

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED THIRD LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 136**

Introduced by Avery, 28.

Read first time January 11, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the use of administrative fines and costs and  
 2 forfeited property; to amend sections 2-10,103.02, 8-169,  
 3 8-1,134, 8-223, 8-332, 8-1108.01, 8-1120, 8-1726, 9-832,  
 4 21-20,169, 44-322, 44-3,127, 44-5814, 44-5815, 45-191.09,  
 5 45-347, 45-921, 45-1014, 45-1017, 45-1019, 54-415,  
 6 54-2606, 58-703, 58-711, 59-1725.01, 60-6,345, 69-2116,  
 7 69-2117, 69-2118, 71-449, 71-1920, 71-8006, 75-309.01,  
 8 81-5,162, and 81-3537, Reissue Revised Statutes of  
 9 Nebraska, and sections 45-351 and 45-1002, Revised  
 10 Statutes Cumulative Supplement, 2012; to provide for  
 11 distribution of administrative fines in accordance with  
 12 Article VII, section 5, of the Constitution of Nebraska  
 13 and forfeited property in accordance with Article VII,  
 14 section 7, of the Constitution of Nebraska; to provide  
 15 for disposition of certain costs; to delete obsolete or  
 16 repetitive provisions; to harmonize provisions; to repeal  
 17 the original sections; and to declare an emergency.

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

1           Section 1. Section 2-10,103.02, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           2-10,103.02 (1) Pursuant to section 2-10,103.01, the  
4 director may issue an order imposing an administrative fine on a  
5 licensee in an amount which shall not exceed five hundred dollars. In  
6 determining whether to impose an administrative fine and, if a fine  
7 is imposed, the amount of the fine, the director shall take into  
8 consideration (a) the seriousness of the violation, (b) the extent to  
9 which the licensee derived financial gain as a result of his or her  
10 failure to comply, (c) the extent of intent, willfulness, or  
11 negligence by the licensee in the violation, (d) the likelihood of  
12 the violation reoccurring, (e) the history of the licensee's failure  
13 to comply, (f) the licensee's attempts to prevent or limit his or her  
14 failure to comply, (g) the licensee's willingness to correct  
15 violations, (h) the nature of the licensee's disclosure of  
16 violations, (i) the licensee's cooperation with investigations of his  
17 or her failure to comply, and (j) any factors which may be  
18 established by the rules and regulations.

19           ~~(2) All money collected by the department as an~~  
20 ~~administrative fine shall be remitted on a monthly basis to the State~~  
21 ~~Treasurer for credit to the permanent school fund.~~

22           (2) The department shall remit administrative fines  
23 collected under this section to the State Treasurer on a monthly  
24 basis for distribution in accordance with Article VII, section 5, of  
25 the Constitution of Nebraska.

1           (3) Any administrative fine imposed under the Plant  
2 Protection and Plant Pest Act and unpaid shall constitute a debt to  
3 the State of Nebraska which may be collected by lien foreclosure or  
4 sued for and recovered in any proper form of action in the name of  
5 the State of Nebraska in the district court of the county in which  
6 the violator resides or owns property. The lien shall attach to the  
7 real estate of the violator when notice of such lien is filed and  
8 indexed against the real estate in the office of the register of  
9 deeds or county clerk in the county where the real estate is located.

10           Sec. 2. Section 8-169, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           8-169 Any bank that shall fail, neglect, or refuse to  
13 make or furnish any report or any published statement required by the  
14 Nebraska Banking Act shall pay to the department fifty dollars for  
15 each day such failure shall continue, unless the department shall  
16 extend the time for filing such report. The department shall remit  
17 funds collected under this section to the State Treasurer for  
18 distribution in accordance with Article VII, section 5, of the  
19 Constitution of Nebraska.

20           Sec. 3. Section 8-1,134, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           8-1,134 (1) Whenever the Director of Banking and Finance  
23 has reason to believe that a violation of any provision of Chapter 8  
24 or of the Credit Union Act or any rule, regulation, or order of the  
25 Department of Banking and Finance has occurred, he or she may cause a

1 written complaint to be served upon the alleged violator. The  
2 complaint shall specify the statutory provision or rule, regulation,  
3 or order alleged to have been violated and the facts alleged to  
4 constitute a violation thereof and shall order that necessary  
5 corrective action be taken within a reasonable time to be prescribed  
6 in such order. Any such order shall become final as to any person  
7 named in the order unless such person requests, in writing, a hearing  
8 before the director no later than ten days after the date such order  
9 is served. In lieu of such order, the director may require that the  
10 alleged violator appear before the director at a time and place  
11 specified in the notice and answer the charge complained of. The  
12 notice shall be delivered to the alleged violator or violators in  
13 accordance with subsection (4) of this section not less than ten days  
14 before the time set for the hearing.

15 (2) The director shall provide an opportunity for a fair  
16 hearing to the alleged violator at the time and place specified in  
17 the notice or any modification of the notice. On the basis of the  
18 evidence produced at the hearing, the director shall make findings of  
19 fact and conclusions of law and enter such order as in his or her  
20 opinion will best further the purposes of Chapter 8 or the Credit  
21 Union Act and the rules, regulations, and orders of the department.  
22 Written notice of such order shall be given to the alleged violator  
23 and to any other person who appeared at the hearing and made written  
24 request for notice of the order. If the hearing is held before any  
25 person other than the director, such person shall transmit a record

1 of the hearing together with findings of fact and conclusions of law  
2 to the director. The director, prior to entering his or her order on  
3 the basis of such record, shall provide opportunity to the parties to  
4 submit for his or her consideration exceptions to the findings or  
5 conclusions and supporting reasons for such exceptions. The order of  
6 the director shall become final and binding on all parties unless  
7 appealed to the district court of Lancaster County as provided in  
8 section 8-1,135. As part of such order, the director may impose a  
9 fine, in addition to the costs of the investigation, upon a person  
10 found to have violated any provision of Chapter 8, the Credit Union  
11 Act, or the rules, regulations, or orders of the department. The fine  
12 shall not exceed ten thousand dollars per violation for the first  
13 offense and twenty-five thousand dollars per violation for a second  
14 or subsequent offense involving a violation of the same provision of  
15 Chapter 8, the Credit Union Act, the rules and regulations of the  
16 department, or the same order of the department. The fines and costs  
17 shall be in addition to all other penalties imposed by the laws of  
18 this state. The department shall collect the fines and costs and  
19 remit them, ~~shall be collected by the director, and shall be~~  
20 ~~remitted to the State Treasurer. Costs shall be credited to the~~  
21 ~~Financial Institution Assessment Cash Fund, and fines shall be~~  
22 ~~credited to the permanent school fund. The State Treasurer shall~~  
23 credit the costs to the Financial Institution Assessment Cash Fund  
24 and distribute the fines in accordance with Article VII, section 5,  
25 of the Constitution of Nebraska. If a person fails to pay the fine or

1 costs of the investigation, a lien in the amount of the fine and  
2 costs shall be imposed upon all of the assets and property of such  
3 person in this state and may be recovered by suit by the director.  
4 The lien shall attach to the real property of such person when notice  
5 of the lien is filed and indexed against the real property in the  
6 office of the register of deeds in the county where the real property  
7 is located. The lien shall attach to any other property of such  
8 person when notice of the lien is filed against the property in the  
9 manner prescribed by law.

10 (3) Whenever the director finds that an emergency exists  
11 requiring immediate action to protect the safety and soundness of the  
12 institutions under the supervision and control of the department, the  
13 director may, without notice or hearing, issue an order reciting the  
14 existence of an emergency and requiring that such action be taken as  
15 the director deems necessary to meet the emergency. Notwithstanding  
16 the provisions of subsection (2) of this section, the order shall be  
17 effective immediately. Any person to whom such order is directed  
18 shall comply immediately, but on application to the director shall be  
19 afforded a hearing as soon as possible and not later than ten days  
20 after such application by the affected person. On the basis of the  
21 hearing, the director shall continue the order in effect, revoke it,  
22 or modify it. This subsection shall not apply to a determination of  
23 necessary acquisition made by the department pursuant to sections  
24 8-1506 to 8-1510.

25 (4) Except as otherwise expressly provided, any notice,

1 order, or other instrument issued by or under authority of the  
2 director shall be served on any person affected thereby either  
3 personally or by certified mail, return receipt requested. Proof of  
4 service shall be filed in the office of the director. Every  
5 certificate or affidavit of service made and filed as provided in  
6 this subsection shall be prima facie evidence of the facts stated in  
7 the certificate or affidavit, and a certified copy shall have the  
8 same force and effect as the original.

9 (5) Any hearing provided for in this section may be  
10 conducted by the director, or by any member of the department acting  
11 in his or her behalf, or the director may designate hearing officers  
12 who shall have the power and authority to conduct such hearings in  
13 the name of the director at any time and place. A verbatim record of  
14 the proceedings of such hearings shall be taken and filed with the  
15 director, together with findings of fact and conclusions of law made  
16 by the director or hearing officer. The director may subpoena  
17 witnesses, and any witness who is subpoenaed shall receive the same  
18 fees as in civil actions in the district court and mileage as  
19 provided in section 81-1176. In case of contumacy or refusal to obey  
20 a notice of hearing or subpoena issued under this section, the  
21 district court of Lancaster County shall have jurisdiction, upon  
22 application of the director, to issue an order requiring such person  
23 to appear and testify or produce evidence as the case may require.  
24 Failure to obey such order of the court may be punished by such court  
25 as contempt.



1           If requested to do so by any party concerned with such  
2 hearing, the full stenographic notes, or tapes of an electronic  
3 transcribing device, of the testimony presented at such hearing shall  
4 be taken and filed. The stenographer shall, upon the payment of the  
5 stenographer's fee allowed by the court, furnish a certified  
6 transcript of all or any part of the stenographer's notes to any  
7 party to the action requiring and requesting such notes.

8           (6) The director may close to the public the hearing, or  
9 any portion of the hearing, provided for in this section when he or  
10 she finds that the closure is (a) necessary to protect any person, or  
11 any financial institution or entity under the department's  
12 jurisdiction, against unwarranted injury or (b) in the public  
13 interest. The director shall close no more of the public hearing than  
14 is necessary to attain the objectives of this subsection.

15           Sec. 4. Section 8-223, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           8-223 (1) The trust company shall file with the  
18 Department of Banking and Finance during the months of January and  
19 July of each year a statement under oath of the condition of the  
20 trust company on the last business day of the preceding December and  
21 June in the manner and form required by the department. For purposes  
22 of the Nebraska Trust Company Act, the trust company's annual report  
23 shall be deemed to be the report filed with the Department of Banking  
24 and Finance during the month of January.

25           (2) Any trust company that fails, neglects, or refuses to

1 make or furnish any report or any published statement required by the  
2 Nebraska Trust Company Act shall pay to the department fifty dollars  
3 for each day such failure continues, unless the department extends  
4 the time for filing such report. The department shall remit funds  
5 collected under this section to the State Treasurer for distribution  
6 in accordance with Article VII, section 5, of the Constitution of  
7 Nebraska.

8 (3) The filing requirements of this section shall not  
9 apply to the trust department of a bank if the report of condition of  
10 the trust department is included in the reports of the bank required  
11 by the Nebraska Banking Act.

12 Sec. 5. Section 8-332, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 8-332 Every such association shall, at the close of  
15 business on June 30 of each year and at such other times as required  
16 by the Department of Banking and Finance, file in the office of the  
17 department, within thirty days after the receipt of a request for a  
18 requisition therefor, a statement verified by the oath of its  
19 president or secretary and approved by three of its directors in such  
20 form as may be prescribed by the department, setting forth its actual  
21 financial condition and the amount of its assets and liabilities and  
22 furnishing such other information as to its affairs as the department  
23 may require. A copy of such annual statement shall be published in a  
24 newspaper of general circulation, in the county where such  
25 association is located, three consecutive times, and due proof of

1 such publication, by affidavit, shall be filed with the department.  
2 The department may call for special reports from any such association  
3 whenever in its judgment such reports may be necessary or advisable,  
4 but no other or further notice or statement of the amount of the  
5 existing debts of such corporation shall be required to be published  
6 than that on June 30. Any association failing to comply with this  
7 section shall pay to the department fifty dollars for each day such  
8 noncompliance continues unless the department extends the filing  
9 deadlines for such reports and proofs of publication. The department  
10 shall remit funds collected under this section to the State Treasurer  
11 for distribution in accordance with Article VII, section 5, of the  
12 Constitution of Nebraska.

13           Sec. 6. Section 8-1108.01, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           8-1108.01 (1) Whenever it appears to the director that  
16 the sale of any security is subject to registration under the  
17 Securities Act of Nebraska and is being offered or has been offered  
18 for sale without such registration, he or she may order the issuer or  
19 offerer of such security to cease and desist from the further offer  
20 or sale of such security unless and until it has been registered  
21 under the act.

22           (2) Whenever it appears to the director that any person  
23 is acting as a broker-dealer, issuer-dealer, agent, investment  
24 adviser, or investment adviser representative without registration as  
25 such or acting as a federal covered adviser without making a notice

1 filing under the act, he or she may order such person to cease and  
2 desist from such activity unless and until he or she has been  
3 registered as such or has made the required notice filing under the  
4 act.

5 (3) Whenever it appears to the director that any person  
6 is violating section 8-1102, he or she may order the person to cease  
7 and desist from such activity.

8 (4) The director may, after giving reasonable notice and  
9 an opportunity for a hearing under this section, impose a fine not to  
10 exceed twenty-five thousand dollars per violation, in addition to  
11 costs of the investigation, upon a person found to have engaged in  
12 any act or practice which would constitute a violation of the act or  
13 any rule, regulation, or order issued under the act. The fine and  
14 costs shall be in addition to all other penalties imposed by the laws  
15 of this state. The director shall collect the fines and costs and  
16 remit them, ~~shall be collected by the director, and shall be~~  
17 ~~remitted to the State Treasurer. Costs shall be credited to the~~  
18 ~~Securities Act Cash Fund, and fines shall be credited to the~~  
19 ~~permanent school fund. The State Treasurer shall credit the costs to~~  
20 the Securities Act Cash Fund and distribute the fines in accordance  
21 with Article VII, section 5, of the Constitution of Nebraska.  
22 Imposition of any fine and payment of costs under this subsection may  
23 be appealed pursuant to section 8-1119. If a person fails to pay the  
24 fine or costs of the investigation referred to in this subsection, a  
25 lien in the amount of the fine and costs shall be imposed upon all of

1 the assets and property of such person in this state and may be  
2 recovered by suit by the director and remitted to the State  
3 Treasurer. ~~Costs shall be credited to the Securities Act Cash Fund,~~  
4 ~~and fines shall be credited to the permanent school fund. The State~~  
5 Treasurer shall credit the costs to the Securities Act Cash Fund and  
6 distribute the fines in accordance with Article VII, section 5, of  
7 the Constitution of Nebraska. Failure of the person to pay a fine and  
8 costs shall also constitute a forfeiture of his or her right to do  
9 business in this state under the Securities Act of Nebraska.

10 (5) After such an order has been made under subsection  
11 (1), (2), (3), or (4) of this section, if a request for a hearing is  
12 filed in writing within fifteen business days of the issuance of the  
13 order by the person to whom such order was directed, a hearing shall  
14 be held by the director within thirty business days after receipt of  
15 the request, unless both parties consent to a later date or the  
16 hearing officer sets a later date for good cause. If no hearing is  
17 requested within fifteen business days of the issuance of the order  
18 and none is ordered by the director, the order shall automatically  
19 become a final order and shall remain in effect until it is modified  
20 or vacated by the director. If a hearing is requested or ordered, the  
21 director, after notice of and opportunity for hearing, shall enter  
22 his or her written findings of fact and conclusions of law and may  
23 affirm, modify, or vacate the order.

24 Sec. 7. Section 8-1120, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           8-1120 (1) Except as otherwise provided in this section,  
2 the Securities Act of Nebraska shall be administered by the Director  
3 of Banking and Finance who may employ such assistants or counsel as  
4 may be reasonably necessary for the purpose thereof and who may  
5 designate one of such assistants as an assistant director. The  
6 director may delegate to such assistant director or counsel any  
7 powers, authority, and duties imposed upon or granted to the director  
8 under the act, such as may be lawfully delegated under the common law  
9 or the statutes of this state. The director may also employ special  
10 counsel with respect to any investigation conducted by him or her  
11 under the act or with respect to any litigation to which the director  
12 is a party under the act, except that security issued by and  
13 representing an interest in or a debt of, or guaranteed by, any  
14 insurance company shall be registered, pursuant to the provisions of  
15 sections 8-1104 to 8-1109, with the Director of Insurance who shall  
16 as to such registrations administer and enforce the act, and as  
17 pertains to the administration and enforcement of such registration  
18 of such securities all references in the act to director shall mean  
19 the Director of Insurance.

20           (2) It shall be unlawful for the director or any of his  
21 or her officers or employees to use for personal benefit any  
22 information which is filed with or obtained by the director and which  
23 is not made public. No provision of the act shall authorize the  
24 director or any of his or her officers or employees to disclose any  
25 such information except among themselves or when necessary or

1 appropriate in a proceeding or investigation under the act. No  
2 provision of the act shall either create or derogate from any  
3 privilege which exists at common law or otherwise when documentary or  
4 other evidence is sought under a subpoena directed to the director or  
5 any of his or her officers or employees.

6 (3) The director may from time to time make, amend, and  
7 rescind such rules and forms as are necessary to carry out the act.  
8 No rule or form may be made unless the director finds that the action  
9 is necessary or appropriate in the public interest or for the  
10 protection of investors and consistent with the purposes fairly  
11 intended by the policy and provisions of the act.

12 In prescribing rules and forms the director may cooperate  
13 with the securities administrators of the other states and the  
14 Securities and Exchange Commission with a view to effectuating the  
15 policy of the Securities Act of Nebraska to achieve maximum  
16 uniformity in the form and content of registration statements,  
17 applications, and reports wherever practicable. All rules and forms  
18 of the director shall be published and made available to any person  
19 upon request.

20 (4) No provision of the act imposing any liability shall  
21 apply to any act done or omitted in good faith in conformity with any  
22 rule, form, or order of the director, notwithstanding that the rule  
23 or form may later be amended or rescinded or be determined by  
24 judicial or other authority to be invalid for any reason.

25 (5) Every hearing in an administrative proceeding shall

1 be public unless the director in his or her discretion grants a  
2 request joined in by all the respondents that the hearing be  
3 conducted privately.

4 (6) The Securities Act Cash Fund is created. All filing  
5 fees, registration fees, and all other fees and ~~all money costs~~  
6 collected by or paid to the director under any of the provisions of  
7 the act shall be remitted to the State Treasurer for credit to the  
8 fund, except that registration fees collected by or paid to the  
9 Director of Insurance pursuant to the provisions of the act shall be  
10 credited to the Department of Insurance Cash Fund. The Securities Act  
11 Cash Fund shall be used for the purpose of administering and  
12 enforcing the provisions of the act, except that transfers may be  
13 made to the General Fund at the direction of the Legislature. ~~and,~~  
14 ~~for the calendar years of 2000 and 2001, two million dollars shall be~~  
15 ~~transferred in each year to the Affordable Housing Trust Fund. All of~~  
16 ~~such money is appropriated and shall be appropriated for such~~  
17 ~~purposes.~~ Any money in the Securities Act Cash Fund available for  
18 investment shall be invested by the state investment officer pursuant  
19 to the Nebraska Capital Expansion Act and the Nebraska State Funds  
20 Investment Act.

21 (7) A document is filed when it is received by the  
22 director. The director shall keep a register of all applications for  
23 registration and registration statements which are or have ever been  
24 effective under the Securities Act of Nebraska and all denial,  
25 suspension, or revocation orders which have ever been entered under



1 the act. The register shall be open for public inspection. The  
2 information contained in or filed with any registration statement,  
3 application, or report may be made available to the public under such  
4 conditions as the director may prescribe.

5 (8) Upon request and at such reasonable charges as he or  
6 she shall prescribe, the director shall furnish to any person  
7 photostatic or other copies, certified under his or her seal of  
8 office if requested, of any entry in the register or any document  
9 which is a matter of public record. In any proceeding or prosecution  
10 under the act, any copy so certified shall be prima facie evidence of  
11 the contents of the entry or document certified.

12 (9) The director in his or her discretion may honor  
13 requests from interested persons for interpretative opinions.

14 Sec. 8. Section 8-1726, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 8-1726 (1) If the director believes, whether or not based  
17 upon an investigation conducted under section 8-1725, that any person  
18 has engaged or is about to engage in any act or practice constituting  
19 a violation of any provision of the Commodity Code or any rule,  
20 regulation, or order under the code, the director may:

21 (a) Issue a cease and desist order;

22 (b) Issue an order imposing a civil penalty in an amount  
23 which may not exceed twenty-five thousand dollars for any single  
24 violation or one hundred thousand dollars for multiple violations in  
25 a single proceeding or a series of related proceedings; or

1 (c) Initiate any of the actions specified in subsection  
2 (2) of this section.

3 (2) The director may institute any of the following  
4 actions in the appropriate district court of this state or in the  
5 appropriate courts of another state in addition to any legal or  
6 equitable remedies otherwise available:

7 (a) An action for a declaratory judgment;

8 (b) An action for a prohibitory or mandatory injunction  
9 to enjoin the violation and to ensure compliance with the Commodity  
10 Code or any rule, regulation, or order of the director;

11 (c) An action for disgorgement or restitution; or

12 (d) An action for appointment of a receiver or  
13 conservator for the defendant or the defendant's assets.

14 ~~(3)(a) Any fine and costs imposed under this section~~  
15 ~~shall be in addition to all other penalties imposed by the laws of~~  
16 ~~this state and shall be collected by the director and remitted to the~~  
17 ~~State Treasurer. Costs shall be credited to the Securities Act Cash~~  
18 ~~Fund, and fines shall be credited to the permanent school fund.~~

19 (3)(a) The fines and costs shall be in addition to all  
20 other penalties imposed by the laws of this state. The director shall  
21 collect the fines and costs and remit them to the State Treasurer.  
22 The State Treasurer shall credit the costs to the Securities Act Cash  
23 Fund and distribute the fines in accordance with Article VII, section  
24 5, of the Constitution of Nebraska.

25 (b) If a person fails to pay the administrative fine or

1 investigation costs referred to in this section, a lien in the amount  
2 of such fine and costs may be imposed upon all assets and property of  
3 such person in this state and may be recovered by suit by the  
4 director. Failure of the person to pay such fine and costs shall  
5 constitute a separate violation of the code.

6 Sec. 9. Section 9-832, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 9-832 The director may refuse to award a contract to any  
9 applicant and may terminate the contract of or initiate an  
10 administrative action to levy a fine against a lottery game retailer  
11 who violates any provision of the State Lottery Act or any rule or  
12 regulation adopted pursuant to the act. A fine may be levied against  
13 a lottery game retailer by the Tax Commissioner and shall not exceed  
14 one thousand dollars per violation. In determining whether to impose  
15 a fine and the amount of the fine if any fine is imposed, the Tax  
16 Commissioner shall take into consideration the seriousness of the  
17 violation and the extent to which the lottery game retailer derived  
18 financial gain as a result of the violation. ~~All money collected by~~  
19 ~~the division as a fine shall be remitted on a monthly basis to the~~  
20 ~~State Treasurer for credit to the permanent school fund. The division~~  
21 shall remit any fines collected under this section to the State  
22 Treasurer on a monthly basis for distribution in accordance with  
23 Article VII, section 5, of the Constitution of Nebraska. Any fine  
24 imposed by the Tax Commissioner and unpaid shall constitute a debt to  
25 the State of Nebraska which may be collected by lien foreclosure or

1 sued for and recovered in any proper form of action, in the name of  
2 the State of Nebraska, in the district court of the county in which  
3 the violator resides or owns property. If the director decides to  
4 terminate a contract or initiate an administrative action to levy a  
5 fine, the aggrieved party shall be entitled to a hearing before the  
6 Tax Commissioner or his or her designee by filing a written request  
7 with the Tax Commissioner within ten days after notification of the  
8 director's intention to terminate a contract or initiate an  
9 administrative action to levy a fine. Upon receipt of such request,  
10 the Tax Commissioner shall set a hearing date which shall be within  
11 thirty days of receipt of the request and shall notify the aggrieved  
12 party, in writing, of the time and place for the hearing. Such notice  
13 shall be given as soon as the date is set and at least seven days in  
14 advance of the hearing date. The Tax Commissioner or his or her  
15 designee may stay the termination of a contract pending the outcome  
16 of the hearing if so requested by the aggrieved party at the time of  
17 filing the written request for hearing.

18           The Tax Commissioner may affirm, reverse, or modify the  
19 action of the director. The order or decision of the Tax Commissioner  
20 may be appealed to the district court of Lancaster County in the  
21 manner prescribed in section 9-821.

22           Sec. 10. Section 21-20,169, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           21-20,169 (1) A foreign corporation transacting business  
25 in this state without a certificate of authority may not maintain a

1 proceeding in any court in this state until it obtains a certificate  
2 of authority.

3 (2) The successor to a foreign corporation that  
4 transacted business in this state without a certificate of authority  
5 and the assignee of a cause of action arising out of that business  
6 may not maintain a proceeding based on that cause of action in any  
7 court in this state until the foreign corporation or its successor  
8 obtains a certificate of authority.

9 (3) A court in this state may stay a proceeding commenced  
10 by a foreign corporation, its successor, or its assignee until it  
11 determines whether the foreign corporation or its successor requires  
12 a certificate of authority. If the court determines that a  
13 certificate of authority is required, the court may further stay the  
14 proceeding until the foreign corporation or its successor obtains the  
15 certificate.

16 (4) A foreign corporation shall be liable for a civil  
17 penalty of five hundred dollars for each day, but not to exceed a  
18 total of ten thousand dollars for each year, it transacts business in  
19 this state without a certificate of authority. The Attorney General  
20 may collect all penalties due under this subsection and shall remit  
21 them to the State Treasurer for ~~credit to the permanent school fund.~~  
22 distribution in accordance with Article VII, section 5, of the  
23 Constitution of Nebraska.

24 (5) Notwithstanding subsections (1) and (2) of this  
25 section, the failure of a foreign corporation to obtain a certificate

1 of authority shall not impair the validity of its corporate acts or  
2 prevent it from defending any proceeding in this state.

3 Sec. 11. Section 44-322, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 44-322 (1)(a)(i) Every insurance company holding a  
6 certificate of authority to transact the business of insurance in  
7 this state shall file with the director or, if required by the  
8 director, with the National Association of Insurance Commissioners,  
9 on or before March 1 of each year, an annual financial statement for  
10 the year ending December 31 immediately preceding on forms prescribed  
11 by the director which conform substantially to the forms adopted by  
12 the National Association of Insurance Commissioners, except that  
13 fees, premium tax payments, and other payments associated with such  
14 filings shall be paid to the director.

15 (ii) The financial statement shall be prepared in  
16 accordance with annual statement instructions and accounting  
17 practices and procedures manuals as prescribed by the director which  
18 conform substantially to the annual statement instructions and the  
19 Accounting Practices and Procedures Manuals adopted by the National  
20 Association of Insurance Commissioners.

21 (iii) The salaries and compensation of the officers and  
22 any other information required by the director shall be filed with  
23 the director.

24 (iv) Every insurance company subject to this section  
25 shall make such other periodic financial filings as the director may

1 reasonably require.

2 (b)(i) Within seven days after the failure of an  
3 insurance company to comply with the requirements of subdivision (1)  
4 (a) of this section, the director shall notify the insurance company  
5 of such failure.

6 (ii) Subject to subdivision (1)(b)(iii) of this section,  
7 if an insurance company fails to comply with the requirements of  
8 subdivision (1)(a) of this section and any rules and regulations  
9 adopted and promulgated under such subdivision and any orders issued  
10 under such subdivision, (A) such insurance company shall forfeit one  
11 hundred dollars for each day thereafter such failure continues and  
12 the insurance company continues to transact any business of insurance  
13 and (B) in addition to the forfeiture required under subdivision (1)  
14 (b)(ii)(A) of this section, the director may suspend or refuse to  
15 renew the certificate of authority of the insurance company until it  
16 has complied with the requirements of subdivision (1)(a) of this  
17 section and any rules and regulations adopted and promulgated under  
18 such subdivision and any orders issued under such subdivision. ~~All~~  
19 ~~such forfeitures collected by the director shall be remitted to the~~  
20 ~~State Treasurer for credit to the permanent school fund. The director~~  
21 shall remit any forfeitures collected under this section to the State  
22 Treasurer for distribution in accordance with Article VII, section 5,  
23 of the Constitution of Nebraska.

24 (iii) For good and sufficient cause shown, the director  
25 may grant a reasonable extension of time not to exceed thirty days

1 within which the financial statement may be filed as required under  
2 subdivision (1)(a) of this section without the forfeiture required  
3 under subdivision (1)(b)(ii)(A) of this section and without any  
4 suspension or refusal to renew authorized under subdivision (1)(b)  
5 (ii)(B) of this section.

6 (2) Every insurance company holding a certificate of  
7 authority to transact the business of insurance in this state shall  
8 participate in the National Association of Insurance Commissioners  
9 Insurance Regulatory Information System, including the payment of all  
10 fees and charges of such system, except as exempted by the director.  
11 Each participating insurance company shall file with the National  
12 Association of Insurance Commissioners on or before March 1 of each  
13 year a copy of its annual financial statement along with any  
14 additional filings required by the director for the immediately  
15 preceding year. The financial statement so filed shall be in the same  
16 format and scope as that required by subsection (1) of this section  
17 and shall include a signed jurat page and actuarial certification  
18 except as exempted by the director. Each participating insurance  
19 company shall file with the National Association of Insurance  
20 Commissioners any amendments and addendums to the financial statement  
21 and annual and quarterly financial statement information in computer  
22 readable format as required by the Insurance Regulatory Information  
23 System.

24 Sec. 12. Section 44-3,127, Reissue Revised Statutes of  
25 Nebraska, is amended to read:



1                   44-3,127 All money collected by the Department of  
2 Insurance as a fine or penalty shall be paid to the State Treasurer  
3 who shall deposit such money in the permanent school fund. The  
4 Department of Insurance shall remit any money collected as a fine or  
5 penalty to the State Treasurer for distribution in accordance with  
6 Article VII, section 5, of the Constitution of Nebraska.

7                   Sec. 13. Section 44-5814, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9                   44-5814 (1) Each third-party administrator shall file an  
10 annual report for the preceding calendar year with the director on or  
11 before March 1 of each year or within such extension of time therefor  
12 as the director for good cause may grant. The annual report shall be  
13 in the form and contain such matters as the director prescribes and  
14 shall be verified by at least two officers of the third-party  
15 administrator.

16                   (2) The annual report shall include the complete names  
17 and addresses of all insurers with which the third-party  
18 administrator had a written agreement during the preceding fiscal  
19 year.

20                   (3) At the time of filing its annual report, the third-  
21 party administrator shall pay to the director a filing fee of two  
22 hundred dollars.

23                   (4)(a) Within seven business days after the failure of a  
24 third-party administrator to comply with the requirements of this  
25 section, the director shall notify the third-party administrator of

1 such failure.

2 (b) Subject to subdivision (4)(c) of this section, if a  
3 third-party administrator fails to comply with the requirements of  
4 this section and any rules and regulations adopted and promulgated  
5 under this section and any orders issued under this section:

6 (i) Such third-party administrator shall forfeit fifty  
7 dollars for each day thereafter such failure continues and the third-  
8 party administrator continues to transact any business of insurance;  
9 and

10 (ii) In addition to the forfeiture required under  
11 subdivision (4)(b)(i) of this section, the director may suspend the  
12 certificate of authority of the third-party administrator until it  
13 has complied with the requirements of this section, any rules and  
14 regulations adopted and promulgated under this section, and any  
15 orders issued under this section. ~~All such forfeitures collected by~~  
16 ~~the director shall be remitted to the State Treasurer for credit to~~  
17 ~~the permanent school fund. The director shall remit any forfeitures~~  
18 ~~collected under this section to the State Treasurer for distribution~~  
19 ~~in accordance with Article VII, section 5, of the Constitution of~~  
20 ~~Nebraska.~~

21 (c) For good and sufficient cause shown, the director may  
22 grant a reasonable extension of time not to exceed thirty days within  
23 which the annual report may be filed as required under this section  
24 without the forfeiture required under subdivision (4)(b)(i) of this  
25 section and without any suspension authorized under subdivision (4)

1 (b)(ii) of this section.

2 Sec. 14. Section 44-5815, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 44-5815 (1) The director shall suspend or revoke the  
5 certificate of authority as a third-party administrator if the  
6 director finds that the third-party administrator:

7 (a) Is in an unsound financial condition;

8 (b) Is using such methods or practices in the conduct of  
9 its business so as to render its further transaction of business in  
10 this state hazardous or injurious to certificate holders,  
11 subscribers, or the public; or

12 (c) Has failed to pay any judgment rendered against it in  
13 this state within sixty days after the judgment has become final.

14 (2) The director may, in his or her discretion, suspend  
15 or revoke the certificate of authority as a third-party administrator  
16 if the director finds that the third-party administrator:

17 (a) Has violated any lawful rule or regulation or order  
18 of the director or any provision of the insurance laws of this state;

19 (b) Has refused to be examined or to produce its  
20 accounts, records, and files for examination or if any of its  
21 officers has refused to give information with respect to its affairs  
22 or has refused to perform any other legal obligation as to such  
23 examination, when required by the director;

24 (c) Has, without just cause, refused to pay proper claims  
25 or perform services arising under its contracts or has, without just

1 cause, caused certificate holders, subscribers, or claimants to  
2 accept less than the amount due them or caused certificate holders,  
3 subscribers, or claimants to retain attorneys or bring actions  
4 against the third-party administrator to secure full payment or  
5 settlement of such claims;

6 (d) Is affiliated with or under the same general  
7 management or interlocking directorate or ownership as another third-  
8 party administrator or insurer which unlawfully transacts business in  
9 this state without having a certificate of authority as a third-party  
10 administrator;

11 (e) At any time fails to meet any qualification for which  
12 issuance of the certificate of authority as a third-party  
13 administrator could have been refused had such failure then existed  
14 and been known to the director;

15 (f) Has been convicted of or has entered a plea of guilty  
16 or nolo contendere to a felony without regard to whether adjudication  
17 was withheld; or

18 (g) Is under suspension or revocation in another state.

19 (3) The director may, in his or her discretion and  
20 without advance notice or hearing thereon, immediately suspend the  
21 certificate of authority as a third-party administrator if the  
22 director finds that one or more of the following circumstances exist:

23 (a) The third-party administrator is insolvent or  
24 impaired;

25 (b) A proceeding for supervision, rehabilitation,

1 conservation, receivership, or other delinquency proceeding regarding  
2 the third-party administrator has been commenced in any state; or

3 (c) The financial condition or business practices of the  
4 third-party administrator otherwise pose an imminent threat to the  
5 public health, safety, or welfare of the residents of this state.

6 (4) Except as provided in subsection (4) of section  
7 44-5814, if the director finds that one or more grounds exist for the  
8 suspension or revocation of a certificate of authority as a third-  
9 party administrator, the director may, in lieu of such suspension or  
10 revocation and after notice and hearing, impose an administrative  
11 penalty upon the third-party administrator in an amount not less than  
12 one thousand dollars nor more than ten thousand dollars. The director  
13 shall remit any forfeitures collected under this section to the State  
14 Treasurer for distribution in accordance with Article VII, section 5,  
15 of the Constitution of Nebraska.

16 Sec. 15. Section 45-191.09, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 45-191.09 (1) The director may summarily order a loan  
19 broker to cease and desist from acting as a loan broker or from the  
20 use of certain forms or practices relating to the loan broker's  
21 activities if the order is in the public interest and the director  
22 finds:

23 (a) The disclosure statement on file is incomplete in any  
24 material respect or contains any statement which was, in light of the  
25 circumstances under which it was made, false or misleading with

1 respect to any material fact;

2 (b) The loan broker has willfully violated or willfully  
3 failed to comply with any provision of sections 45-189 to 45-191.11;

4 (c) There has been a substantial failure to comply with  
5 any of the provisions of such sections;

6 (d) The continued use of certain forms or practices  
7 relating to the loan broker's activity would constitute a  
8 misrepresentation, deceit, or fraud upon the consumer; or

9 (e) Any person identified in the required disclosure  
10 statement has been convicted of an offense described in subdivision  
11 (2)(i)(i) of section 45-191.01 or is subject to an order or has had a  
12 civil judgment entered against him or her as described in subdivision  
13 (2)(i)(ii) or (2)(i)(iii) of section 45-191.01 and the involvement of  
14 such person in the loan broker's business creates an unreasonable  
15 risk to prospective borrowers.

16 (2) If the director believes, whether or not based upon  
17 an investigation conducted under section 45-191.08, that any person  
18 or loan broker has engaged in or is about to engage in any act or  
19 practice constituting a violation of any provision of sections 45-189  
20 to 45-191.11 or any rule, regulation, or order under such sections,  
21 the director may:

22 (a) Issue a cease and desist order;

23 (b) Impose a fine not to exceed one thousand dollars per  
24 violation, in addition to costs of the investigation; or

25 (c) Initiate an action in any court of competent

1 jurisdiction to enjoin such acts or practices and to enforce  
2 compliance with such sections or any order under such sections.

3 (3) Upon a proper showing a permanent or temporary  
4 injunction, restraining order, or writ of mandamus shall be granted.  
5 The director shall not be required to post a bond.

6 ~~(4)(a) Any fine and costs imposed pursuant to this~~  
7 ~~section shall be in addition to all other penalties imposed by the~~  
8 ~~laws of this state and shall be collected by the department and~~  
9 ~~remitted to the State Treasurer. Costs shall be credited to the~~  
10 ~~Securities Act Cash Fund, and fines shall be credited to the~~  
11 ~~permanent school fund.~~

12 (4)(a) Any fines and costs imposed pursuant to this  
13 section shall be in addition to all other penalties imposed by the  
14 laws of this state. The department shall collect the fines and costs  
15 and remit them to the State Treasurer. The State Treasurer shall  
16 credit the costs to the Securities Act Cash Fund and distribute the  
17 fines in accordance with Article VII, section 5, of the Constitution  
18 of Nebraska.

19 (b) If a person fails to pay the fine or costs of the  
20 investigation referred to in this ~~subsection, section,~~ a lien in the  
21 amount of the fine and costs may be imposed upon all of the assets  
22 and property of such person in this state and may be recovered by  
23 suit by the department. Failure of the person to pay a fine and costs  
24 shall constitute a separate violation of sections 45-189 to  
25 45-191.11.

1           (5) Upon entry of an order pursuant to this section, the  
2 director shall promptly notify all persons to whom such order is  
3 directed that it has been entered and of the reasons for such order  
4 and that any person to whom the order is directed may request a  
5 hearing in writing within fifteen business days of the issuance of  
6 the order. Upon receipt of a written request, the matter shall be set  
7 down for hearing to commence within thirty business days after the  
8 receipt unless the parties consent to a later date or the hearing  
9 officer sets a later date for good cause. If a hearing is not  
10 requested within fifteen business days from the issuance of the order  
11 and none is ordered by the director, the order shall automatically  
12 become final and shall remain in effect until it is modified or  
13 vacated by the director. If a hearing is requested or ordered, the  
14 director, after notice and hearing, shall enter his or her written  
15 findings of fact and conclusions of law and may affirm, modify, or  
16 vacate the order.

17           (6) The director may vacate or modify a cease and desist  
18 order if he or she finds that the conditions which caused its entry  
19 have changed or that it is otherwise in the public interest to do so.

20           (7) Any person aggrieved by a final order of the director  
21 may appeal the order. The appeal shall be in accordance with the  
22 Administrative Procedure Act.

23           Sec. 16. Section 45-347, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           45-347 (1) Except as otherwise provided in subsection (2)



1 ~~of this section, all~~ All money collected under the authority of ~~by~~  
2 ~~the department pursuant to the~~ Nebraska Installment Sales Act shall  
3 be remitted to the State Treasurer for credit to the Financial  
4 Institution Assessment Cash Fund.

5 (2) The department shall remit fines collected under the  
6 Nebraska Installment Sales Act to the State Treasurer for  
7 distribution in accordance with Article VII, section 5, of the  
8 Constitution of Nebraska.

9 Sec. 17. Section 45-351, Revised Statutes Cumulative  
10 Supplement, 2012, is amended to read:

11 45-351 (1) The department shall be charged with the duty  
12 of inspecting the business, records, and accounts of all persons who  
13 engage in the business of a sales finance company subject to the  
14 Nebraska Installment Sales Act. The director shall have the power to  
15 appoint examiners who shall, under his or her direction, investigate  
16 the installment contracts and business and examine the books and  
17 records of licensees when the director shall so determine. Such  
18 examinations shall not be conducted more often than annually except  
19 as provided in subsection (2) of this section.

20 (2) The director or his or her duly authorized  
21 representative shall have the power to make such investigations as he  
22 or she shall deem necessary, and to the extent necessary for this  
23 purpose, he or she may examine such licensee or any other person and  
24 shall have the power to compel the production of all relevant books,  
25 records, accounts, and documents.

1           (3) The expenses of the director incurred in the  
2 examination of the books and records of licensees shall be charged to  
3 the licensees as set forth in sections 8-605 and 8-606. The director  
4 may charge the costs of an investigation of a nonlicensed person to  
5 such person, and such costs shall be paid within thirty days after  
6 receipt of billing.

7           (4) Upon receipt by a licensee of a notice of  
8 investigation or inquiry request for information from the department,  
9 the licensee shall respond within twenty-one calendar days. Each day  
10 a licensee fails to respond as required by this subsection shall  
11 constitute a separate violation.

12           (5) If the director finds, after notice and opportunity  
13 for hearing in accordance with the Administrative Procedure Act, that  
14 any person has willfully and intentionally violated any provision of  
15 the Nebraska Installment Sales Act, any rule or regulation adopted  
16 and promulgated under the act, or any order issued by the director  
17 under the act, the director may order such person to pay (a) an  
18 administrative fine of not more than one thousand dollars for each  
19 separate violation and (b) the costs of investigation. ~~The department~~  
20 ~~shall remit fines collected under this subsection to the State~~  
21 ~~Treasurer for distribution in accordance with Article VII, section 5,~~  
22 ~~of the Constitution of Nebraska.~~

23           (6) If a person fails to pay an administrative fine and  
24 the costs of investigation ordered pursuant to subsection (5) of this  
25 section, a lien in the amount of such fine and costs may be imposed

1 upon all assets and property of such person in this state and may be  
2 recovered in a civil action by the director. The lien shall attach to  
3 the real property of such person when notice of the lien is filed and  
4 indexed against the real property in the office of the register of  
5 deeds in the county where the real property is located. The lien  
6 shall attach to any other property of such person when notice of the  
7 lien is filed against the property in the manner prescribed by law.  
8 Failure of the person to pay such fine and costs shall constitute a  
9 separate violation of the Nebraska Installment Sales Act.

10           Sec. 18. Section 45-921, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           45-921 (1) The director may examine or investigate  
13 complaints about or reports of alleged violations of the Delayed  
14 Deposit Services Licensing Act or any rule, regulation, or order of  
15 the director thereunder. The director may order the actual cost of  
16 such examination or investigation to be paid by the person who is the  
17 subject of the examination or investigation, whether the alleged  
18 violator is licensed or not.

19           (2) The director may publish information concerning any  
20 violation of the act or any rule, regulation, or order of the  
21 director under the act.

22           (3) For purposes of any investigation, examination, or  
23 proceeding under the act, the director may administer oaths and  
24 affirmations, subpoena witnesses, compel their attendance, take  
25 evidence, and require the production of any books, papers,

1 correspondence, memoranda, agreements, or other documents or records  
2 which the director deems relevant or material to the examination,  
3 investigation, or proceeding.

4 (4) In the case of contumacy by or refusal to obey a  
5 subpoena issued to any person, the district court of Lancaster  
6 County, upon application by the director, may issue an order  
7 requiring such person to appear before the director and to produce  
8 documentary evidence if so ordered to give evidence on the matter  
9 under investigation or in question. Failure to obey the order of the  
10 court may be punished by the court as contempt.

11 (5) Upon receipt by a licensee of a notice of  
12 investigation or inquiry request for information from the department,  
13 the licensee shall respond within twenty-one calendar days. Each day  
14 a licensee fails to respond as required by this subsection shall  
15 constitute a separate violation.

16 (6) If the director finds, after notice and opportunity  
17 for hearing in accordance with the Administrative Procedure Act, that  
18 any person has violated subsection (5) of this section, the director  
19 may order such person to pay (a) an administrative fine of not more  
20 than one thousand dollars for each separate violation and (b) the  
21 costs of investigation. ~~All fines collected by the department~~  
22 ~~pursuant to this subsection shall be remitted to the State Treasurer~~  
23 ~~for credit to the permanent school fund.~~

24 (7) If a person fails to pay an administrative fine and  
25 the costs of investigation ordered pursuant to subsection (6) of this

1 section, a lien in the amount of such fine and costs may be imposed  
2 upon all assets and property of such person in this state and may be  
3 recovered in a civil action by the director. The lien shall attach to  
4 the real property of such person when notice of the lien is filed and  
5 indexed against the real property in the office of the register of  
6 deeds in the county where the real property is located. The lien  
7 shall attach to any other property of such person when notice of the  
8 lien is filed against the property in the manner prescribed by law.  
9 Failure of the person to pay such fine and costs shall constitute a  
10 separate violation of the Delayed Deposit Services Licensing Act.

11 Sec. 19. Section 45-1002, Revised Statutes Cumulative  
12 Supplement, 2012, is amended to read:

13 45-1002 (1) For purposes of the Nebraska Installment Loan  
14 Act:

15 (a) Applicant means a person applying for a license under  
16 the act;

17 (b) Breach of security of the system means unauthorized  
18 acquisition of data that compromises the security, confidentiality,  
19 or integrity of the information maintained by the Nationwide Mortgage  
20 Licensing System and Registry, its affiliates, or its subsidiaries;

21 (c) Department means the Department of Banking and  
22 Finance;

23 (d) Debt cancellation contract means a loan term or  
24 contractual arrangement modifying loan terms under which a financial  
25 institution or licensee agrees to cancel all or part of a borrower's

1 obligation to repay an extension of credit from the financial  
2 institution or licensee upon the occurrence of a specified event. The  
3 debt cancellation contract may be separate from or a part of other  
4 loan documents. The term debt cancellation contract does not include  
5 loan payment deferral arrangements in which the triggering event is  
6 the borrower's unilateral election to defer repayment or the  
7 financial institution's or licensee's unilateral decision to allow a  
8 deferral of repayment;

9           (e) Debt suspension contract means a loan term or  
10 contractual arrangement modifying loan terms under which a financial  
11 institution or licensee agrees to suspend all or part of a borrower's  
12 obligation to repay an extension of credit from the financial  
13 institution or licensee upon the occurrence of a specified event. The  
14 debt suspension contract may be separate from or a part of other loan  
15 documents. The term debt suspension contract does not include loan  
16 payment deferral arrangements in which the triggering event is the  
17 borrower's unilateral election to defer repayment or the financial  
18 institution's or licensee's unilateral decision to allow a deferral  
19 of repayment;

20           (f) Director means the Director of Banking and Finance;

21           (g) Financial institution has the same meaning as in  
22 section 8-101;

23           (h) Guaranteed asset protection waiver means a waiver  
24 that is offered, sold, or provided in accordance with the Guaranteed  
25 Asset Protection Waiver Act;

1           (i) Licensee means any person who obtains a license under  
2 the Nebraska Installment Loan Act;

3           (j)(i) Mortgage loan originator means an individual who  
4 for compensation or gain (A) takes a residential mortgage loan  
5 application or (B) offers or negotiates terms of a residential  
6 mortgage loan.

7           (ii) Mortgage loan originator does not include (A) any  
8 individual who is not otherwise described in subdivision (i)(A) of  
9 this subdivision and who performs purely administrative or clerical  
10 tasks on behalf of a person who is described in subdivision (i) of  
11 this subdivision, (B) a person or entity that only performs real  
12 estate brokerage activities and is licensed or registered in  
13 accordance with applicable state law, unless the person or entity is  
14 compensated by a lender, a mortgage broker, or other mortgage loan  
15 originator or by any agent of such lender, mortgage broker, or other  
16 mortgage loan originator, or (C) a person or entity solely involved  
17 in extensions of credit relating to time-share programs as defined in  
18 section 76-1702;

19           (k) Nationwide Mortgage Licensing System and Registry  
20 means a licensing system developed and maintained by the Conference  
21 of State Bank Supervisors and the American Association of Residential  
22 Mortgage Regulators for the licensing and registration of mortgage  
23 loan originators, mortgage bankers, installment loan companies, and  
24 other state-regulated financial services entities and industries;

25           (l) Person means individual, partnership, limited

1 liability company, association, financial institution, trust,  
2 corporation, and any other legal entity; and

3 (m) Real property means an owner-occupied single-family,  
4 two-family, three-family, or four-family dwelling which is located in  
5 this state, which is occupied, used, or intended to be occupied or  
6 used for residential purposes, and which is, or is intended to be,  
7 permanently affixed to the land.

8 ~~(2) Except as provided in subsection (3) of section~~  
9 ~~45-1017 and subsection (4) of section 45-1019, no revenue arising~~  
10 ~~under the Nebraska Installment Loan Act shall inure to any school~~  
11 ~~fund of the State of Nebraska or any of its governmental~~  
12 ~~subdivisions.~~

13 ~~(3)-(2)~~ Loan, when used in the Nebraska Installment Loan  
14 Act, does not include any loan made by a person who is not a licensee  
15 on which the interest does not exceed the maximum rate permitted by  
16 section 45-101.03.

17 ~~(4)-(3)~~ Nothing in the Nebraska Installment Loan Act  
18 applies to any loan made by a person who is not a licensee if the  
19 interest on the loan does not exceed the maximum rate permitted by  
20 section 45-101.03.

21 Sec. 20. Section 45-1014, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 45-1014 ~~All original license fees and annual renewal fees~~  
24 ~~shall be collected by the department and remitted to the State~~  
25 ~~Treasurer for credit to the Financial Institution Assessment Cash~~



1 ~~Fund. All investigation and examination fees, charges, and costs~~  
2 ~~collected by or paid to the department shall likewise be remitted to~~  
3 ~~the State Treasurer for credit to the Financial Institution~~  
4 ~~Assessment Cash Fund and shall be available for the uses and purposes~~  
5 ~~of the fund.~~

6 (1) The department shall remit all fees and costs  
7 collected pursuant to the Nebraska Installment Loan Act to the State  
8 Treasurer for credit to the Financial Institution Assessment Cash  
9 Fund.

10 (2) The department shall remit fines collected under the  
11 Nebraska Installment Loan Act to the State Treasurer for distribution  
12 in accordance with Article VII, section 5, of the Constitution of  
13 Nebraska.

14 Sec. 21. Section 45-1017, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 45-1017 (1) The department shall inspect the business,  
17 records, and accounts of all persons that lend money subject to the  
18 Nebraska Installment Loan Act. The department may examine or  
19 investigate complaints about or reports of alleged violations by a  
20 licensee made to the department. The department may inspect and  
21 investigate the business, records, and accounts of all persons in the  
22 public business of lending money contrary to the act and who do not  
23 have a license under the act. The director may appoint examiners who  
24 shall, under his or her direction, investigate the loans and business  
25 and examine the books and records of licensees annually and more

1 often as determined by the director. The expenses incurred by the  
2 department in examining the books and records of licensees and in  
3 administering the act during each calendar year shall be paid by the  
4 licensee as set forth in sections 8-605 and 8-606.

5 (2) Upon receipt by a licensee of a notice of  
6 investigation or inquiry request for information from the department,  
7 the licensee shall respond within twenty-one calendar days. Each day  
8 a licensee fails to respond as required by this subsection  
9 constitutes a separate violation.

10 (3) If the director finds, after notice and opportunity  
11 for hearing in accordance with the Administrative Procedure Act, that  
12 any person has willfully and intentionally violated any provision of  
13 the Nebraska Installment Loan Act, any rule or regulation adopted and  
14 promulgated under the act, or any order issued under the act, the  
15 director may order such person to pay (a) an administrative fine of  
16 not more than one thousand dollars for each separate violation and  
17 (b) the costs of investigation. ~~All fines collected by the department~~  
18 ~~pursuant to this subsection shall be remitted to the State Treasurer~~  
19 ~~for credit to the permanent school fund.~~

20 (4) If a person fails to pay an administrative fine and  
21 the costs of investigation ordered pursuant to subsection (3) of this  
22 section, a lien in the amount of such fine and costs may be imposed  
23 upon all assets and property of such person in this state and may be  
24 recovered in a civil action by the director. The lien shall attach to  
25 the real property of such person when notice of the lien is filed and

1 indexed against the real property in the office of the register of  
2 deeds in the county where the real property is located. The lien  
3 shall attach to any other property of such person when notice of the  
4 lien is filed against the property in the manner prescribed by law.  
5 Failure of the person to pay such fine and costs constitutes a  
6 separate violation of the act.

7           Sec. 22. Section 45-1019, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           45-1019 (1) The department may order any person to cease  
10 and desist whenever the department determines that the person has  
11 violated any provision of the Nebraska Installment Loan Act. Upon  
12 entry of a cease and desist order, the director shall promptly notify  
13 the affected person that such order has been entered, of the reasons  
14 for such order, and that upon receipt, within fifteen business days  
15 after the date of the order, of written request from the affected  
16 person a hearing will be scheduled within thirty business days after  
17 the date of receipt of the written request unless the parties consent  
18 to a later date or the hearing officer sets a later date for good  
19 cause. If a hearing is not requested and none is ordered by the  
20 director, the order shall remain in effect until it is modified or  
21 vacated.

22           (2) The director may vacate or modify a cease and desist  
23 order if he or she finds that the conditions which caused its entry  
24 have changed or that it is otherwise in the public interest to do so.

25           (3) A person aggrieved by a cease and desist order of the

1 director may obtain judicial review of the order in the manner  
2 prescribed in the Administrative Procedure Act and the rules and  
3 regulations adopted and promulgated by the department under the act.  
4 The director may obtain an order from the district court of Lancaster  
5 County for the enforcement of the cease and desist order.

6 (4) A person who violates a cease and desist order of the  
7 director may, after notice and hearing and upon further order of the  
8 director, be subject to a penalty of not more than five thousand  
9 dollars for each act in violation of the cease and desist order. ~~The~~  
10 ~~department shall remit fines collected under this section to the~~  
11 ~~State Treasurer for distribution in accordance with Article VII,~~  
12 ~~section 5, of the Constitution of Nebraska.~~

13 Sec. 23. Section 54-415, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 54-415 (1) Any person taking up an estray shall report  
16 the same within seven days thereafter to the Nebraska Brand  
17 Committee, if within the brand inspection area, or to the county  
18 sheriff of the county where the estray was taken up, if not within  
19 the brand inspection area. If the animal is determined to be an  
20 estray by a representative of the Nebraska Brand Committee or the  
21 county sheriff, as the case may be, such animal shall, as promptly as  
22 may be practicable, be sold through the most convenient livestock  
23 auction market. The proceeds of such sale, after deducting the  
24 selling expenses, shall be paid over to the Nebraska Brand Committee  
25 to be placed in the estray fund identified in section 54-1,118, if

1 such estray was taken up within the brand inspection area, and  
2 otherwise to the treasurer of the county in which such estray was  
3 taken up. During the time such proceeds are impounded, any person  
4 taking up such estray may file claim with the Nebraska Brand  
5 Committee or the county treasurer, as the case may be, for the  
6 expense of feeding and keeping such estray while in his or her  
7 possession. When such claim is filed it shall be the duty of the  
8 Nebraska Brand Committee or the county board, as the case may be, to  
9 decide on the validity of the claim so filed and allow the claim for  
10 such amount as may be deemed equitable. When the estray originates  
11 within the brand inspection area such proceeds shall be impounded for  
12 one year, unless ownership is determined sooner by the Nebraska Brand  
13 Committee, and if ownership is not determined within such one-year  
14 period, the proceeds shall be ~~paid into the permanent school fund,~~  
15 remitted to the State Treasurer, less the actual expenses incurred in  
16 the investigation and processing of the estray fund. Any amount  
17 deducted as actual expenses incurred shall be deposited in the  
18 Nebraska Brand Inspection and Theft Prevention Fund. When the estray  
19 is located outside the brand inspection area and ownership cannot be  
20 determined by the county board, the county board shall then order  
21 payment of the balance of the sale proceeds, less expenses, to the  
22 ~~permanent school fund. State Treasurer.~~ If the brand committee or the  
23 county board determines ownership of an estray sold in accordance  
24 with this section by means of evidence of ownership other than the  
25 owner's recorded Nebraska brand, an amount not to exceed the actual

1 investigative costs or expenses may be deducted from the proceeds of  
2 the sale. Any person who violates this section is guilty of a Class  
3 II misdemeanor. The definitions found in sections 54-172 to 54-190  
4 apply to this section.

5 (2) Any proceeds of sale of an estray, after expenses,  
6 shall be remitted to the State Treasurer for distribution in  
7 accordance with Article VII, section 7, of the Constitution of  
8 Nebraska.

9 Sec. 24. Section 54-2606, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 54-2606 The proceeds from any livestock ordered to be  
12 sold pursuant to section 54-2605 shall not be distributed until all  
13 fines and costs associated with such action have been paid. All money  
14 collected as a fine shall be remitted to the State Treasurer for  
15 ~~credit to the permanent school fund.~~ distribution in accordance with  
16 Article VII, section 5, of the Constitution of Nebraska. All fines  
17 levied under this section remaining unpaid shall constitute a debt to  
18 the State of Nebraska which may be collected by lien foreclosure or  
19 sued for and recovered in any proper form of action, in the name of  
20 the State of Nebraska, in the district court of the county in which  
21 the violation occurred.

22 Sec. 25. Section 58-703, Revised Statutes Cumulative  
23 Supplement, 2012, is amended to read:

24 58-703 The Affordable Housing Trust Fund is created. The  
25 fund shall receive money pursuant to ~~sections 8-1120 and~~ section

1 76-903 and may include revenue from sources recommended by the  
2 housing advisory committee established in section 58-704,  
3 appropriations from the Legislature, transfers authorized by the  
4 Legislature, grants, private contributions, repayment of loans, and  
5 all other sources, except that appropriations from the General Fund  
6 and transfers from the General Fund or the Cash Reserve Fund may not  
7 be used as a revenue source for the Affordable Housing Trust Fund  
8 after June 30, 2013. The Department of Economic Development as part  
9 of its comprehensive housing affordability strategy shall administer  
10 the Affordable Housing Trust Fund.

11 Transfers may be made from the Affordable Housing Trust  
12 Fund to the General Fund, the Behavioral Health Services Fund, and  
13 the Site and Building Development Fund at the direction of the  
14 Legislature.

15 Sec. 26. Section 58-711, Revised Statutes Cumulative  
16 Supplement, 2012, is amended to read:

17 58-711 The Department of Economic Development shall  
18 submit, as part of the department's annual status report under  
19 section 81-1201.11, information detailing the status of the  
20 Affordable Housing Trust Fund. The status report shall list (1) the  
21 applications funded during the previous calendar year, (2) the  
22 applications funded in previous years, (3) the identity of the  
23 organizations receiving funds, (4) the location of each project, (5)  
24 the amount of funding provided to the project, (6) the amount of  
25 funding leveraged as a result of the project, (7) the number of units

1 of housing created by the project and the occupancy rate, (8) the  
2 expected cost of rent or monthly payment of those units, (9) the  
3 projected number of new employees and community investment as a  
4 result of the project, and (10) the amount of revenue deposited into  
5 the Affordable Housing Trust Fund pursuant to ~~sections 8-1120 and~~  
6 section 76-903. The status report shall contain no information that  
7 is protected by state or federal confidentiality laws.

8           Sec. 27. Section 59-1725.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           59-1725.01 (1) The Director of Banking and Finance may  
11 summarily order a seller or any officer, director, employee, or agent  
12 of such seller to cease and desist from the further offer or sale of  
13 any seller-assisted marketing plan by the seller if the director  
14 finds:

15           (a) There has been a substantial failure to comply with  
16 any of the provisions of the Seller-Assisted Marketing Plan Act;

17           (b) The offer or sale of the plan would constitute  
18 misrepresentation to or deceit or fraud upon the purchasers; or

19           (c) Any person identified in the required disclosure  
20 document has been convicted of an offense described in subdivision  
21 (2)(a) of section 59-1735 or is subject to an order or has had a  
22 civil judgment entered against him or her as described in subdivision  
23 (2)(b) or (c) of section 59-1735, and the involvement of such person  
24 in the sale or management of the seller-assisted marketing plan  
25 creates an unreasonable risk to prospective purchasers.



1           (2) If the director believes, whether or not based upon  
2 an investigation conducted under section 59-1725, that any person has  
3 engaged in or is about to engage in any act or practice constituting  
4 a violation of any provision of the Seller-Assisted Marketing Plan  
5 Act or any rule, regulation, or order of the director, the director  
6 may:

7           (a) Issue a cease and desist order;

8           (b) Impose a fine not to exceed five thousand dollars per  
9 violation, in addition to costs of the investigation; or

10           (c) Initiate an action in any court of competent  
11 jurisdiction to enjoin such acts or practices and to enforce  
12 compliance with the Seller-Assisted Marketing Plan Act or any order  
13 under the act.

14           (3) Upon a proper showing, a permanent or temporary  
15 injunction, restraining order, or writ of mandamus shall be granted.  
16 The director shall not be required to post a bond.

17           ~~(4)(a) Any fine and costs imposed under this section~~  
18 ~~shall be in addition to all other penalties imposed by the laws of~~  
19 ~~this state and shall be collected by the Department of Banking and~~  
20 ~~Finance and remitted to the State Treasurer. Costs shall be credited~~  
21 ~~to the Securities Act Cash Fund, and fines shall be credited to the~~  
22 ~~permanent school fund.~~

23           (4)(a) Any fines and costs imposed under this section  
24 shall be in addition to all other penalties imposed by the laws of  
25 this state. The Department of Banking and Finance shall collect the

1 finer and costs and remit them to the State Treasurer. The State  
2 Treasurer shall credit the costs to the Securities Act Cash Fund and  
3 distribute the fines in accordance with Article VII, section 5, of  
4 the Constitution of Nebraska.

5 (b) If a person fails to pay the administrative fine or  
6 investigation costs referred to in this section, a lien in the amount  
7 of such fine and costs may be imposed upon all assets and property of  
8 such person in this state and may be recovered by suit by the  
9 director. Failure of the person to pay such fine and costs shall  
10 constitute a separate violation of the act.

11 (5) Upon entry of an order pursuant to this section, the  
12 director shall, in writing, promptly notify all persons to whom such  
13 order is directed that it has been entered and of the reasons for  
14 such order and that any person to whom the order is directed may  
15 request a hearing in writing within fifteen business days after the  
16 issuance of the order. Upon receipt of such written request, the  
17 matter shall be set down for hearing to commence within thirty  
18 business days after the receipt unless the parties consent to a later  
19 date or the hearing officer sets a later date for good cause. If a  
20 hearing is not requested within fifteen business days and none is  
21 ordered by the director, the order shall automatically become final  
22 and shall remain in effect until it is modified or vacated by the  
23 director. If a hearing is requested or ordered, the director, after  
24 notice and hearing, shall enter his or her written findings of fact  
25 and conclusions of law and may affirm, modify, or vacate the order.

1           (6) The director may vacate or modify a cease and desist  
2 order if he or she finds that the conditions which caused its entry  
3 have changed or that it is otherwise in the public interest to do so.

4           (7) Any person aggrieved by a final order of the director  
5 may appeal the order. The appeal shall be in accordance with the  
6 Administrative Procedure Act.

7           Sec. 28. Section 60-6,345, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           60-6,345 A peace officer shall seize any snowmobile used  
10 for the purpose of gaining access to property for the purpose of  
11 committing a felony thereon. Any snowmobile seized pursuant to this  
12 section shall be held, subject to the order of the district court of  
13 the county in which such felony was committed, and shall be  
14 confiscated after conviction of the person from whom the snowmobile  
15 was seized and disposed of by public auction which shall be conducted  
16 by the sheriff of the county in which such conviction occurred. The  
17 proceeds from the sale of a confiscated snowmobile shall be remitted  
18 to the State Treasurer for ~~credit to the permanent school fund.~~  
19 distribution in accordance with Article VII, section 5, of the  
20 Constitution of Nebraska.

21           Sec. 29. Section 69-2116, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           69-2116 (1)(a) The Director of Banking and Finance in his  
24 or her discretion may make such investigations within or without this  
25 state as he or she deems necessary to determine whether any person

1 has violated or is about to violate the Consumer Rental Purchase  
2 Agreement Act or to aid in the enforcement of the act or in the  
3 adopting and promulgating of rules, regulations, and forms under the  
4 act. In the discretion of the director, the actual expense of any  
5 such investigation may be charged to the person who is the subject of  
6 the investigation. All costs collected under this subsection shall be  
7 credited to the Securities Act Cash Fund.

8 (b) The director may publish information concerning any  
9 violation of the act or any rule, regulation, or order of the  
10 director.

11 (c) For the purpose of any investigation or proceeding  
12 under the act, the director or any officer designated by him or her  
13 may administer oaths and affirmations, subpoena witnesses, compel  
14 their attendance, take evidence, and require the production of any  
15 books, papers, correspondence, memoranda, agreements, or other  
16 documents or records which the director deems relevant or material to  
17 the inquiry.

18 (2) In case of contumacy by or refusal to obey a subpoena  
19 issued to any person, any court of competent jurisdiction, upon  
20 application by the director, may issue to that person an order  
21 requiring him or her to appear before the director or the officer  
22 designated by the director to produce documentary evidence if so  
23 ordered or to give evidence touching on the matter under  
24 investigation or in question. Any failure to obey the order of the  
25 court may be punished by the court as a contempt of court. The

1 request for an order of compliance may be addressed to either (a) the  
2 district court of Lancaster County or the district court in the  
3 county where service may be obtained on the person refusing to  
4 testify or produce, if the person is within this state, or (b) the  
5 appropriate district court of the state having jurisdiction over the  
6 person refusing to testify or produce, if the person is outside this  
7 state.

8           Sec. 30. Section 69-2117, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           69-2117 (1) The Director of Banking and Finance may  
11 summarily order a lessor to cease and desist from the use of certain  
12 forms or practices relating to consumer rental purchase agreements if  
13 he or she finds that (a) there has been a substantial failure to  
14 comply with any of the provisions of the Consumer Rental Purchase  
15 Agreement Act or (b) the continued use of certain forms or practices  
16 relating to consumer rental purchase agreements would constitute  
17 misrepresentation to or deceit or fraud on the consumer.

18           (2) If the director believes, whether or not based upon  
19 an investigation conducted under section 69-2116, that any person or  
20 lessor has engaged in or is about to engage in any act or practice  
21 constituting a violation of any provision of the Consumer Rental  
22 Purchase Agreement Act or any rule, regulation, or order under the  
23 act, the director may:

24           (a) Issue a cease and desist order;

25           (b) Impose a fine of not to exceed one thousand dollars

1 per violation, in addition to costs of the investigation; or

2 (c) Initiate an action in any court of competent  
3 jurisdiction to enjoin such acts or practices and to enforce  
4 compliance with the act or any order under the act.

5 (3) Upon a proper showing a permanent or temporary  
6 injunction, restraining order, or writ of mandamus shall be granted.  
7 The director shall not be required to post a bond.

8 ~~(4) Any fine and costs imposed pursuant to this section~~  
9 ~~shall be in addition to all other penalties imposed by the laws of~~  
10 ~~this state and shall be collected by the director and remitted to the~~  
11 ~~State Treasurer. Costs shall be credited to the Securities Act Cash~~  
12 ~~Fund, and fines shall be credited to the permanent school fund. The~~  
13 ~~fines and costs shall be in addition to all other penalties imposed~~  
14 ~~by the laws of this state. The director shall collect the fines and~~  
15 ~~costs and remit them to the State Treasurer. The State Treasurer~~  
16 ~~shall credit the costs to the Securities Act Cash Fund and distribute~~  
17 ~~the fines in accordance with Article VII, section 5, of the~~  
18 ~~Constitution of Nebraska.~~ If a person fails to pay the fine or costs  
19 of the investigation referred to in this ~~subsection, section,~~ a lien  
20 in the amount of the fine and costs shall be imposed upon all of the  
21 assets and property of such person in this state and may be recovered  
22 by suit by the director. Failure of the person to pay a fine and  
23 costs shall constitute a separate violation of the act.

24 (5) Upon entry of an order pursuant to this section, the  
25 director shall promptly notify all persons to whom such order is

1 directed that it has been entered and of the reasons for such order  
2 and that any person to whom the order is directed may request a  
3 hearing in writing within fifteen business days of the issuance of  
4 the order. Upon a receipt of a written request, the matter shall be  
5 set down for hearing to commence within thirty business days after  
6 the receipt unless the parties consent to a later date or the hearing  
7 officer sets a later date for good cause. If a hearing is not  
8 requested within fifteen business days and none is ordered by the  
9 director, the order shall automatically become final and shall remain  
10 in effect until it is modified or vacated by the director. If a  
11 hearing is requested or ordered, the director after notice and  
12 hearing shall enter his or her written findings of fact and  
13 conclusions of law and may affirm, modify, or vacate the order.

14 (6) The director may vacate or modify a cease and desist  
15 order if he or she finds that the conditions which caused its entry  
16 have changed or that it is otherwise in the public interest to do so.

17 (7) Any person aggrieved by a final order of the director  
18 may appeal the order. The appeal shall be in accordance with the  
19 Administrative Procedure Act.

20 Sec. 31. Section 69-2118, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 69-2118 To aid in the enforcement of the Consumer Rental  
23 Purchase Agreement Act, the ~~Director of Banking and Finance~~  
24 department may examine the books and records of any lessor at least  
25 once a year. The expense of the examination shall be assessed against

1 such lessor. All costs collected under this section shall be credited  
2 to the Securities Act Cash Fund.

3 Sec. 32. Section 71-449, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-449 (1) The department may impose any one or a  
6 combination of the following types of disciplinary action against the  
7 license of a health care facility or health care service:

8 (a) A fine not to exceed ten thousand dollars per  
9 violation;

10 (b) A prohibition on admissions or readmissions, a  
11 limitation on enrollment, or a prohibition or limitation on the  
12 provision of care or treatment;

13 (c) A period of probation not to exceed two years during  
14 which the facility or service may continue to operate under terms and  
15 conditions fixed by the order of probation;

16 (d) A period of suspension not to exceed three years  
17 during which the facility or service may not operate; and

18 (e) Revocation which is a permanent termination of the  
19 license and the licensee may not apply for a license for a minimum of  
20 two years after the effective date of the revocation.

21 (2) Any fine imposed and unpaid under the Health Care  
22 Facility Licensure Act shall constitute a debt to the State of  
23 Nebraska which may be collected in the manner of a lien foreclosure  
24 or sued for and recovered in any proper form of action in the name of  
25 the State of Nebraska in the district court of the county in which



1 the facility or service is located. ~~The department shall, within~~  
2 ~~thirty days after receipt, remit fines to the State Treasurer for~~  
3 ~~credit to the permanent school fund. The department shall remit fines~~  
4 ~~to the State Treasurer, within thirty days after receipt, for~~  
5 ~~distribution in accordance with Article VII, section 5, of the~~  
6 ~~Constitution of Nebraska.~~

7 Sec. 33. Section 71-1920, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 71-1920 (1) The department may impose any one or a  
10 combination of the following types of disciplinary action against a  
11 license issued under the Child Care Licensing Act:

12 (a) Issue a probationary license;

13 (b) Suspend or revoke a provisional, probationary, or  
14 operating license;

15 (c) Impose a civil penalty of up to five dollars per  
16 child, based upon the number of children for which the program is  
17 authorized to provide child care on the effective date of the finding  
18 of violation, for each day the program is in violation;

19 (d) Establish restrictions on new enrollment in the  
20 program;

21 (e) Establish restrictions or other limitations on the  
22 number of children or the age of the children served in the program;  
23 or

24 (f) Establish other restrictions or limitations on the  
25 type of service provided by the program.

1           (2) A person who has had a license revoked for any cause  
2 other than nonpayment of fees shall not be eligible to reapply for a  
3 license for a period of two years.

4           (3) Any fine imposed and unpaid under the Child Care  
5 Licensing Act shall constitute a debt to the State of Nebraska which  
6 may be collected in the manner of a lien foreclosure or sued for and  
7 recovered in any proper form of action in the name of the State of  
8 Nebraska in the district court of the county in which the program is  
9 located. ~~The department shall, within thirty days after receipt,~~  
10 ~~remit fines to the State Treasurer for credit to the permanent school~~  
11 ~~fund.~~ The department shall remit fines to the State Treasurer, within  
12 thirty days after receipt, for distribution in accordance with  
13 Article VII, section 5, of the Constitution of Nebraska.

14           Sec. 34. Section 71-8006, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-8006 An individual or business enterprise who violates  
17 section 71-8004 or 71-8005 commits an unfair trade practice. Any  
18 person or entity injured by such a violation shall have a right of  
19 action against the violator for damages for each occurrence when any  
20 person or entity suffered or suffers loss.

21           An individual or business enterprise that violates the  
22 Certified Industrial Hygienist Title Protection Act shall be subject  
23 to a civil penalty of not more than two thousand dollars. The  
24 Attorney General or the county attorney of the county in which such  
25 violation occurs shall, when he or she has knowledge of such

1 violation, institute an action in such county to collect the penalty  
2 imposed by this section. ~~Money collected pursuant to such action~~  
3 ~~shall be remitted to the State Treasurer for credit to the permanent~~  
4 ~~school fund.~~ Any civil penalty collected under this section shall be  
5 remitted to the State Treasurer for distribution in accordance with  
6 Article VII, section 5, of the Constitution of Nebraska.

7           Sec. 35. Section 75-309.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           75-309.01 Each motor vehicle owned, used, or attempted to  
10 be used by any person as a common or contract carrier to transport  
11 passengers for hire in violation of section 75-309 is declared to be  
12 a public nuisance and subject to seizure and confiscation by any  
13 person charged with the enforcement of this section. Any motor  
14 vehicle which is owned, used, or attempted to be used by any person  
15 as a common or contract carrier to transport passengers for hire in  
16 violation of section 75-309 may be seized upon the arrest of the  
17 person who uses or owns the motor vehicle, and upon the conviction of  
18 the person for the violation of such section, the motor vehicle  
19 shall, as a part of the element of the violation, at the discretion  
20 of the court, be forfeited to the state and delivered to the  
21 commission to be disposed of as provided by law. The sale shall be  
22 subject to any liens of record. The commission shall remit the  
23 proceeds of the sale to the State Treasurer for ~~credit to the~~  
24 ~~permanent school fund.~~ distribution in accordance with Article VII,  
25 section 5, of the Constitution of Nebraska.

1           Sec. 36. Section 81-5,162, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-5,162 Any money collected under sections 81-5,158 to  
4 81-5,160 shall be remitted to the State Treasurer for credit to the  
5 State Fire Marshal Cash Fund. Any civil penalties collected under  
6 section 81-5,163 shall be remitted to the State Treasurer for ~~credit~~  
7 ~~to the permanent school fund.~~ distribution in accordance with Article  
8 VII, section 5, of the Constitution of Nebraska.

9           Sec. 37. Section 81-3537, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           81-3537 (1) The board may after hearing, by majority  
12 vote, take any or all of the following actions, upon proof  
13 satisfactory to the board that any person or organization has  
14 violated the Geologists Regulation Act or any rules or regulations  
15 adopted and promulgated pursuant to the act:

16           (a) Issuance of censure or reprimand;

17           (b) Suspension of judgment;

18           (c) Placement of the offender on probation with the  
19 board;

20           (d) Placement of a limitation or limitations on the  
21 holder of a license and upon the right of the holder of a license to  
22 practice the profession to such extent, scope, or type of practice  
23 for such time and under such conditions as are found necessary and  
24 proper;

25           (e) Imposition of a civil penalty not to exceed ten

1 thousand dollars. The amount of the penalty shall be based on the  
2 severity of the violation;

3 (f) Entrance of an order of revocation, suspension, or  
4 cancellation of the certificate of licensure;

5 (g) Issuance of a cease and desist order;

6 (h) Imposition of costs as in an ordinary civil action in  
7 the district court, which may include attorney's fees and hearing  
8 officer fees incurred by the board and the expenses of any  
9 investigation undertaken by the board; or

10 (i) Dismissal of the action.

11 In hearings under this section, the board may take into  
12 account suitable evidence of reform.

13 (2) Civil penalties collected under subdivision (1)(e) of  
14 this section shall be remitted to the State Treasurer for ~~credit to~~  
15 ~~the permanent school fund.~~ distribution in accordance with Article  
16 VII, section 5, of the Constitution of Nebraska. All costs collected  
17 under subdivision (1)(h) of this section shall be remitted to the  
18 State Treasurer for credit to the Geologists Regulation Fund.

19 Sec. 38. Original sections 2-10,103.02, 8-169, 8-1,134,  
20 8-223, 8-332, 8-1108.01, 8-1120, 8-1726, 9-832, 21-20,169, 44-322,  
21 44-3,127, 44-5814, 44-5815, 45-191.09, 45-347, 45-921, 45-1014,  
22 45-1017, 45-1019, 54-415, 54-2606, 58-703, 58-711, 59-1725.01,  
23 60-6,345, 69-2116, 69-2117, 69-2118, 71-449, 71-1920, 71-8006,  
24 75-309.01, 81-5,162, and 81-3537, Reissue Revised Statutes of  
25 Nebraska, and sections 45-351 and 45-1002, Revised Statutes

1 Cumulative Supplement, 2012, are repealed.

2                   Sec. 39. Since an emergency exists, this act takes effect

3 when passed and approved according to law.