

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 386

Introduced by Lindstrom, 18.

Read first time January 13, 2017

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Delayed Deposit Services Licensing Act;
- 2 to amend section 45-919, Reissue Revised Statutes of Nebraska; to
- 3 change the time period a licensee under the act may hold a check;
- 4 and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 45-919, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 45-919 (1) No licensee shall:

4 (a) At any one time hold from any one maker more than two checks;

5 (b) At any one time hold from any one maker a check or checks in an
6 aggregate face amount of more than five hundred dollars;

7 (c) Hold or agree to hold a check for more than forty ~~thirty-four~~
8 days. A check which is in the process of collection for the reason that
9 it was not negotiable on the day agreed upon shall not be deemed as being
10 held in excess of the forty-day ~~thirty-four-day~~ period;

11 (d) Require the maker to receive payment by a method which causes
12 the maker to pay additional or further fees and charges to the licensee
13 or other person;

14 (e) Accept a check as repayment, refinancing, or any other
15 consolidation of a check or checks held by the same licensee;

16 (f) Renew, roll over, defer, or in any way extend a delayed deposit
17 transaction by allowing the maker to pay less than the total amount of
18 the check and any authorized fees or charges. This subdivision shall not
19 prevent a licensee that agreed to hold a check for less than forty
20 ~~thirty-four~~ days from agreeing to hold the check for an additional period
21 of time no greater than the forty ~~thirty-four~~ days it would have
22 originally been able to hold the check if (i) the extension is at the
23 request of the maker, (ii) no additional fees are charged for the
24 extension, and (iii) the delayed deposit transaction is completed as
25 required by subdivision (1)(c) of this section. The licensee shall retain
26 written or electronic proof of compliance with this subdivision. If a
27 licensee fails, or is unable, to provide such proof to the department
28 upon request, there shall be a rebuttable presumption that a violation of
29 this subdivision has occurred and the department may pursue any remedies
30 or actions available to it under the Delayed Deposit Services Licensing
31 Act; or

1 (g) Enter into another delayed deposit transaction with the same
2 maker on the same business day as the completion of a delayed deposit
3 transaction unless prior to entering into the transaction the maker and
4 the licensee verify on a form prescribed by the department that
5 completion of the prior delayed deposit transaction has occurred. The
6 licensee shall retain written proof of compliance with this subdivision.
7 If a licensee fails, or is unable, to provide such proof to the
8 department upon request, there shall be a rebuttable presumption that a
9 violation of this subdivision has occurred and the department may pursue
10 any remedies or actions available to it under the act.

11 (2) For purposes of this section, (a) completion of a delayed
12 deposit transaction means the licensee has presented a maker's check for
13 payment to a financial institution as defined in section 8-101 or the
14 maker redeemed the check by paying the full amount of the check in cash
15 to the licensee and (b) licensee shall include (i) a person related to
16 the licensee by common ownership or control, (ii) a person in whom such
17 licensee has any financial interest of ten percent or more, or (iii) any
18 employee or agent of the licensee.

19 Sec. 2. Original section 45-919, Reissue Revised Statutes of
20 Nebraska, is repealed.