

AMENDMENTS TO LB379

Introduced by Banking, Commerce and Insurance.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 45-901, Revised Statutes Cumulative Supplement,  
4 2018, is amended to read:

5           45-901 Sections 45-901 to 45-931 and sections 5 and 6 of this act  
6 shall be known and may be cited as the Delayed Deposit Services Licensing  
7 Act.

8           Sec. 2. Section 45-902, Revised Statutes Cumulative Supplement,  
9 2018, is amended to read:

10          45-902 For purposes of the Delayed Deposit Services Licensing Act:

11          (1) Annual percentage rate means an annual percentage rate as  
12 determined under section 107 of the federal Truth in Lending Act, 15  
13 U.S.C. 1606, as such section existed on January 1, 2019 ~~2018~~, and  
14 includes all fees, interest, and charges contained in a delayed deposit  
15 service contract, except for charges permitted for the presentation of  
16 instruments that are not negotiable under subdivision (1)(a)(v) of  
17 section 45-917 or returned unpaid under section 45-918.01;

18          (2) Check means any check, draft, or other instrument for the  
19 payment of money. Check also means an authorization to debit an account  
20 electronically;

21          (3) Default means a maker's failure to repay a delayed deposit  
22 transaction in compliance with the terms contained in a delayed deposit  
23 service agreement;

24          (4) Delayed deposit services business means any person who for a fee  
25 (a) accepts a check dated subsequent to the date it was written or (b)  
26 accepts a check dated on the date it was written and holds the check for  
27 a period of days prior to deposit or presentment pursuant to an agreement

1 with or any representation made to the maker of the check, whether  
2 express or implied;

3 (5) Department means the Department of Banking and Finance;

4 (6) Director means the Director of Banking and Finance or his or her  
5 designee;

6 (7) Financial institution has the same meaning as in section  
7 8-101.03;

8 (8) Licensee means any person licensed under the Delayed Deposit  
9 Services Licensing Act;

10 (9) Maker means an individual who receives the proceeds of a delayed  
11 deposit transaction; ~~and~~

12 (10) Nationwide Mortgage Licensing System and Registry means a  
13 licensing system developed and maintained by the Conference of State Bank  
14 Supervisors and the American Association of Residential Mortgage  
15 Regulators for the licensing and registration of mortgage loan  
16 originators, mortgage bankers, installment loan companies, and other  
17 state-regulated financial services entities and industries; and

18 (11) ~~(10)~~ Person means an individual, proprietorship, association,  
19 joint venture, joint stock company, partnership, limited partnership,  
20 limited liability company, business corporation, nonprofit corporation,  
21 or any group of individuals however organized.

22 Sec. 3. Section 45-905, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 45-905 (1) An applicant for a license shall submit an application,  
25 under oath, to the director on forms prescribed by the director. The  
26 forms shall contain such information as the director may prescribe,  
27 including, but not limited to:

28 (a) The applicant's financial condition;

29 (b) The qualifications and business history of the applicant and of  
30 its officers, directors, shareholders, partners, or members;

31 (c) Whether the applicant or any of its officers, directors,

1 shareholders, partners, or members have ever been convicted of any (i)  
2 misdemeanor involving any aspect of a delayed deposit services business  
3 or any business of a similar nature or (ii) felony;

4 (d) Whether the applicant or any of its officers, directors,  
5 shareholders, partners, or members have ever been permanently or  
6 temporarily enjoined by a court of competent jurisdiction from engaging  
7 in or continuing any conduct or practice involving any aspect of a  
8 delayed deposit services business or any business of a similar nature;

9 (e) A description of the applicant's proposed method of doing  
10 business; and

11 (f) If the applicant is an individual, the applicant's social  
12 security number.

13 (2) The director shall cause a criminal history record information  
14 check to be conducted of the applicant, its officers, directors,  
15 shareholders, partners, or members as provided in subsection (1) of  
16 section 6 of this act. The direct cost of the criminal history record  
17 information check shall be paid by the applicant.

18 Sec. 4. Section 45-906, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 45-906 The application required by section 45-905 shall be  
21 accompanied by:

22 (1) A nonrefundable application fee of five hundred dollars and any  
23 processing fee allowed under subsection (2) of section 6 of this act; and

24 (2) A surety bond in the sum of fifty thousand dollars to be  
25 executed by the licensee and a surety company authorized to do business  
26 in Nebraska and approved by the director conditioned for the faithful  
27 performance by the licensee of the duties and obligations pertaining to  
28 the delayed deposit services business so licensed and the prompt payment  
29 of any judgment recovered against the licensee. The bond or a substitute  
30 bond shall remain in effect during all periods of licensing or the  
31 licensee shall immediately cease doing business and its license shall be

1 surrendered to or canceled by the department. A surety may cancel a bond  
2 only upon thirty days' written notice to the director.

3 The director may at any time require the filing of a new or  
4 supplemental bond in the form as provided in subdivision (2) of this  
5 section if he or she determines that the bond filed under this section is  
6 exhausted or is inadequate for any reason, including, but not limited to,  
7 the financial condition of the licensee or the applicant for a license,  
8 or violations of the Delayed Deposit Services Licensing Act, any rule,  
9 regulation, or order thereunder, or any state or federal law applicable  
10 to the licensee or applicant for a license. The new or supplemental bond  
11 shall not exceed one hundred thousand dollars.

12 Sec. 5. Nothing in the Delayed Deposit Services Licensing Act shall  
13 prevent a licensee from acquiring a license under the Nebraska  
14 Installment Loan Act.

15 Sec. 6. (1) Licensees under the Delayed Deposit Services Licensing  
16 Act are required to be licensed and registered through the Nationwide  
17 Mortgage Licensing System and Registry. In order to carry out this  
18 requirement, the department is authorized to participate in the  
19 Nationwide Mortgage Licensing System and Registry. For this purpose, the  
20 department may establish requirements as necessary by adopting and  
21 promulgating rules and regulations or by order. The requirements may  
22 include, but are not limited to:

23 (a) Background checks of applicants and licensees, including, but  
24 not limited to:

25 (i) Fingerprints of any principal officer, director, partner,  
26 member, or sole proprietor submitted to the Federal Bureau of  
27 Investigation and any other governmental agency or entity authorized to  
28 receive such information for a state, national, and international  
29 criminal history record information check;

30 (ii) Checks of civil or administrative records;

31 (iii) Checks of an applicant's or a licensee's credit history; or

1           (iv) Any other information as deemed necessary by the director;

2           (b) The payment of fees to apply for or renew a license through the  
3 Nationwide Mortgage Licensing System and Registry;

4           (c) The setting or resetting, as necessary, of renewal processing or  
5 reporting dates; and

6           (d) Amending or surrendering a license or any other such activities  
7 as the director deems necessary for participation in the Nationwide  
8 Mortgage Licensing System and Registry.

9           (2) In order to fulfill the purposes of the Delayed Deposit Services  
10 Licensing Act, the department may contract with the Nationwide Mortgage  
11 Licensing System and Registry or other entities designated by the  
12 Nationwide Mortgage Licensing System and Registry to collect and maintain  
13 records and process transaction fees or other fees related to licensees  
14 or other persons subject to the act. The department may allow such system  
15 to collect licensing fees on behalf of the department and may allow such  
16 system to collect a processing fee for the services of the system  
17 directly from each licensee or applicant.

18           (3) The director shall regularly report enforcement actions and  
19 other relevant information to the Nationwide Mortgage Licensing System  
20 and Registry.

21           (4) The director shall establish a process whereby applicants and  
22 licensees may challenge information entered by the director into the  
23 Nationwide Mortgage Licensing System and Registry.

24           (5) The department shall ensure that the Nationwide Mortgage  
25 Licensing System and Registry adopts a privacy, data security, and breach  
26 of security of the system notification policy. The director shall make  
27 available upon written request a copy of such policy and the contract  
28 between the department and the system.

29           (6) Upon written request the department shall provide the most  
30 recently available audited financial report of the Nationwide Mortgage  
31 Licensing System and Registry.

1           (7) In order to reduce the points of contact which the Federal  
2 Bureau of Investigation may have to maintain for purposes of subsection  
3 (5) of this section, the director may use the Nationwide Mortgage  
4 Licensing System and Registry as a channeling agent for requesting  
5 information from and distributing information to the United States  
6 Department of Justice or any other governmental agency.

7           Sec. 7. Section 45-910, Revised Statutes Cumulative Supplement,  
8 2018, is amended to read:

9           45-910 (1) A license issued pursuant to the Delayed Deposit Services  
10 Licensing Act shall be conspicuously posted at the licensee's place of  
11 business.

12           (2)(a) Until the effective date of this act, all ~~(2)~~ All licenses  
13 shall remain in effect until the next succeeding May 1, unless earlier  
14 canceled, suspended, or revoked by the director pursuant to section  
15 45-922 or surrendered by the licensee pursuant to section 45-911.

16           (b) A license issued on or after May 1, 2019, and on or before  
17 December 31, 2019, shall remain in full force and effect until December  
18 31, 2020, unless earlier canceled, suspended, or revoked by the director  
19 pursuant to section 45-922 or surrendered by the licensee pursuant to  
20 section 45-911. A license issued on or after January 1, 2020, shall  
21 remain in full force and effect until the next succeeding December 31,  
22 unless earlier canceled, suspended, or revoked by the director pursuant  
23 to section 45-922 or surrendered by the licensee pursuant to section  
24 45-911.

25           (3) Licenses may be renewed annually by filing with the director (a)  
26 a renewal fee consisting of five hundred dollars and any processing fee  
27 allowed under subsection (2) of section 6 of this act for the main office  
28 location and five hundred dollars and any processing fee allowed under  
29 subsection (2) of section 6 of this act for each branch office location  
30 and (b) an application for renewal in writing through the Nationwide  
31 Mortgage Licensing System and Registry containing such information as the

1 director may require to indicate any material change in the information  
2 contained in the original application or succeeding renewal applications.

3 Sec. 8. Section 45-912, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 45-912 A licensee shall be required to notify the director in  
6 writing through the Nationwide Mortgage Licensing System and Registry  
7 within thirty days after the occurrence of any material development,  
8 including, but not limited to:

9 (1) Bankruptcy or corporate reorganization;

10 (2) Business reorganization;

11 (3) Institution of license revocation procedures by any other state  
12 or jurisdiction;

13 (4) The filing of a criminal indictment or complaint against the  
14 licensee or any of its officers, directors, shareholders, partners,  
15 members, employees, or agents;

16 (5) A felony conviction against the licensee or any of the  
17 licensee's officers, directors, shareholders, partners, members,  
18 employees, or agents; or

19 (6) The termination of employment or association with the licensee  
20 of any of the licensee's officers, directors, shareholders, partners,  
21 members, employees, or agents for violations or suspected violations of  
22 the Delayed Deposit Services Licensing Act, any rule, regulation, or  
23 order thereunder, or any state or federal law applicable to the licensee.

24 Sec. 9. Section 45-915, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 45-915 (1) Except as provided in subsection (2) of this section, a  
27 licensee may offer a delayed deposit services business only at an office  
28 designated as its principal place of business in the application. A  
29 licensee may change the location of its designated principal place of  
30 business with the prior written approval of the director. The director  
31 may establish forms and procedures for determining whether the change of

1 location should be approved. A fee of one hundred fifty dollars and any  
2 processing fee allowed under subsection (2) of section 6 of this act  
3 shall be submitted with each request made pursuant to this subsection.

4 (2) A licensee may offer a delayed deposit services business online  
5 under the Delayed Deposit Services Licensing Act, so long as the licensee  
6 designates at least one principal place of business within this state. A  
7 fee of five hundred dollars and any processing fee allowed under  
8 subsection (2) of section 6 of this act shall be submitted with each  
9 request made pursuant to this subsection ~~operate branch offices only in~~  
10 ~~the same county in which the licensee's designated principal place of~~  
11 ~~business is located. The licensee may establish a branch office or change~~  
12 ~~the location of a branch office with the prior written approval of the~~  
13 ~~director. The director may establish forms and procedures for determining~~  
14 ~~whether an original branch or branches or a change of location of a~~  
15 ~~branch should be approved.~~

16 (3) A licensee may operate branch offices at any location in this  
17 state or change the location of a branch office with the prior written  
18 approval of the director. The director may establish forms and procedures  
19 for determining whether an original branch or change of location of a  
20 branch should be approved. A fee of one hundred fifty dollars and any  
21 processing fee allowed under shall be paid to the director for each  
22 request made pursuant to subsection (1) or (2) of this section 6 of this  
23 act shall be submitted with each request made pursuant to this  
24 subsection.

25 Sec. 10. Section 45-1001, Revised Statutes Cumulative Supplement,  
26 2018, is amended to read:

27 45-1001 Sections 45-1001 to 45-1070 and section 11 of this act shall  
28 be known and may be cited as the Nebraska Installment Loan Act.

29 Sec. 11. Nothing in the Nebraska Installment Loan Act shall prevent  
30 a licensee from acquiring a license under the Delayed Deposit Services  
31 Licensing Act.



1           Sec. 12.   Original sections 45-905, 45-906, 45-912, and 45-915,  
2   Reissue Revised Statutes of Nebraska, and sections 45-901, 45-902,  
3   45-910, and 45-1001, Revised Statutes Cumulative Supplement, 2018, are  
4   repealed.