

STATE OF NEVADA



BRIAN SANDOVAL  
*Governor*

DEPARTMENT OF BUSINESS AND INDUSTRY

TERRY JOHNSON  
*Director*

**FINANCIAL INSTITUTIONS DIVISION**

GEORGE E. BURNS  
*Commissioner*

**NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS**

**COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION  
NAC CHAPTER 604A**

**(LCB File No. R130-08 dated August 10, 2010)**

September 21, 2012

The State of Nevada, Financial Institutions Division ("Division"), 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, (702) 486-4120 is proposing the adoption of regulations to Chapter 604A of the Nevada Administrative Code (NAC). A workshop to solicit comments from interested persons on the proposed regulations will be held at the following locations through simultaneous videoconference:

Date: Wednesday, October 10, 2012

Time: 10:00 am.

In Las Vegas: Grant Sawyer Building  
555 E. Washington Avenue  
Room 4412  
Las Vegas, NV 89101

In Carson City: The Legislative Building  
401 S. Carson Street  
Room 2135  
Carson City, NV 89701

LAS VEGAS  
Office of the Commissioner  
2785 E. Desert Inn Road, Suite 180  
Las Vegas, NV 89121  
(702) 486-4120 Fax (702) 486-4563

CARSON CITY  
Examination & CPA Office  
1179 Fairview Drive, Suite 201  
Carson City, NV 89701  
(775) 687-5522 Fax (775) 687-5523  
Web Address: <http://fid.state.nv.us>

CARSON CITY  
Licensing Office  
1830 E. College Parkway, Suite 100  
Carson City, NV 89706  
P.O. Box 3239, Carson City, NV 89702  
(775) 684-2970 Fax (775) 684-2977

**STACKED AGENDA:** Below is an agenda of all items scheduled to be considered. Unless otherwise stated, items may be taken out of the order presented on the agenda by the discretion of the Commissioner. Items may also be combined for consideration or pulled or removed from the agenda at any time. Persons who have business before the Commissioner are solely responsible to see that they are present when their business is conducted. Public Comment may be limited to three minutes per person at the discretion of the Commissioner. The Commissioner may only take action on those items denoted as potential action items.

**NOTICE:** Reasonable efforts will be made to assist and accommodate physically handicapped persons desiring to attend the meeting. Members of the public who are disabled and require special accommodations or assistance at the workshop must notify Carla Kolebuck, Deputy Commissioner, at the Division in writing at 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, no later than 5 working days prior to the workshop. Any questions should be directed to Carla Kolebuck, Deputy Commissioner, at (702) 486-4120.

1. PUBLIC COMMENTS

MEMBERS OF THE PUBLIC ARE ENCOURAGED TO ADDRESS THE COMMISSIONER REGARDING ANY MATTER. HOWEVER, NO ACTION MAY BE TAKEN ON A MATTER. NO COMMENTS MAY BE MADE REGARDING A MATTER THAT IS OR MAY BE THE SUBJECT OF A FORMAL COMPLAINT BEFORE THE COMMISSIONER. COMMENT MAY NOT BE LIMITED BASED ON VIEWPOINT. PERSONS WHO DESIRE TO SUBMIT WRITTEN TESTIMONY SHOULD SUBMIT TEN (10) COPIES TO THE DEPUTY COMMISSIONER. PUBLIC COMMENT MAY BE LIMITED TO THREE MINUTES PER PERSON AT THE DISCRETION OF THE COMMISSIONER.

2. POSSIBLE ACTION REGARDING the Proposed Regulations LCB File No. R130-08 dated August 10, 2010 a copy of which is attached to this Notice:

The Commissioner will hear comments and take possible action regarding the proposed regulations contained in NAC Chapter 604A (LCB File No. R130-08) The Commissioner will also solicit comments regarding the following matters.

- Whether proposed sections 5, 21, 22, and portions of proposed sections 16, and 20 of the proposed regulations should be removed. Specifically:
  - a. Section 5 clarifying certain requirements for deferred deposit and high interest loans made pursuant to NRS 604A.480;
  - b. Section 16, subsections 1 through 5 increasing fees for examinations, license applications, renewals and license reinstatement;
  - c. Section 20, subsection 4 clarifying the amounts to be included in the calculation of a deferred deposit loan for purposes of the limitation imposed under NRS 604A.425;
  - d. Section 21 clarifying the prohibition of accepting a check as security for a high-interest loan;
  - e. Section 22 restricting loans made to repeat borrowers, internet lending and the imposition of additional collection fees.

- Whether NAC 604A.220 should be deleted in its entirety since it is unnecessary and duplicative of NRS 604A.435.
3. POSSIBLE ACTION regarding whether the proposed regulations should be amended to add a regulation which defines the “ability to repay” in NRS 604A.450.
    - (i) Attached Exhibit A contains a proposal to define “ability to repay” to include any renewal and repayment periods submitted by interested members of the industry for comment and consideration.
    - (ii) Attached as Exhibit B is proposed regulatory language to define “ability to repay” submitted by the Division for comment and consideration.
  4. POSSIBLE ACTION regarding whether the proposed regulations should be amended to add a regulation to address accrual of contract interest during a grace period.
    - (i) Attached as Exhibit C is proposed regulatory language submitted by interested members of the industry for comment and consideration.
    - (ii) Attached Exhibit D contains proposed regulatory language submitted by the Division for comment and consideration.
  5. POSSIBLE ACTION regarding whether the proposed regulations should be amended to add a regulation to define the amount of interest that may be collected during a repayment plan under NRS 604A.475.
    - (i) Attached Exhibit E contains a proposal submitted by interested members of the industry for comment and consideration.
    - (ii) Attached Exhibit F contains proposed regulatory language submitted by the Division for comment and consideration.

## 6. PUBLIC COMMENTS

MEMBERS OF THE PUBLIC ARE ENCOURAGED TO ADDRESS THE COMMISSIONER REGARDING ANY MATTER. HOWEVER, NO ACTION MAY BE TAKEN ON A MATTER. NO COMMENTS MAY BE MADE REGARDING A MATTER THAT IS OR MAY BE THE SUBJECT OF A FORMAL COMPLAINT BEFORE THE COMMISSIONER. COMMENT MAY NOT BE LIMITED BASED ON VIEWPOINT. PERSONS WHO DESIRE TO SUBMIT WRITTEN TESTIMONY SHOULD SUBMIT TEN (10) COPIES TO THE DEPUTY COMMISSIONER. PUBLIC COMMENT MAY BE LIMITED TO THREE MINUTES PER PERSON AT THE DISCRETION OF THE COMMISSIONER.

## 7. ADJOURNMENT

A copy of the proposed regulations to be considered for amendment and adoption are attached to this Notice and will also be available prior to the hearing on the Internet at: <http://www.fid.state.nv.us>. Copies of this Notice and/or the proposed regulations will be mailed to

members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This Notice has been sent to all persons on the Division's mailing list for notice of proposed rulemaking, posted on the Division's web site at <http://www.fid.state.nv.us>, and posted at the following public locations for inspection by members of the public:

Attn: Public Posting  
Churchill County Library  
553 S. Maine Street  
Fallon, NV 89406

Attn: Public Posting  
Tonopah Public Library  
P.O. Box 449  
Tonopah, NV 89049  
(167 Central Street)

Attn: Public Posting  
Las Vegas – Clark County Library  
833 Las Vegas Blvd. N.  
Las Vegas, NV 89101

Attn: Public Posting  
Pershing County Library  
P.O. Box 781; (1125 Central Avenue)  
Lovelock, NV 89419

Attn: Public Posting  
Elko County Library  
720 Court Street  
Elko, NV 89801

Attn: Public Posting  
Storey County Library  
P.O. Box 14; (95 South R Street)  
Virginia City, NV 89440

Attn: Public Posting  
Goldfield Public Library  
P.O. Box 430; (Fourth & Crook Sts.)  
Goldfield, NV 89013

Attn: Public Posting  
Washoe County Library  
P.O. Box 2151; (301 S. Center)  
Reno, NV 89501

Attn: Public Posting  
Eureka Branch Library  
P.O. Box 293 (80 South Monroe)  
Eureka, NV 89316

Attn: Public Posting  
White Pine County Library  
950 Campton St.  
Ely, NV 89301

Attn: Public Posting  
Humboldt County Library  
85 East 5<sup>th</sup> St.  
Winnemucca, NV 89445

Attn: Public Posting  
Battle Mountain Branch Library (Lander  
County)  
625 South Broad Street  
P.O. Box 141  
Battle Mountain, NV 89820

Attn: Public Posting  
Lincoln County Library  
63 Main St.  
P.O. Box 330  
Pioche, NV 89043

Attn: Public Posting  
Lyon County Library  
20 Nevin Way  
Yerington, NV 89447

Financial Institutions Division  
2785 E. Desert Inn Road, Ste. 180  
Las Vegas, NV 89121

Attn: Lobby Public Posting  
Grant Sawyer Building  
555 E. Washington Ave.  
Las Vegas, NV 89101

Attn: Public Posting  
Nevada Department of Business and  
Industry, Director's Office  
1830 E. College Parkway, Suite 100  
Carson City, NV 89706

Attn: Public Posting  
Carson City Library  
900 N. Roop Street  
Carson City, NV 89701

Attn: Public Posting  
Douglas County Library (1625 Library Lane)  
P.O. Box 337  
Minden, NV 89423

Financial Institutions Division  
1179 Fairview Drive, Ste. 201  
Carson City, NV 89701

Grant Sawyer Building  
Nevada Department of Business and  
Industry, Director's Office  
555 E. Washington Ave.  
Las Vegas, NV 89101

## **EXHIBIT A**

**Submitted by interested members of the industry for comment and consideration.**

### **Ability to Pay**

Issue:

- NRS 604A.450 provides that “a licensee ... shall not make a title loan without regard to the ability of the customer ... to repay the title loan, including the customer’s current and expected income, obligations and employment.”
- Whether NRS 604A.450 requires that the borrower must have the ability to repay the full loan within 30 days even though NRS 604A.475 requires that borrowers have at least 90 days to repay the loan.

Proposed Resolution:

- a. A new regulation that provides that NRS 604A.450 requires that a lender consider the ability of the customer to repay the loan during the original term of the loan plus any renewal periods and repayment periods, to the extent such periods are offered by the lender.
- b. A new Regulation that provides the affidavit signed by borrower as required by 604A.450(3)b, is safe harbor for compliance with requirement.

## **EXHIBIT B**

**Submitted by the Financial Institutions Division for comment and consideration**

### **Ability to Repay**

“Ability to repay” is defined as:

A borrower’s capacity to repay the full amount of a loan when due from net disposable income.

“Full amount of loan” is defined as any and all principal, interest and fees subject to all statutory requirements and legal contractual stipulations.

“When due” is defined as the repayment schedule subject to all statutory requirements and legal contractual stipulations that when completed pays the full amount of loan and extinguishes the debt.

“Net disposable income” is defined as verifiable Gross Income minus any and all Deductions from income (=Net Income), minus all verifiable/stated Expense obligations including but not limited to premise/housing, utilities, groceries, transportation, fuel, and any other debt payments.

**EXHIBIT C**

**Submitted by interested members of the industry for comment and consideration.**

**NAC 604A.240 – Grace Periods on Title Loans**

- (a) Pursuant to NRS 604A.210, a licensee is permitted to continue to accrue interest at its contract rate during the term of any grace period offered within the terms and conditions of its title loan agreement provided the licensee does not charge any fees or any additional interest, such as a penalty or higher rate of interest, during such grace period.
  
- (b) A licensee shall not offer a grace period greater than thirty (30) days if the licensee continues to accrue its contract rate of interest during such grace period.



## **EXHIBIT D**

**Submitted by the Financial Institutions Division for comment and consideration**

### **Grace Period Limitation**

Pursuant to NRS 604A.210, a licensee may collect interest and fees on the outstanding loan during a grace period not to exceed the amount of accrued interest and fees as disclosed in the loan agreement. During a grace period, no interest shall accrue and no fees shall be charged after expiration of the loan period.

## **EXHIBIT E**

**Submitted by interested members of the industry for comment and consideration.**

### **Interest Upon Default**

Issue:

- NRS 604A.475(4)(a)(1) requires that there be a repayment plan and during the repayment period, the lender cannot charge “any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement;”

Proposed Resolution:

- a. Upon default, through any repayment period, the lender may continue charging interest at the same rate set forth in the original loan agreement.

## **EXHIBIT F**

**Submitted by the Financial Institutions Division for comment and consideration**

### **Interest That May Be Collected During Repayment Plan**

During any repayment plan on any loan made pursuant to this chapter, a licensee may only collect the following:

- (a) the amount of unpaid principal of the outstanding obligation; and
- (b) (1) where the customer defaults upon a loan which only requires a single payment, the amount of unpaid interest that it could have collected during the term of the loan agreement or any lawful extension at a rate not exceeding the annual percentage rate disclosed in the original loan agreement; or  
  
(2) where the customer defaults upon a loan requiring multiple payments, the amount of unpaid interest that it could have collected during the original term of the loan agreement at a rate not exceeding the annual percentage rate disclosed in the original loan agreement.