*
29 *pursuant to the order.*

30 4. *If an applicant indicates on the statement submitted*
31 *pursuant to subsection 1 that the applicant is subject to a court*
32 *order for the support of a child and is not in compliance with the*
33 *order or a plan approved by the district attorney or other public*
34 *agency enforcing the order for the repayment of the amount owed*
35 *pursuant to the order, the Commissioner shall advise the applicant*
36 *to contact the district attorney or other public agency enforcing*
37 *the order to determine the actions that the applicant may take to*
38 *satisfy the arrearage.*

39 **Sec. 14.** *1. If the Commissioner receives a copy of a court*
40 *order issued pursuant to NRS 425.540 that provides for the*
41 *suspension of all professional, occupational and recreational*
42 *licenses, certificates and permits issued to a person who is*
43 *registered as a presettlement funding provider, the Commissioner*
44 *shall deem the registration issued to that person to be suspended at*
45 *the end of the 30th day after the date on which the court order was*



1 *issued unless the Commissioner receives a letter issued to the*
2 *registrant by the district attorney or other public agency pursuant*
3 *to NRS 425.550 stating that the registrant has complied with the*
4 *subpoena or warrant or has satisfied the arrearage pursuant to*
5 *NRS 425.560.*

6 2. *The Commissioner shall reinstate the registration of a*
7 *presettlement funding provider that has been suspended by a*
8 *district court pursuant to NRS 425.540 if the Commissioner*
9 *receives a letter issued by the district attorney or other public*
10 *agency pursuant to NRS 425.550 to the person whose registration*
11 *was suspended stating that the person whose registration was*
12 *suspended has complied with the subpoena or warrant or has*
13 *satisfied the arrearage pursuant to NRS 425.560.*

14 **Sec. 15.** 1. *A presettlement funding provider shall not enter*
15 *into a presettlement funding transaction with a consumer if the*
16 *annual percentage rate charged by the presettlement funding*
17 *provider is more than 40 percent.*

18 2. *For the purposes of this section, the annual percentage*
19 *rate charged by the presettlement funding provider must be*
20 *calculated in accordance with the Truth in Lending Act and*
21 *Regulation Z.*

22 3. *A presettlement funding contract entered into in violation*
23 *of this section is void.*

24 **Sec. 16.** The amendatory provisions of this act do not apply to
25 any contract entered into before October 1, 2019, until the contract
26 is extended or renewed.

27 **Sec. 17.** 1. This act becomes effective on October 1, 2019.

28 2. Sections 13 and 14 of this act expire by limitation on the
29 date on which the provisions of 42 U.S.C. § 666 requiring each state
30 to establish procedures under which the state has authority to
31 withhold or suspend, or to restrict the use of professional,
32 occupational and recreational licenses of persons who:

33 (a) Have failed to comply with a subpoena or warrant relating to
34 a proceeding to determine the paternity of a child or to establish or
35 enforce an obligation for the support of a child; or

36 (b) Are in arrears in the payment for the support of one or more
37 children,

38 ➤ are repealed by the Congress of the United States.

