

SENATE BILL NO. 139—SENATOR HAMMOND

FEBRUARY 13, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Exempts certain persons from provisions governing the licensure and regulation of persons engaged in the business of lending. (BDR 52-867)

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; exempting certain persons from provisions governing the licensure and regulation of persons who make deferred deposit loans, high-interest loans and title loans and other persons engaged in the business of lending; setting forth certain legislative declarations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides for the licensure and regulation of persons who make
2 deferred deposit loans, high-interest loans and title loans and other persons engaged
3 in the business of lending. (Chapters 604A and 675 of NRS) Existing law exempts
4 from those provisions a person who exclusively extends credit to any person who is
5 not a resident of this State for any business, commercial or agricultural purpose that
6 is located outside of this State. (NRS 604A.250, 675.040) **Sections 1 and 4** of this
7 bill revise those exemptions to apply to a person who exclusively extends credit to
8 any person for any business, commercial or agricultural purpose, regardless of
9 whether the debtor is a resident of this State or the purpose is located in this State
10 and regardless of any personal guaranty or collateral involved in such an extension
11 of credit.

12 **Section 2** of this bill sets forth certain legislative declarations concerning
13 extensions of credit for business, commercial or agricultural purposes by persons in
14 this State and agreements for such an extension of credit.

15 Existing law defines “Internet business lender” for the purposes of provisions
16 of existing law governing persons engaged in the business of lending to mean a
17 person who makes business loans exclusively through the Internet. (NRS 675.020)
18 Existing law exempts an Internet business lender from certain requirements and
19 prohibitions applicable to persons engaged in the business of lending. (NRS
20 675.090, 675.230) **Sections 3, 5 and 6** of this bill remove provisions providing



21 those specific exemptions for Internet business lenders in conformance with the
22 provisions of **section 4**, which exempt any person who exclusively extends credit to
23 a person for any business purpose from the provisions of existing law governing the
24 licensure and regulation of persons engaged in the business of lending.

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

1 **Section 1.** NRS 604A.250 is hereby amended to read as
2 follows:

3 604A.250 The provisions of this chapter do not apply to:

4 1. Except as otherwise provided in NRS 604A.200, a person
5 doing business pursuant to the authority of any law of this State or
6 of the United States relating to banks, national banking associations,
7 savings banks, trust companies, savings and loan associations, credit
8 unions, mortgage companies, thrift companies or insurance
9 companies, including, without limitation, any affiliate or subsidiary
10 of such a person regardless of whether the affiliate or subsidiary is a
11 bank.

12 2. A person who is primarily engaged in the retail sale of goods
13 or services who:

14 (a) As an incident to or independently of a retail sale or service,
15 from time to time cashes checks for a fee or other consideration of
16 not more than \$2; and

17 (b) Does not hold himself or herself out as a check-cashing
18 service.

19 3. A person while performing any act authorized by a license
20 issued pursuant to chapter 671 of NRS.

21 4. A person who holds a nonrestricted gaming license issued
22 pursuant to chapter 463 of NRS while performing any act in the
23 course of that licensed operation.

24 5. A person who is exclusively engaged in a check-cashing
25 service relating to out-of-state checks.

26 6. A corporation organized pursuant to the laws of this State
27 that has been continuously and exclusively engaged in a check-
28 cashing service in this State since July 1, 1973.

29 7. A pawnbroker, unless the pawnbroker operates a check-
30 cashing service, deferred deposit loan service, high-interest loan
31 service or title loan service.

32 8. A real estate investment trust, as defined in 26 U.S.C. § 856.

33 9. An employee benefit plan, as defined in 29 U.S.C. §
34 1002(3), if the loan is made directly from money in the plan by the
35 plan's trustee.



1 10. An attorney at law rendering services in the performance of
2 his or her duties as an attorney at law if the loan is secured by real
3 property.

4 11. A real estate broker rendering services in the performance
5 of his or her duties as a real estate broker if the loan is secured by
6 real property.

7 12. Any firm or corporation:

8 (a) Whose principal purpose or activity is lending money on real
9 property which is secured by a mortgage;

10 (b) Approved by the Federal National Mortgage Association as
11 a seller or servicer; and

12 (c) Approved by the Department of Housing and Urban
13 Development and the Department of Veterans Affairs.

14 13. A person who provides money for investment in loans
15 secured by a lien on real property, on his or her own account.

16 14. A seller of real property who offers credit secured by a
17 mortgage of the property sold.

18 15. A person who makes a refund anticipation loan, unless the
19 person operates a check-cashing service, deferred deposit loan
20 service, high-interest loan service or title loan service.

21 16. A person who exclusively extends credit to any person
22 ~~[who is not a resident of this State]~~ for any business, commercial or
23 agricultural purpose ~~[that is located outside of this State.]~~ ,
24 *regardless of any personal guaranty or collateral involved in such*
25 *an extension of credit.*

26 **Sec. 2.** Chapter 675 of NRS is hereby amended by adding
27 thereto a new section to read as follows:

28 *The Legislature hereby declares that it is the public policy of*
29 *this State:*

30 *1. To promote the extension of credit by persons located*
31 *within this State to persons located within and outside of this State*
32 *for business, commercial or agricultural purposes; and*

33 *2. For the laws of this State to govern any agreement by*
34 *which a person located within this State agrees to extend credit to*
35 *any person located outside of this State for any business,*
36 *commercial or agricultural purpose, if the agreement so provides.*

37 **Sec. 3.** NRS 675.020 is hereby amended to read as follows:

38 675.020 As used in this chapter, unless the context otherwise
39 requires:

40 1. "Amount of cash advance" means the amount of cash or its
41 equivalent actually received by a borrower or paid out at his or her
42 direction or on his or her behalf.

43 2. "Amount of loan obligation" means the amount of cash
44 advance plus the aggregate of charges added thereto pursuant to
45 authority of this chapter.



1 3. "Commissioner" means the Commissioner of Financial
2 Institutions.

3 4. "Community" means a contiguous area of the same
4 economic unit or metropolitan area as determined by the
5 Commissioner, and may include all or part of a city or several towns
6 or cities.

7 5. "Consumer credit" has the meaning ascribed to it in
8 NRS 604A.036.

9 6. "Covered service member" has the meaning ascribed to it in
10 NRS 604A.038.

11 7. "Dependent" has the meaning ascribed to it in
12 NRS 604A.057.

13 8. ~~["Internet business lender" means a person who makes
14 business loans exclusively through the Internet.~~

15 ~~—9.]~~ "License" means a license, issued under the authority of
16 this chapter, to make loans in accordance with the provisions of this
17 chapter, at a single place of business.

18 ~~[10.]~~ 9. "Licensee" means a person to whom one or more
19 licenses have been issued.

20 ~~[11.]~~ 10. "Nationwide Multistate Licensing System and
21 Registry" or "Registry" has the meaning ascribed to it in
22 NRS 604A.083.

23 **Sec. 4.** NRS 675.040 is hereby amended to read as follows:

24 675.040 This chapter does not apply to:

25 1. Except as otherwise provided in NRS 675.035, a person
26 doing business under the authority of any law of this State or of the
27 United States relating to banks, national banking associations,
28 savings banks, trust companies, savings and loan associations, credit
29 unions, mortgage companies, thrift companies, pawnbrokers or
30 insurance companies.

31 2. A real estate investment trust, as defined in 26 U.S.C. § 856.

32 3. An employee benefit plan, as defined in 29 U.S.C. §
33 1002(3), if the loan is made directly from money in the plan by the
34 plan's trustee.

35 4. An attorney at law rendering services in the performance of
36 his or her duties as an attorney at law if the loan is secured by real
37 property.

38 5. A real estate broker rendering services in the performance of
39 his or her duties as a real estate broker if the loan is secured by real
40 property.

41 6. Except as otherwise provided in this subsection, any firm or
42 corporation:

43 (a) Whose principal purpose or activity is lending money on real
44 property which is secured by a mortgage;



1 (b) Approved by the Federal National Mortgage Association as
2 a seller or servicer; and

3 (c) Approved by the Department of Housing and Urban
4 Development and the Department of Veterans Affairs.

5 7. A person who provides money for investment in loans
6 secured by a lien on real property, on his or her own account.

7 8. A seller of real property who offers credit secured by a
8 mortgage of the property sold.

9 9. A person holding a nonrestricted state gaming license issued
10 pursuant to the provisions of chapter 463 of NRS.

11 10. A person licensed to do business pursuant to chapter 604A
12 of NRS with regard to those services regulated pursuant to chapter
13 604A of NRS.

14 11. A person who exclusively extends credit to any person
15 ~~[who is not a resident of this State]~~ for any business, commercial or
16 agricultural purpose ~~[that is located outside of this State.]~~ ,
17 *regardless of any personal guaranty or collateral involved in such*
18 *an extension of credit.*

19 12. Except as otherwise required by the Director of the
20 Department of Business and Industry pursuant to NRS 657A.430 or
21 657A.620, a participant in the Regulatory Experimentation Program
22 for Product Innovation established and administered pursuant to
23 chapter 657A of NRS.

24 **Sec. 5.** NRS 675.090 is hereby amended to read as follows:

25 675.090 1. Application for a license must be in writing, under
26 oath, and in the form prescribed by the Commissioner.

27 2. The application must:

28 (a) Provide the address of the office or other place of business
29 for which the application is submitted.

30 (b) Contain such further relevant information as the
31 Commissioner may require, including the names and addresses of
32 the partners, officers, directors or trustees, and of such of the
33 principal owners or members as will provide the basis for the
34 investigations and findings contemplated by NRS 675.110 and
35 675.120.

36 3. A person may apply for a license for an office or other place
37 of business located outside this State from which the applicant will
38 conduct business in this State if ~~†~~:

39 ~~—(a) The applicant is an Internet business lender; or~~

40 ~~—(b) The] *the*~~ applicant or a subsidiary or affiliate of the applicant
41 has a license issued pursuant to this chapter for an office or other
42 place of business located in this State.

43 4. A person who wishes to apply for a license pursuant to
44 subsection 3 must submit with the application for a license a



1 statement signed by the applicant which states that the applicant
2 agrees to:

3 (a) Make available at a location within this State the books,
4 accounts, papers, records and files of the office or place of business
5 located outside this State to the Commissioner or a representative of
6 the Commissioner; or

7 (b) Pay the reasonable expenses for travel, meals and lodging of
8 the Commissioner or a representative of the Commissioner incurred
9 during any investigation or examination made at the office or place
10 of business located outside this State.

11 ➤ The person must be allowed to choose between paragraph (a) or
12 (b) in complying with the provisions of this subsection.

13 5. The Commissioner shall consider an application to be
14 withdrawn if the Commissioner has not received all information and
15 fees required to complete the application within 6 months after the
16 date the application is first submitted to the Commissioner or within
17 such later period as the Commissioner determines in accordance
18 with any existing policies of joint regulatory partners. If an
19 application is deemed to be withdrawn pursuant to this subsection or
20 if an applicant otherwise withdraws an application, the
21 Commissioner may not issue a license to the applicant unless the
22 applicant submits a new application and pays any required fees.

23 **Sec. 6.** NRS 675.230 is hereby amended to read as follows:

24 675.230 1. Except as otherwise provided in ~~subsections~~
25 ~~subsection 2 , [and 3.]~~ a licensee may not conduct the business of
26 making loans under this chapter within any office, suite, room or
27 place of business in which any other business is solicited or engaged
28 in, except an insurance agency or notary public, or in association or
29 conjunction with any other business, unless authority to do so is
30 given by the Commissioner.

31 2. A licensee may conduct the business of making loans
32 pursuant to this chapter in the same office or place of business as a
33 mortgage company if:

34 (a) The licensee and the mortgage company:

- 35 (1) Operate as separate legal entities;
36 (2) Maintain separate accounts, books and records;
37 (3) Are subsidiaries of the same parent corporation; and
38 (4) Maintain separate licenses; and

39 (b) The mortgage company is licensed by this state pursuant to
40 chapter 645B of NRS and does not receive money to acquire or
41 repay loans or maintain trust accounts as provided by
42 NRS 645B.175.

43 ~~[3.—A licensee who is an Internet business lender may conduct~~
44 ~~the business of making loans pursuant to this chapter within any~~



1 ~~office, suite, room or place of business in which any other business~~
2 ~~is solicited or engaged in.]~~

3 **Sec. 7.** This act becomes effective on July 1, 2023.



