

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 379

Introduced by Kolterman, 24.

Read first time January 17, 2019

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to finance; to amend section 45-915, Reissue
2 Revised Statutes of Nebraska, and sections 45-901, 45-902, and
3 45-1001, Revised Statutes Cumulative Supplement, 2018; to change
4 licensing and operating provisions, provide powers and duties for
5 the Department of Banking and Finance and Director of Banking and
6 Finance, and define a term under the Delayed Deposit Services
7 Licensing Act; to clarify a licensing provision under the Nebraska
8 Installment Loan Act; to harmonize provisions; and to repeal the
9 original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 45-901, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 45-901 Sections 45-901 to 45-931 and sections 3 and 4 of this act
4 shall be known and may be cited as the Delayed Deposit Services Licensing
5 Act.

6 Sec. 2. Section 45-902, Revised Statutes Cumulative Supplement,
7 2018, is amended to read:

8 45-902 For purposes of the Delayed Deposit Services Licensing Act:

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

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

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

22 (4) Delayed deposit services business means any person who for a fee
23 (a) accepts a check dated subsequent to the date it was written or (b)
24 accepts a check dated on the date it was written and holds the check for
25 a period of days prior to deposit or presentment pursuant to an agreement
26 with or any representation made to the maker of the check, whether
27 express or implied;

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

29 (6) Director means the Director of Banking and Finance or his or her
30 designee;

31 (7) Financial institution has the same meaning as in section

1 8-101.03;

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

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

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

12 (11) ~~(10)~~ Person means an individual, proprietorship, association,
13 joint venture, joint stock company, partnership, limited partnership,
14 limited liability company, business corporation, nonprofit corporation,
15 or any group of individuals however organized.

16 Sec. 3. Nothing in the Delayed Deposit Services Licensing Act shall
17 prevent a licensee from acquiring a license under the Nebraska
18 Installment Loan Act.

19 Sec. 4. (1) Licensees under the Delayed Deposit Services Licensing
20 Act are required to be licensed and registered through the Nationwide
21 Mortgage Licensing System and Registry. In order to carry out this
22 requirement, the department is authorized to participate in the
23 Nationwide Mortgage Licensing System and Registry. For this purpose, the
24 department may establish requirements as necessary by adopting and
25 promulgating rules and regulations or by order. The requirements may
26 include, but are not limited to:

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

29 (i) Checks of an applicant's or a licensee's criminal history record
30 information through fingerprint or other data bases, except that the
31 department shall not require the submission of fingerprints by (A) an

1 executive officer or director of an applicant or licensee which is either
2 a publicly traded company or a wholly owned subsidiary of a publicly
3 traded company or (B) an applicant or licensee who has previously
4 submitted the fingerprints of an executive officer or director directly
5 to the Nationwide Mortgage Licensing System and Registry and the Federal
6 Bureau of Investigation;

7 (ii) Checks of civil or administrative records;

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

9 (iv) Any other information as deemed necessary by the Nationwide
10 Mortgage Licensing System and Registry;

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

13 (c) The setting or resetting, as necessary, of renewal processing or
14 reporting dates;

15 (d) Information and reports pertaining to authorized delegates; and

16 (e) Amending or surrendering a license or any other such activities
17 as the director deems necessary for participation in the Nationwide
18 Mortgage Licensing System and Registry.

19 (2) In order to fulfill the purposes of the Delayed Deposit Services
20 Licensing Act, the department is authorized to contract with the
21 Nationwide Mortgage Licensing System and Registry or other entities
22 designated by the Nationwide Mortgage Licensing System and Registry to
23 collect and maintain records and process transaction fees or other fees
24 related to licensees or other persons subject to the act. The department
25 may allow such system to collect licensing fees on behalf of the
26 department and may allow such system to collect a processing fee for the
27 services of the system directly from each licensee or applicant.

28 (3) The director shall regularly report enforcement actions and
29 other relevant information to the Nationwide Mortgage Licensing System
30 and Registry.

31 (4) The director shall establish a process whereby applicants and

1 licensees may challenge information entered by the director into the
2 Nationwide Mortgage Licensing System and Registry.

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

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

11 Sec. 5. Section 45-915, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 45-915 (1) Except as provided in subsection (2) of this section, a
14 licensee may offer a delayed deposit services business only at an office
15 designated as its principal place of business in the application. A
16 licensee may change the location of its designated principal place of
17 business with the prior written approval of the director. The director
18 may establish forms and procedures for determining whether the change of
19 location should be approved. A fee of one hundred fifty dollars shall be
20 paid to the director for each request made pursuant to this subsection.

21 (2) A licensee may offer a delayed deposit services business online
22 under the Delayed Deposit Services Licensing Act, so long as the licensee
23 designates at least one principal place of business within this state
24 operate branch offices only in the same county in which the licensee's
25 designated principal place of business is located. The licensee may
26 establish a branch office or change the location of a branch office with
27 the prior written approval of the director. The director may establish
28 forms and procedures for determining whether an original branch or
29 branches or a change of location of a branch should be approved.

30 ~~(3) A fee of one hundred fifty dollars shall be paid to the director~~
31 ~~for each request made pursuant to subsection (1) or (2) of this section.~~

1 Sec. 6. Section 45-1001, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 45-1001 Sections 45-1001 to 45-1070 and section 7 of this act shall
4 be known and may be cited as the Nebraska Installment Loan Act.

5 Sec. 7. Nothing in the Nebraska Installment Loan Act shall prevent
6 a licensee from acquiring a license under the Delayed Deposit Services
7 Licensing Act.

8 Sec. 8. Original section 45-915, Reissue Revised Statutes of
9 Nebraska, and sections 45-901, 45-902, and 45-1001, Revised Statutes
10 Cumulative Supplement, 2018, are repealed.