

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 279

Introduced by Pirsch, 4.

Read first time January 16, 2013

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to finance; to amend sections 45-191.10, 45-920,
2 45-1008, 45-1013, and 45-1018, Reissue Revised Statutes
3 of Nebraska, and section 45-190, Revised Statutes
4 Cumulative Supplement, 2012; to change provisions
5 relating to loan brokers and to redefine a term; to
6 change provisions relating to the Delayed Deposit
7 Services Licensing Act and the Nebraska Installment Loan
8 Act; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 45-190, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 45-190 For purposes of sections 45-189 to 45-191.11,
4 unless the context otherwise requires:

5 (1) Advance fee means any fee, deposit, or consideration
6 which is assessed or collected, prior to the closing of a loan, by a
7 loan broker and includes, but is not limited to, any money assessed
8 or collected for processing, appraisals, credit checks,
9 consultations, or expenses;

10 (2) Borrower means a person obtaining or desiring to
11 obtain a loan of money;

12 (3) Department means the Department of Banking and
13 Finance;

14 (4) Director means the Director of Banking and Finance;

15 ~~(5)-(5)(a) Loan broker means any person, except any bank,~~
16 ~~trust company, savings and loan association or subsidiary of a~~
17 ~~savings and loan association, building and loan association, credit~~
18 ~~union, licensed or registered mortgage banker, Federal Housing~~
19 ~~Administration or United States Department of Veterans Affairs~~
20 ~~approved lender as long as the loan of money made by the Federal~~
21 ~~Housing Administration or the United States Department of Veterans~~
22 ~~Affairs approved lender is secured or covered by guarantees or~~
23 ~~commitments or agreements to purchase or take over the same by the~~
24 ~~Federal Housing Administration or the United States Department of~~
25 ~~Veterans Affairs, credit card company, installment loan licensee, or~~

1 ~~insurance company which is subject to regulation or supervision under~~
2 ~~the laws of the United States or this state, who:~~

3 ~~(a)—(i)~~ For or in expectation of consideration from a
4 borrower, procures, attempts to procure, arranges, or attempts to
5 arrange a loan of money for a borrower;

6 ~~(b)—(ii)~~ For or in expectation of consideration from a
7 borrower, assists a borrower in making an application to obtain a
8 loan of money;

9 ~~(c)—(iii)~~ Is employed as an agent for the purpose of
10 soliciting borrowers as clients of the employer; or

11 ~~(d)—(iv)~~ Holds himself or herself out, through
12 advertising, signs, or other means, as a loan broker; and

13 (b) Loan broker does not include: (i) A bank, trust
14 company, savings and loan association or subsidiary of a savings and
15 loan association, building and loan association, or credit union
16 which is subject to regulation or supervision under the laws of the
17 United States or any state; (ii) A mortgage banker or installment
18 loan company licensed or registered under the laws of the State of
19 Nebraska; (iii) A credit card company; (iv) An insurance company
20 authorized to conduct business under the laws of the State of
21 Nebraska; or (v) A lender approved by the Federal Housing
22 Administration or the United States Department of Veterans Affairs,
23 if the loan is secured or covered by guarantees, commitments, or
24 agreements to purchase or take over the same by the Federal Housing
25 Administration or the United States Department of Veterans Affairs;

1 (6) Loan brokerage agreement means any agreement for
2 services between a loan broker and a borrower; and

3 (7) Person means natural persons, corporations, trusts,
4 unincorporated associations, joint ventures, partnerships, and
5 limited liability companies.

6 Sec. 2. Section 45-191.10, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 45-191.10 The following persons are exempt from sections
9 45-189 to 45-191.11 if such person does not hold himself or herself
10 out, through advertising, signs, or other means, as a loan broker:
11 Securities broker-dealer, real estate broker or salesperson,
12 attorney, certified public accountant, or investment adviser.

13 Sec. 3. Section 45-920, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 45-920 (1) The director shall examine the books,
16 accounts, and records of each licensee no more often than annually,
17 except as provided in section 45-921. The costs of the director
18 incurred in an examination shall be paid by the licensee as set forth
19 in sections 8-605 and 8-606.

20 (2) The director may accept any examination, report, or
21 information regarding a licensee from the Consumer Financial
22 Protection Bureau or a foreign state agency. The director may provide
23 any examination, report, or information regarding a licensee to the
24 Consumer Financial Protection Bureau or a foreign state agency. As
25 used in this section, unless the context otherwise requires, foreign

1 state agency means any duly constituted regulatory or supervisory
2 agency which has authority over delayed deposit services businesses,
3 payday lenders, or similar entities, and which is created under the
4 laws of any other state or any territory of the United States,
5 including Puerto Rico, Guam, American Samoa, the Trust Territory of
6 the Pacific Islands, or the Virgin Islands or which is operating
7 under the code of law for the District of Columbia.

8 Sec. 4. Section 45-1008, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 45-1008 Upon the filing of an application under the
11 Nebraska Installment Loan Act, the payment of the license fee, and
12 the approval of the required bond, the director shall investigate the
13 facts regarding the applicant. If the director finds that (1) the
14 experience, character, and general fitness of the applicant, of the
15 applicant's partners or members if the applicant is a partnership,
16 limited liability company, or association, and of the applicant's
17 officers and directors if the applicant is a corporation, are such as
18 to warrant belief that the applicant will operate the business
19 honestly, fairly, and efficiently within the purposes of the act, and
20 (2) allowing the applicant to engage in business will promote the
21 convenience and advantage of the community in which the business of
22 the applicant is to be conducted, the department shall issue and
23 deliver an original license to the applicant to make loans at the
24 location specified in the application, in accordance with the act.
25 The license shall remain in full force and effect until the following

1 ~~March 1~~December 31 and from year to year thereafter, if and when
2 renewed under the act, until it is surrendered by the licensee or
3 canceled, suspended, or revoked under the act. ~~Beginning January 1,~~
4 ~~2010, initial licenses shall remain in full force and effect until~~
5 ~~the next succeeding December 31.~~

6 Sec. 5. Section 45-1013, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 45-1013 (1) ~~Except as provided in subsection (2) of this~~
9 ~~section, for~~For the annual renewal of an original license under the
10 Nebraska Installment Loan Act, the licensee shall file with the
11 department a fee of two hundred fifty dollars and a renewal
12 application containing such information as the director may require
13 to indicate any material change in the information contained in the
14 original application or succeeding renewal applications.

15 ~~(2) Licenses which expire on March 1, 2010, shall be~~
16 ~~renewed until December 31, 2010, upon compliance with subsection (1)~~
17 ~~of this section. For such renewals, the department shall prorate the~~
18 ~~fees provided in subsection (1) of this section using a factor of~~
19 ~~ten twelfths.~~

20 ~~(3)~~(2) For the relocation of its place of business, a
21 licensee shall file with the department a fee of one hundred fifty
22 dollars and an application containing such information as the
23 director may require to determine whether the relocation should be
24 approved. Upon receipt of the fee and application, the director shall
25 publish a notice of the filing of the application in a newspaper of

1 general circulation in the county where the licensee proposes to
2 relocate. If the director receives any substantive objection to the
3 proposed relocation within fifteen days after publication of such
4 notice, he or she shall hold a hearing on the application in
5 accordance with the Administrative Procedure Act and the rules and
6 regulations adopted and promulgated under the act. The expense of any
7 publication required by this section shall be paid by the applicant
8 licensee.

9 Sec. 6. Section 45-1018, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 45-1018 (1) A licensee shall on or before March 1 of each
12 year file with the department a report of the licensee's earnings and
13 operations for the preceding calendar year, and its assets at the end
14 of the year, and giving such other relevant information as the
15 department may reasonably require. The report shall be made under
16 oath and shall be in the form and manner prescribed by the
17 department.

18 (2) ~~Effective on January 1, 2011, a~~ A licensee shall
19 submit a mortgage report of condition as required by section 45-726,
20 on or before a date or dates established by rule, regulation, or
21 order of the director.

22 Sec. 7. Original sections 45-191.10, 45-920, 45-1008,
23 45-1013, and 45-1018, Reissue Revised Statutes of Nebraska, and
24 section 45-190, Revised Statutes Cumulative Supplement, 2012, are
25 repealed.