

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 379**

Introduced by Kolterman, 24.

Read first time January 17, 2019

Committee:

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.