

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 868

Introduced by Nantkes, 46.

Read first time January 11, 2008

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section
2 45-101.04, Reissue Revised Statutes of Nebraska, and
3 section 28-101, Revised Statutes Supplement, 2007; to
4 prohibit delayed deposit services; to define terms; to
5 provide a penalty; to eliminate the Delayed Deposit
6 Services Licensing Act; to harmonize provisions; to
7 repeal the original sections; and to outright repeal
8 sections 45-902, 45-903, 45-904, 45-905, 45-908, 45-909,
9 45-913, 45-914, 45-918, 45-921, 45-923, 45-924, 45-926,
10 45-928, and 45-929, Reissue Revised Statutes of Nebraska,
11 sections 45-901, 45-906, 45-907, 45-910, 45-911, 45-912,
12 45-915, 45-915.01, 45-916, 45-917, 45-919, 45-922, and
13 45-925, Revised Statutes Cumulative Supplement, 2006, and
14 sections 45-920 and 45-927, Revised Statutes Supplement,

LB 868

LB 868

1 2007.

2 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Supplement,
2 2007, is amended to read:

3 28-101 Sections 28-101 to 28-1350 and section 2 of this
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. (1) For purposes of this section:

6 (a) Check means any check, draft, or other instrument for
7 the payment of money;

8 (b) Delayed deposit services business means any person
9 who for a fee (i) accepts a check dated on the date it was written
10 and holds the check for a period of days prior to deposit or
11 presentment pursuant to an agreement with or any representation
12 made to the maker of the check, whether express or implied or (ii)
13 accepts a check dated subsequent to the date it was written;

14 (c) Financial institution has the same meaning as in
15 section 8-101; and

16 (d) Person means an individual, proprietorship,
17 association, joint venture, joint stock company, partnership,
18 limited partnership, limited liability company, business
19 corporation, nonprofit corporation, or any group of individuals
20 however organized.

21 (2) This section does not apply to a financial
22 institution organized under the laws of this state or the laws of
23 the United States.

24 (3) No person shall operate a delayed deposit services
25 business in this state.

1 (4) Any person who violates this section is guilty of a
2 Class IV felony.

3 Sec. 3. Section 45-101.04, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 45-101.04 The limitation on the rate of interest provided
6 in section 45-101.03 shall not apply to:

7 (1) Other rates of interest authorized for loans made by
8 any licensee or permittee operating under a license or permit duly
9 issued by the Department of Banking and Finance pursuant to the
10 Credit Union Act, the Nebraska Installment Loan Act, subsection (4)
11 of section 8-319, or sections 8-815 to 8-829;

12 (2) Loans made to any corporation, partnership, limited
13 liability company, or trust;

14 (3) The guarantor or surety of any loan to a corporation,
15 partnership, limited liability company, or trust;

16 (4) Loans made when the aggregate principal amount of
17 the indebtedness is twenty-five thousand dollars or more of the
18 borrower to any one financial institution, licensee, or permittee;

19 (5) Loans insured, guaranteed, sponsored, or participated
20 in, either in whole or part, by any agency, department, or program
21 of the United States or state government;

22 (6) Loans or advances of money, repayable on demand,
23 which are made solely upon securities, as defined in subdivision
24 (15) of section 8-1101, pledged as collateral for such repayment
25 and in which such loans or advances are used by the borrower only

1 for the purchase of securities as so defined. It shall be lawful to
2 contract for and receive any rate of interest on such transaction
3 as the parties thereto may expressly agree;

4 (7) Interest charges made on open credit accounts by a
5 person who sells goods or services on credit when the interest
6 charges do not exceed one and one-third percent per month for any
7 charges which remain unpaid for more than thirty days following
8 rendition of the statement of account;

9 (8) A minimum charge of ten dollars per loan which may be
10 charged by the lender in lieu of all interest charges;

11 (9) Loans described in subsection (4) of section 8-319
12 made by a state or federal savings and loan association at a rate
13 not to exceed nineteen percent per annum;

14 (10) Loans made primarily for business or agricultural
15 purposes or secured by real property when such loans are made (a)
16 by a licensee, registrant, or permittee operating under a license,
17 registration, or permit duly issued by the Department of Banking
18 and Finance except for licensees operating under the Nebraska
19 Installment Loan Act, (b) by any financial institution insured by
20 the Federal Deposit Insurance Corporation or the National Credit
21 Union Administration, or (c) by any insurance company organized
22 under the laws of this state and subject to regulation by the
23 Department of Insurance;

24 (11) Loans secured solely by real property when such
25 loans are (a) made by licensees operating under the Nebraska

1 Installment Loan Act and (b) made to finance or refinance the
 2 purchase of the property or construction on or improvements to
 3 the property, if the Department of Banking and Finance has the
 4 authority to examine such loans for compliance with sections
 5 45-101.02 and 45-101.03. A licensee making a loan pursuant to this
 6 subdivision may obtain an interest in any fixtures attached to such
 7 real property and any insurance proceeds payable in connection with
 8 such real property or the loan;

9 (12) Loans secured by a reverse mortgage pursuant to
 10 section 45-1068; or

11 (13) Interest charges made on any goods or services sold
 12 under an installment contract pursuant to the Nebraska Installment
 13 Sales Act. Subject to section 45-338, it shall be lawful to
 14 contract for and receive any rate of interest on such contract as
 15 the parties may expressly agree to in writing. ~~†~~ ~~or~~

16 ~~(14) Fees which may be charged by a licensee for services~~
 17 ~~pursuant to the Delayed Deposit Services Licensing Act.~~

18 Sec. 4. Original section 45-101.04, Reissue Revised
 19 Statutes of Nebraska, and section 28-101, Revised Statutes
 20 Supplement, 2007, are repealed.

21 Sec. 5. The following sections are outright repealed:
 22 Sections 45-902, 45-903, 45-904, 45-905, 45-908, 45-909, 45-913,
 23 45-914, 45-918, 45-921, 45-923, 45-924, 45-926, 45-928, and 45-929,
 24 Reissue Revised Statutes of Nebraska, sections 45-901, 45-906,
 25 45-907, 45-910, 45-911, 45-912, 45-915, 45-915.01, 45-916, 45-917,

LB 868

LB 868

1 45-919, 45-922, and 45-925, Revised Statutes Cumulative Supplement,
2 2006, and sections 45-920 and 45-927, Revised Statutes Supplement,
3 2007.