

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 50**

Introduced by Landis, 46

Read first time January 4, 2001

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to interest, loans, and debt; to amend sections  
2 8-319, 8-330, 8-820.01, 44-1703, 45-114, 45-115, 45-117,  
3 45-119, 45-120, 45-122 to 45-124, 45-126 to 45-129,  
4 45-131 to 45-136, 45-138 to 45-140, 45-142 to 45-145,  
5 45-148 to 45-150, 45-153 to 45-155, 45-156 to 45-158,  
6 45-173 to 45-183, 45-185 to 45-188, 45-194 to 45-196,  
7 45-198 to 45-1,103, 45-1,110, and 45-1,116, Reissue  
8 Revised Statutes of Nebraska, and sections 45-101.04,  
9 45-116, 45-118, 45-121, 45-130, 45-137, and 45-184,  
10 Revised Statutes Supplement, 2000; to change and  
11 eliminate provisions relating to installment loans; to  
12 adopt the Nebraska Installment Loan Act; to harmonize  
13 provisions; to repeal the original sections; and to  
14 outright repeal sections 45-146, 45-147, 45-188.01, and  
15 45-197, Reissue Revised Statutes of Nebraska.  
16 Be it enacted by the people of the State of Nebraska,

1           Section 1.     Section 8-319, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           8-319. (1) No loan shall be made by such association  
4 except to its own members, and no loan shall be made to any member  
5 for any sum in excess of the par value of his or her stock. The  
6 borrower shall pledge to the association, as security for the loan,  
7 shares of a maturity value equal to the principal of the loan and,  
8 except as otherwise provided in this section, ample security by  
9 mortgage or deeds of trust on real estate. For purposes of this  
10 section, real property and real estate shall include a leasehold or  
11 subleasehold estate in real property under a lease or sublease the  
12 term of which does not expire, or which is renewable automatically  
13 or at the option of the holder or of the association so as not to  
14 expire for at least five years beyond the maturity of the debt.  
15 Loans made upon improved real estate, except as otherwise provided  
16 in this section, shall not exceed ninety-five percent of the  
17 reasonable normal cash value thereof, and all loans made on any  
18 other real estate shall not exceed three-fourths of the reasonable  
19 normal cash value thereof.

20           (2) An association may make a loan or loans in an amount  
21 exceeding ninety-five percent of the reasonable normal cash value  
22 of the real estate security (a) if such loan or loans are made to a  
23 veteran in accord with the provisions of 38 U.S.C., as now existing  
24 or as hereafter amended, (b) if the proceeds of the loan or loans  
25 are to be used in purchasing residential property or in  
26 constructing a dwelling on unimproved property owned by such  
27 veteran to be occupied as his or her home, used for the purpose of  
28 making repairs, alterations, or improvements in or paying

1 delinquent indebtedness, taxes, or special assessments on  
2 residential property owned by the veteran and used by him or her as  
3 his or her home, or used in purchasing any land and buildings to be  
4 used by the applicant in pursuing a gainful occupation other than  
5 farming, and (c) if the Secretary of Veterans Affairs guarantees  
6 that portion of such loan or loans in excess of ninety-five percent  
7 of the reasonable normal cash value of the real estate security.

8 (3) An association is authorized to obtain insurance of  
9 its loans by the Federal Housing Administrator under Title II of  
10 the National Housing Act, as amended, and such loans so made upon  
11 improved real estate and so insured shall not be subject to the  
12 restrictions set forth in this section with reference to the  
13 maximum authorized amount of a loan.

14 (4) An association may make unsecured loans to its  
15 members if such loans (a) are insured under Title I and Title II of  
16 the National Housing Act, as amended, or (b) are for property  
17 alterations, repair, or improvements. The aggregate amount of  
18 loans made under subdivisions (a) and (b) of this subsection shall  
19 not at any time exceed twenty percent of the association's assets.  
20 Each loan made under subdivision (b) of this subsection shall be  
21 repayable in regular monthly installments within a period of twenty  
22 years and shall be supported by a written property statement on  
23 forms to be prescribed by the Department of Banking and Finance.  
24 An association may make secured loans to its members and may make  
25 loans under 38 U.S.C., as amended, under Chapter V, subchapter C of  
26 the Home Owners Loan Act of 1933, as amended (12 U.S.C.), and on  
27 the security of mobile homes.

28 (5) The stock of such association may be accepted as

1 security for a loan of the amount of the withdrawal value of such  
2 stock without other security.

3 (6) An association when so licensed may make loans to its  
4 own members upon the terms and security set forth in ~~sections~~  
5 ~~45-114 to 45-158~~ the Nebraska Installment Loan Act.

6 (7) Any provisions of this section to the contrary  
7 notwithstanding, an association may make any loan that a federal  
8 savings and loan association doing business in this state is or may  
9 be authorized to make.

10 (8) An association may invest in loans, obligations, and  
11 advances of credit, all of which are referred to in this subsection  
12 as loans, made for the payment of expenses of business school,  
13 technical training school, college, or university education, but no  
14 association shall make any investment in loans under this  
15 subsection if the principal amount of its investment in such loans,  
16 exclusive of any investment which is or which at the time of its  
17 making was otherwise authorized, would thereupon exceed five  
18 percent of its assets. Such loans may be secured, partly secured,  
19 or unsecured, and the association may require a comaker or  
20 comakers, insurance, guaranty under a governmental student loan  
21 guarantee plan, or other protection against contingencies. The  
22 borrower shall certify to the association that the proceeds of the  
23 loan are to be used by a full-time student solely for the payment  
24 of expenses of business, technical training school, college, or  
25 university education.

26 (9) An association may participate with other lenders in  
27 making loans of any type that an association may otherwise make if  
28 (a) each of the lenders is either an instrumentality of the United

1 States Government or is insured by the Federal Deposit Insurance  
2 Corporation or, in the case of another lender, the interest of the  
3 association in such loan is superior to the participating interests  
4 of the other participants and (b) an association whose accounts are  
5 insured by the Federal Deposit Insurance Corporation which may be a  
6 federal association or an association chartered by this state, or  
7 another association chartered by this state which is not so  
8 insured, has otherwise complied with subsection (1) of this section  
9 with respect to loans to members.

10 (10) An association may sell to or purchase from any  
11 institution which is a savings association chartered by this state  
12 or the accounts of which are insured by the Federal Deposit  
13 Insurance Corporation a participating interest in any loan, whether  
14 or not, in the case of a purchase, the security is located within  
15 the association's regular lending area.

16 Sec. 2. Section 8-330, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 8-330. Every association may require borrowing members  
19 to pay all reasonable expenses incurred in connection with the  
20 making, closing, disbursing, extending, readjusting, or renewing of  
21 real estate loans. Such expenses may include abstract, recording,  
22 and registration fees, title examinations, survey, escrow services,  
23 and taxes or charges imposed upon or in connection with the making  
24 and recording of any mortgage. Such reasonable charges may be  
25 collected by the association from the borrower and shall not be  
26 considered interest or a charge for the use of the money loaned. A  
27 charge not exceeding one percent or that allowed a federally  
28 chartered association for the premature prepayment may be made.

1 The rate of interest on any loan of money shall be determined and  
2 computed upon the assumption that the debt will be paid according  
3 to the agreed terms and in the event the loan is paid or collected  
4 by court action prior to the term of the loan, any payment charged,  
5 received, or taken as an advance or forbearance which is in the  
6 nature of and taken into account in the calculation of interest,  
7 shall be spread over the stated term of the loan for the purpose of  
8 determining the rate of interest. Any amounts paid or contracted  
9 to be paid by persons other than the borrower shall not be  
10 considered interest and shall not be taken into account in the  
11 calculation of interest. Interest may be paid on escrow accounts  
12 held for the payment of taxes, insurance, and similar payments, if  
13 agreed to in writing by the borrower and association. Loans may be  
14 made by an association under a license granted it pursuant to  
15 ~~sections 45-114 to 45-158~~ the Nebraska Installment Loan Act, to  
16 borrowing members whose loans are secured by real estate, to the  
17 same extent and in the same amount as such loans may lawfully be  
18 made to nonborrowing members. The association shall furnish a loan  
19 settlement statement to each borrower, indicating in detail the  
20 charges and fees such borrower has paid or obligated himself or  
21 herself to pay to the association or to any other person in  
22 connection with such loan. A copy of such statement shall be  
23 retained in the records of the association.

24 An association may charge and receive interest, on  
25 property improvement loans including loans made under Title I of  
26 the National Housing Act, as amended, and unsecured loans  
27 authorized in section 5(c) of the Home Owners' Loan Act, as  
28 amended.

1           Sec. 3. Section 8-820.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           8-820.01. It is hereby declared to be the public policy  
4 of the State of Nebraska that for ~~the purpose~~ purposes of applying  
5 the federal most-favored-lender doctrine, the bank credit card rate  
6 contained in section 8-820 is not comparable or analogous to the  
7 small loan rate found in sections ~~45-137 and 45-138~~ 29 and 30 of  
8 this act. The Legislature finds that the institutions making small  
9 loans and the institutions administering a bank credit card are  
10 categorically different. The transactions carried on by these  
11 institutions are categorically different. The Legislature finds  
12 that small loan borrowers and bank credit card users are not  
13 synonymous or comparable. In establishing a small loan rate, the  
14 Legislature has recognized a risk factor that is different and  
15 greater than other financial transactions and therefor justifies  
16 the charging of a higher interest rate than installment loans,  
17 personal loans, retail revolving credit plans, or bank credit card  
18 interest rates.

19           Sec. 4. Section 44-1703, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           44-1703. All life insurance and all accident and health  
22 insurance sold in connection with loans or other credit  
23 transactions shall be subject to sections 44-1701 to 44-1713 except  
24 such insurance sold in connection with a loan or other credit  
25 transaction of more than ten years duration or fifteen years  
26 duration when made by licensees under ~~sections 45-114 to 45-158~~ the  
27 Nebraska Installment Loan Act. No insurance shall be subject to  
28 sections 44-1701 to 44-1713 when the issuance of such insurance is

1 an isolated transaction on the part of the insurer and not related  
2 to an agreement or a plan for insuring debtors of the creditor.

3 Sec. 5. Section 45-101.04, Revised Statutes Supplement,  
4 2000, is amended to read:

5 45-101.04. The limitation on the rate of interest  
6 provided in section 45-101.03 shall not apply to:

7 (1) Other rates of interest authorized for loans made by  
8 any licensee or permittee operating under a license or permit duly  
9 issued by the Department of Banking and Finance pursuant to the  
10 Credit Union Act, the Nebraska Installment Loan Act, subsection (4)  
11 of section 8-319, or sections 8-401 to 8-417, or 8-815 to 8-829;  ~~or~~  
12 ~~or 45-114 to 45-158;~~

13 (2) Loans made to any corporation, partnership, limited  
14 liability company, or trust;

15 (3) The guarantor or surety of any loan to a corporation,  
16 partnership, limited liability company, or trust;

17 (4) Loans made when the aggregate principal amount of the  
18 indebtedness is twenty-five thousand dollars or more of the  
19 borrower to any one financial institution, licensee, or permittee;

20 (5) Loans insured, guaranteed, sponsored, or participated  
21 in, either in whole or part, by any agency, department, or program  
22 of the United States or state government;

23 (6) Loans or advances of money, repayable on demand,  
24 which are made solely upon securities, as defined in subdivision  
25 (15) of section 8-1101, pledged as collateral for such repayment  
26 and in which such loans or advances are used by the borrower only  
27 for the purchase of securities as so defined. It shall be lawful  
28 to contract for and receive any rate of interest on such

1 transaction as the parties thereto may expressly agree;

2 (7) Interest charges made on open credit accounts by a  
3 person who sells goods or services on credit when the interest  
4 charges do not exceed one and one-third percent per month for any  
5 charges which remain unpaid for more than thirty days following  
6 rendition of the statement of account;

7 (8) A minimum charge of ten dollars per loan which may be  
8 charged by the lender in lieu of all interest charges;

9 (9) Loans described in subsection (4) of section 8-319  
10 made by a state or federal savings and loan association at a rate  
11 not to exceed nineteen percent per annum;

12 (10) Loans made primarily for business or agricultural  
13 purposes or secured by real estate when such loans are made (a) by  
14 a licensee, registrant, or permittee operating under a license,  
15 registration, or permit duly issued by the Department of Banking  
16 and Finance except for licensees operating under ~~sections 45-114 to~~  
17 ~~45-158~~ the Nebraska Installment Loan Act, (b) by any financial  
18 institution insured by the Federal Deposit Insurance Corporation or  
19 the National Credit Union Administration, or (c) by any insurance  
20 company organized under the laws of this state and subject to  
21 regulation by the Department of Insurance;

22 (11) Loans secured solely by real estate when such loans  
23 are (a) made by licensees operating under ~~sections 45-114 to 45-158~~  
24 the Nebraska Installment Loan Act and (b) made to finance or  
25 refinance the purchase of the property or construction on or  
26 improvements to the property, if the Department of Banking and  
27 Finance has the authority to examine such loans for compliance with  
28 sections 45-101.02 and 45-101.03. A licensee making a loan

1 pursuant to this subdivision may obtain an interest in any fixtures  
 2 attached to such real estate and any insurance proceeds payable in  
 3 connection with such real estate or the loan;

4 (12) Loans secured by a reverse mortgage pursuant to  
 5 section ~~45-1,116~~ 74 of this act;

6 (13) Interest charges made on any goods or services sold  
 7 under an installment contract pursuant to the Nebraska Installment  
 8 Sales Act. Subject to section 45-338, it shall be lawful to  
 9 contract for and receive any rate of interest on such contract as  
 10 the parties may expressly agree to in writing; or

11 (14) Fees which may be charged by a licensee for services  
 12 pursuant to the Delayed Deposit Services Licensing Act.

13 Sec. 6. Sections 6 to 72 and 74 of this act shall be  
 14 known and may be cited as the Nebraska Installment Loan Act.

15 Sec. 7. Section 45-114, Reissue Revised Statutes of  
 16 Nebraska, is amended to read:

17 ~~45-114. The word person, when used in sections 45-114 to~~  
 18 ~~45-158, means individuals, partnerships, limited liability~~  
 19 ~~companies, associations, banks, trust companies, savings banks,~~  
 20 ~~building and loan associations, trusts, corporations, and all other~~  
 21 ~~legal entities. The word department, when used in such sections,~~  
 22 ~~means the Department of Banking and Finance. The word license,~~  
 23 ~~when used in such sections, means permit. (1) For purposes of the~~  
 24 Nebraska Installment Loan Act:

25 (a) Applicant means a person applying for a license under  
 26 the act;

27 (b) Department means the Department of Banking and  
 28 Finance;

1           (c) Director means the Director of Banking and Finance;

2           (d) Licensee means any person who obtains a license under  
3 the act; and

4           (e) Person means individual, partnership, limited  
5 liability company, association, bank, trust company, savings bank,  
6 building and loan association, credit union, industrial loan and  
7 investment company, trust, corporation, and any other legal entity.

8           (2) Except as provided in subsection (3) of section  
9 45-130 22 of this act, it is not the intention of the Legislature  
10 that any no revenue arising hereunder under the act shall inure to  
11 any school fund of the State of Nebraska or any of its governmental  
12 subdivisions.

13           (3) Loan, when used in sections 45-114 to 45-158 and  
14 45-173 to 45-188 shall the Nebraska Installment Loan Act, does not  
15 include any loan made by a person who is not a licensee on which  
16 the interest does not exceed the maximum rate permitted by section  
17 45-101.03.

18           (4) Nothing in sections 45-114 to 45-158 and 45-173 to  
19 45-188 shall apply the Nebraska Installment Loan Act applies to any  
20 loan made by a person who is not a licensee if the interest on the  
21 loan does not exceed the maximum rate permitted by section  
22 45-101.03.

23           Sec. 8. Section 45-115, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~45-115.~~ No bank, or trust company, credit union, or  
26 industrial loan and investment company shall be is eligible for a  
27 license or to make loans under sections 45-114 to 45-158 the  
28 Nebraska Installment Loan Act.

1           Sec. 9. Section 45-116, Revised Statutes Supplement,  
2 2000, is amended to read:

3           ~~45-116.~~ (1) Any person may, after procuring a license  
4 from the ~~Department of Banking and Finance~~ department, engage or  
5 continue in the business of making loans of money, and charge,  
6 contract for, and receive the maximum for interest and other  
7 charges in accordance with the authorization and requirements of  
8 ~~sections 45-114 to 45-158~~ the Nebraska Installment Loan Act.

9           (2)(a) A license ~~shall not be~~ is not required for an  
10 affiliate of a licensee if the activities of the affiliate in this  
11 state are limited solely to the securitization of loans made by the  
12 licensee and the servicing rights to the loans are retained by the  
13 licensee or assigned or otherwise transferred to a financial  
14 institution, licensee, or permittee.

15           (b) For purposes of this subsection:

16           (i) Affiliate means an entity that controls, is  
17 controlled by, or is under common control with another entity;

18           (ii) Control means to own directly or indirectly or to  
19 control in any manner twenty-five percent of the voting shares of  
20 an entity or to control in any manner the election of the majority  
21 of directors of any entity; and

22           (iii) Securitization means the placing of individual  
23 installment loans made by licensees into a commingled or pooled  
24 security that is subsequently sold or otherwise transferred to  
25 another entity.

26           (c) Nothing in this subsection shall be construed to  
27 exempt a licensee or affiliate from the ~~provisions of the~~  
28 Securities Act of Nebraska.

1           Sec. 10.     Section 45-117, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~45-117.~~     Any person who desires to obtain an original  
4 license to engage in the business of lending money under the terms  
5 and conditions of ~~sections 45-114 to 45-158 and sections 45-173 to~~  
6 ~~45-188~~ the Nebraska Installment Loan Act shall apply ~~therefor to~~  
7 the department for the license under oath, on forms prescribed by  
8 the ~~Department of Banking and Finance,~~ ~~to the department,~~ and shall  
9 pay an original license fee ~~in the sum~~ of one hundred fifty  
10 dollars.  ~~, and, if the application is approved,~~ a license as  
11 herein provided shall be issued. ~~If such application is not~~  
12 ~~approved,~~ the department shall return to the applicant the sum of  
13 ~~one hundred fifty dollars less any part of the investigation,~~  
14 ~~inspection,~~ and ~~publication costs provided for by section 45-118,~~  
15 ~~which shall not have been paid by the applicant.~~ If the applicant  
16 is an individual, the application shall include the applicant's  
17 social security number.

18           Sec. 11.     Section 45-118, Revised Statutes Supplement,  
19 2000, is amended to read:

20           ~~45-118.~~ (1) Except as provided in subsection (2) of this  
21 section, a hearing shall be held on every application for an  
22 original license under ~~sections 45-114 to 45-158,~~ ~~every application~~  
23 ~~for an original license shall be filed~~ the Nebraska Installment  
24 Loan Act. ~~The hearing shall be held not less than thirty days~~  
25 ~~prior to the date of hearing after the filing of the application,~~  
26 and notice of the filing of the application shall be published by  
27 the department three successive weeks in a legal newspaper  
28 published in or of general circulation in the county where the

1 applicant proposes to operate the business of lending money. The  
 2 expense of the publication shall be paid by the applicant. Written  
 3 protest against the issuance of the license may be filed with the  
 4 department by any person not less than five days before the date  
 5 set for hearing. The ~~department~~ director, in ~~its~~ his or her  
 6 discretion, may grant a continuance. The ~~Director of Banking and~~  
 7 ~~Finance shall have~~ director may the power to reject any application  
 8 for license after hearing. ~~He or she~~ The director shall, ~~within in~~  
 9 his or her discretion, make examination and inspection concerning  
 10 the propriety of the issuance of a license to any applicant. The  
 11 cost of such examination and inspection shall be ~~borne~~ paid by the  
 12 applicant.

13 (2) The director may waive the hearing requirements of  
 14 subsection (1) of this section if (a) the applicant has held, and  
 15 operated under, a license to engage in the business of lending  
 16 money in Nebraska pursuant to ~~sections 45-114 to 45-158~~ the act for  
 17 at least one calendar year immediately prior to the filing of the  
 18 application, (b) no written protest against the issuance of the  
 19 license has been filed with the department within fifteen days  
 20 after publication of a notice of the filing of the application one  
 21 time in a newspaper of general circulation in the county where the  
 22 applicant proposes to operate the business of lending money, and  
 23 (c) in the judgment of the director, the experience, character, and  
 24 general fitness of the applicant warrant the belief that the  
 25 applicant will comply with ~~sections 45-114 to 45-158~~ the act.

26 Sec. 12. Section 45-119, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

28 ~~45-119.~~ ~~Such~~ A license shall not be issued until the

1 licensee applicant gives to the Director of Banking and Finance for  
 2 the Department of Banking and Finance department a bond in the  
 3 penal sum of two thousand dollars to be executed by the licensee  
 4 applicant and a surety company approved by the director, ~~for the~~  
 5 ~~department,~~ conditioned for the faithful performance by the  
 6 applicant, as a licensee, of the duties and obligations pertaining  
 7 to the business of ~~moneylending~~ lending money so licensed and the  
 8 prompt payment of any judgment recovered against ~~him or her,~~ the  
 9 ~~licensee,~~ or for which any one of the licensees may be liable the  
 10 applicant, as a licensee, under the ~~provisions of sections 45-114~~  
 11 ~~to 45-158~~ Nebraska Installment Loan Act. The required bond shall  
 12 be renewed and refiled annually on or before March 1 of each year  
 13 or the ~~licensed person, firm, association, or corporation~~ licensee  
 14 shall, ~~within thirty days thereafter~~ immediately, cease doing  
 15 ~~business making loans,~~ and ~~his, her, their, or its~~ the license  
 16 shall be ~~revoked~~ canceled by the ~~Director of Banking and Finance~~  
 17 director. The bond, until renewed and refiled, shall remain in  
 18 full force and effect. ~~The requirements of this section for the~~  
 19 ~~licensee to give bond to the Director of Banking and Finance shall~~  
 20 ~~not apply to licensees that are banks, trust companies, cooperative~~  
 21 ~~credit associations, building and loan associations, or industrial~~  
 22 ~~loan and investment companies.~~

23           Sec. 13. Section 45-120, Reissue Revised Statutes of  
 24 Nebraska, is amended to read:

25           ~~45-120.~~ Upon the filing of ~~such an~~ application under the  
 26 Nebraska Installment Loan Act, the payment of the license fee, and  
 27 the approval of the required bond, the ~~Director of Banking and~~  
 28 Finance director shall investigate the facts, ~~and, if he or she~~

1 regarding the applicant. If the director finds that (1) the  
 2 experience, character, and general fitness of the applicant, and of  
 3 the applicant's partners or members thereof if the applicant is a  
 4 partnership, limited liability company, or association, and of the  
 5 applicant's officers and directors thereof if the applicant is a  
 6 corporation, are such as to warrant belief that the business will  
 7 be operated applicant will operate the business honestly, fairly,  
 8 and efficiently within the purposes of sections 45-114 to 45-158  
 9 the act, and (2) allowing such the applicant to engage in business  
 10 will promote the convenience and advantage of the community in  
 11 which the business of the applicant is to be conducted, the  
 12 Department of Banking and Finance department shall issue and  
 13 deliver an original license to the applicant to make loans at the  
 14 location specified in the application, in accordance with the  
 15 sections, which act. The license shall remain in full force and  
 16 effect until the following March 1 next thereafter and from year to  
 17 year thereafter, if and when renewed, under the sections act, until  
 18 it is surrendered by the licensee or canceled, suspended, or  
 19 revoked as herein provided under the act.

20           Sec. 14.     Section 45-121, Revised Statutes Supplement,  
 21 2000, is amended to read:

22           ~~45-121.~~   The department shall approve or deny every  
 23 application for license under section ~~45-120~~ 13 of this act within  
 24 ninety days after the filing ~~thereof~~ of an application, if ~~such~~  
 25 ~~filing~~ the application is substantially complete and is accompanied  
 26 by the required fees and the approved bond.

27           Sec. 15.     Section 45-122, Reissue Revised Statutes of  
 28 Nebraska, is amended to read:

1           ~~45-122.~~ Not more than one place of business shall be  
 2 maintained under the same license, but more than one license may be  
 3 issued to the same licensee upon compliance with all ~~of the~~  
 4 provisions of the law Nebraska Installment Loan Act governing the  
 5 issuance of an original license, for each such new license.

6           Sec. 16.     Section 45-123, Reissue Revised Statutes of  
 7 Nebraska, is amended to read:

8           ~~45-123.~~ No licensee shall conduct the business of making  
 9 loans under ~~sections 45-114 to 45-158~~ the Nebraska Installment Loan  
 10 Act within any office, room, or place of business in which any  
 11 other business is solicited or engaged in, or in association or  
 12 conjunction ~~therewith~~ with any other business, if the ~~Director of~~  
 13 ~~Banking and Finance shall find~~ director finds that the other  
 14 business is of such nature that the conducting ~~thereof~~ of such  
 15 other business tends to conceal evasion of the ~~provisions of~~  
 16 ~~sections 45-114 to 45-158~~ act or of the rules and regulations  
 17 ~~lawfully made hereunder~~ adopted and promulgated under the act. In  
 18 such case, the director shall order such licensee in writing to  
 19 cease and desist from such conduct.

20           Sec. 17.     Section 45-124, Reissue Revised Statutes of  
 21 Nebraska, is amended to read:

22           ~~45-124.~~ Obtaining a license ~~shall constitute~~ constitutes  
 23 sufficient contact with this state for the exercise of personal  
 24 jurisdiction over ~~such~~ the licensee in any action arising out of  
 25 the licensee's activity in this state.

26           Sec. 18.     Section 45-126, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

28           ~~45-126.~~ For the annual renewal of an original license ~~to~~

1 ~~lend money under sections 45-114 to 45-158~~ the Nebraska Installment  
2 Loan Act, the fee ~~shall be~~ is one hundred dollars if no publication  
3 of the notice of filing an application for the annual renewal  
4 license is required as in the case of filing an application for an  
5 original license. The money paid under the act ~~terms of sections~~  
6 ~~45-114 to 45-158~~ to the Department of Banking and Finance  
7 department for original licenses, for renewal licenses, for  
8 investigation fees, for examination fees, or from any other source,  
9 shall be remitted to the State Treasurer for credit to the  
10 Financial Institution Assessment Cash Fund pursuant to sections  
11 8-601 and 8-602.

12           Sec. 19. Section 45-127, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~45-127.~~ All original license fees and annual renewal  
15 fees shall be collected by the Department of Banking and Finance  
16 department and remitted to the State Treasurer for credit to the  
17 Financial Institution Assessment Cash Fund pursuant to sections  
18 8-601 and 8-602. All investigation and examination fees, charges,  
19 and costs collected by or paid to the Department of Banking and  
20 Finance department shall likewise be remitted to the State  
21 Treasurer for credit to the Financial Institution Assessment Cash  
22 Fund pursuant to sections 8-601 and 8-602 and shall be available  
23 for the uses and purposes of the fund. ~~Any money in the Loan Act~~  
24 ~~Fund on September 9, 1995, shall be transferred to the Financial~~  
25 ~~Institution Assessment Cash Fund on such date.~~

26           Sec. 20. Section 45-128, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

28           ~~45-128.~~ Any firm or individual members thereof,

1 ~~partnership or individual members thereof, limited liability~~  
 2 ~~company or individual members thereof, association or individual~~  
 3 ~~members thereof, or corporation or officers thereof, or person,~~  
 4 who, by any device, subterfuge, or pretense whatsoever, engages in  
 5 or continues any of the kinds of business or enterprise permitted  
 6 to licensees by ~~sections 45-114 to 45-158~~ the Nebraska Installment  
 7 Loan Act without having obtained the license required by ~~such~~  
 8 ~~sections the act,~~ with intent to evade the provisions of ~~such~~  
 9 ~~sections the act,~~ shall be is guilty of a Class I misdemeanor.

10           Sec. 21. Section 45-129, Reissue Revised Statutes of  
 11 Nebraska, is amended to read:

12           ~~45-129.~~ The Department of Banking and Finance is hereby  
 13 ~~authorized and empowered to make such general~~ director may adopt  
 14 ~~and promulgate~~ rules and regulations and ~~specific issue orders,~~  
 15 rulings, demands, and findings as may be necessary for the proper  
 16 ~~conduct of the business licensed under sections 45-114 to 45-158,~~  
 17 ~~and the enforcement of such sections,~~ in addition thereto and not  
 18 ~~inconsistent therewith~~ to carry out the purposes of the Nebraska  
 19 Installment Loan Act.

20           Sec. 22. Section 45-130, Revised Statutes Supplement,  
 21 2000, is amended to read:

22           ~~45-130.~~ (1) The department ~~is hereby charged with the~~  
 23 ~~duty of inspecting~~ shall inspect the business, records, and  
 24 accounts of all persons that lend money subject to the ~~provisions~~  
 25 ~~of sections 45-114 to 45-158~~ Nebraska Installment Loan Act. The  
 26 department may examine or investigate complaints about or reports  
 27 of alleged violations by a licensee made to the department. The  
 28 department ~~is hereby empowered to~~ may inspect and investigate the

1 business, records, and accounts of all persons in the public  
2 business of lending money contrary to the ~~provisions of such~~  
3 ~~sections act~~ and who do not have a license under ~~such sections the~~  
4 ~~act~~. The ~~Director of Banking and Finance~~ director is hereby  
5 ~~empowered to~~ may appoint examiners who shall, under his or her  
6 direction, investigate the loans and business and examine the books  
7 and records of licensees annually and more often ~~when~~ as determined  
8 by the director. ~~shall so determine.~~ The expenses of the  
9 ~~department,~~ incurred by the department in the examination of  
10 examining the books and records of licensees, ~~and fully to~~  
11 ~~administer the provisions of~~ and in administering the law act  
12 during each calendar year, shall be charged annually to each  
13 licensee by the department as soon as reasonably possible after the  
14 examination. Such expenses shall be charged ~~7~~ in proportion to the  
15 number of days required to examine and supervise the books and  
16 records of the respective licensees.

17 (2) Upon receipt by a licensee of a notice of  
18 investigation or inquiry request for information from the  
19 department, the licensee shall respond within thirty calendar days.  
20 Each day a licensee fails to respond as required by this subsection  
21 ~~shall constitute~~ constitutes a separate violation.

22 (3) If the director finds, after notice and opportunity  
23 for hearing in accordance with the Administrative Procedure Act,  
24 that any person has willfully and intentionally violated any  
25 provision of ~~sections 45-114 to 45-158~~ the Nebraska Installment  
26 Loan Act, any rule or regulation adopted and promulgated under ~~such~~  
27 ~~sections the act~~, or any order issued ~~by the department~~ under ~~such~~  
28 ~~sections the act~~, the director may order such person to pay (a) an

1 administrative fine of not more than one thousand dollars for each  
2 separate violation and (b) the costs of investigation. All fines  
3 collected by the department pursuant to this subsection shall be  
4 remitted to the State Treasurer for credit to the permanent school  
5 fund.

6 (4) If a person fails to pay an administrative fine and  
7 the costs of investigation ordered pursuant to subsection (3) of  
8 this section, a lien in the amount of such fine and costs may be  
9 imposed upon all assets and property of such person in this state  
10 and may be recovered in a civil action by the director. The lien  
11 shall attach to the real property of such person when notice of the  
12 lien is filed and indexed against the real property in the office  
13 of the register of deeds in the county where the real property is  
14 located. The lien shall attach to any other property of such  
15 person when notice of the lien is filed against the property in the  
16 manner prescribed by law. Failure of the person to pay such fine  
17 and costs ~~shall constitute~~ constitutes a separate violation of  
18 ~~sections 45-114 to 45-158~~ the act.

19 Sec. 23. Section 45-131, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 ~~45-131. Each~~ A licensee shall ~~annually~~ on or before  
22 February 15 of each year file with the ~~Department of Banking and~~  
23 ~~Finance department~~ a report of its the licensee's earnings and  
24 operations for the preceding calendar year, and its assets and  
25 liabilities at the end of ~~said~~ the year, and giving such other  
26 relevant information as the department may reasonably require.  
27 ~~Such~~ The report shall be made under oath and shall be in the form  
28 prescribed by the department.

1           Sec. 24.    Section 45-132, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~45-132.~~    The ~~Department of Banking and Finance~~ director  
4 shall, upon ten days' notice to the licensee or other person  
5 stating the contemplated action and in general the grounds ~~therefor~~  
6 for the action, and upon reasonable opportunity to be heard, order  
7 any licensee or other person to cease and desist from any practice  
8 which the director finds is in violation of the Nebraska  
9 Installment Loan Act ~~it shall find does not conform to the~~  
10 ~~requirements set forth in sections 45-114 to 45-158,~~ or the lawful  
11 rules and regulations ~~of the department thereunder~~ adopted and  
12 promulgated under the act.

13           Sec. 25.    Section 45-133, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           ~~45-133.~~ No licensee or other person, ~~firm, partnership,~~  
16 ~~limited liability company, association, or corporation~~ subject to  
17 ~~sections 45-114 to 45-158~~ the Nebraska Installment Loan Act shall  
18 advertise, print, display, publish, distribute, or broadcast or  
19 cause or permit to be advertised, printed, displayed, published,  
20 distributed, or broadcast in any manner whatsoever any false,  
21 misleading, or deceptive statement or representation with regard to  
22 the rates, terms, or conditions for the lending of money, credit,  
23 goods, or things in action. ~~which is false, misleading, or~~  
24 ~~deceptive.~~ The ~~Department of Banking and Finance~~ director may  
25 order any licensee to cease and desist from any conduct which he or  
26 she finds ~~it shall find~~ to be a violation of this section. The  
27 ~~department~~ director may require that rates of charge, if stated by  
28 a licensee, be stated fully and clearly in such manner as he or she

1 ~~deems it may deem~~ necessary to prevent misunderstanding thereof by  
2 prospective borrowers.

3           Sec. 26.     Section 45-134, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           ~~45-134.~~ The payment in money, credit, goods, or things  
6 in action, as consideration for any sale or assignment of, or order  
7 for, the payment of wages, salary, commission, or other  
8 compensation for services, whether earned or to be earned, shall,  
9 for ~~the~~ purposes of regulation under ~~sections 45-114 to 45-158~~ the  
10 Nebraska Installment Loan Act, be deemed a loan secured by such  
11 assignment, and the amount by which the assigned compensation  
12 exceeds the amount of the consideration actually paid, shall, for  
13 the purposes of regulation under ~~such sections~~ the act, be deemed  
14 interest or charges upon the loan from the date of payment to the  
15 date the compensation is payable. Such transaction shall be  
16 governed by and be subject to the ~~provisions of such sections~~ act.

17           Sec. 27.     Section 45-135, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~45-135.~~ Every licensee shall permit payment to be made  
20 in advance in any amount equal to one or more full installments on  
21 any loan contract ~~of loan~~ at any time during regular business  
22 hours, but the licensee may apply such payment first to all accrued  
23 charges in full up to the date of such payment.

24           Sec. 28.     Section 45-136, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           ~~45-136.~~ Any person ~~convicted of making~~ who makes a false  
27 statement to secure a loan ~~shall be~~ is guilty of a Class III  
28 misdemeanor. ~~The~~ Such punishment shall not be exacted, however,

1 ~~when~~ ~~where~~ such a loan is made after the ~~moneylender~~ licensee is  
2 aware of the falsity of the statement.

3           Sec. 29.     Section 45-137, Revised Statutes Supplement,  
4 2000, is amended to read:

5           ~~45-137.~~ (1) Except as provided in section ~~45-138~~ 30 of  
6 this act and subsection (6) of this section, every licensee  
7 ~~hereunder~~ may make loans and may contract for and receive ~~thereon~~  
8 on such loans charges at a rate not exceeding twenty-four percent  
9 per annum on that part of the unpaid principal balance on any loan  
10 not in excess of one thousand dollars, and twenty-one percent per  
11 annum on any remainder of such unpaid principal balance.     Charges  
12 on loans made under ~~sections 45-114 to 45-158~~ the Nebraska  
13 Installment Loan Act shall not be paid, deducted, or received in  
14 advance. The contracting for, charging of, or receiving of charges  
15 as provided for in subsection (2) of this section shall not be  
16 deemed to be the payment, deduction, or receipt of such charges in  
17 advance.

18           (2) ~~Where the contract of loan~~ When the loan contract  
19 requires repayment in substantially equal and consecutive monthly  
20 installments of principal and charges combined, the licensee may,  
21 at the time the loan is made, precompute the charges at the agreed  
22 rate on scheduled unpaid principal balances according to the terms  
23 of the contract and add such charges to the principal of the loan.  
24 Every payment may be applied to the combined total of principal and  
25 precomputed charges until the contract is fully paid. All payments  
26 made on account of any loan except for default and deferment  
27 charges shall be deemed to be applied to the unpaid installments in  
28 the order in which they are due. The portion of the precomputed

1 charges applicable to any particular month of the contract, as  
2 originally scheduled or following a deferment, shall be that  
3 proportion of such precomputed charges, excluding any adjustment  
4 made for a first installment period of more than one month and any  
5 adjustment made for deferment, which the balance of the contract  
6 scheduled to be outstanding during such month bears to the sum of  
7 all monthly balances originally scheduled to be outstanding by the  
8 contract. This section shall not limit or restrict the manner of  
9 calculating charges, whether by way of add-on, single annual rate,  
10 or otherwise, if the rate of charges does not exceed that permitted  
11 by this section. Charges may be contracted for and earned at a  
12 single annual rate, except that the total charges from such rate  
13 shall not be greater than the total charges from the several rates  
14 otherwise applicable to the different portions of the unpaid  
15 balance according to subsection (1) of this section. All loan  
16 contracts made pursuant to this subsection ~~shall be~~ are subject to  
17 the following adjustments:

18 (a) Notwithstanding the requirement for substantially  
19 equal and consecutive monthly installments, the first installment  
20 period may exceed one month by as much as fifteen days and the  
21 charges for each day exceeding one month shall be one-thirtieth of  
22 the charges which would be applicable to a first installment period  
23 of one month. The charge for extra days in the first installment  
24 period may be added to the first installment and such charges for  
25 such extra days shall be excluded in computing any rebate;

26 (b) If prepayment in full by cash, a new loan, or  
27 otherwise occurs before the first installment due date, the charges  
28 shall be recomputed at the rate of charges contracted for in

1 accordance with subsection (1) or (2) of this section upon the  
2 actual unpaid principal balances of the loan for the actual time  
3 outstanding by applying the payment, or payments, first to charges  
4 at the agreed rate and the remainder to the principal. The amount  
5 of charges so computed shall be retained in lieu of all precomputed  
6 charges;

7 (c) If a contract is prepaid in full by cash, a new loan,  
8 or otherwise after the first installment due date, the borrower  
9 shall receive a rebate of an amount which ~~shall not be~~ is not less  
10 than the amount obtained by applying to the unpaid principal  
11 balances as originally scheduled or, if deferred, as deferred, for  
12 the period following prepayment, according to the actuarial method,  
13 the rate of charge contracted for in accordance with subsection (1)  
14 or (2) of this section. The licensee may round the rate of charge  
15 to the nearest one-half of one percent if such procedure is not  
16 consistently used to obtain a greater yield than would otherwise be  
17 permitted. Any default and deferment charges which are due and  
18 unpaid may be deducted from any rebate. No rebate shall be  
19 required for any partial prepayment. No rebate of less than one  
20 dollar need be made. Acceleration of the maturity of the contract  
21 shall not in itself require a rebate. If judgment is obtained  
22 before the final installment date, the contract balance shall be  
23 reduced by the rebate which would be required for prepayment in  
24 full as of the date judgment is obtained;

25 (d) If any installment on a precomputed or interest  
26 bearing loan is unpaid in full for ten or more consecutive days,  
27 Sundays and holidays included, after it is due, the licensee may  
28 charge and collect a default charge not exceeding an amount equal

1 to five percent of such installment. If any installment payment is  
2 made by a check, draft, or similar signed order which is not  
3 honored because of insufficient funds, no account, or any other  
4 reason except an error of a third party to the loan contract, the  
5 licensee may charge and collect a fifteen-dollar bad check charge.  
6 Such default or bad check charges may be collected when due or at  
7 any time thereafter;

8 (e) If, as of an installment due date, the payment date  
9 of all wholly unpaid installments is deferred one or more full  
10 months and the maturity of the contract is extended for a  
11 corresponding period, the licensee may charge and collect a  
12 deferment charge not exceeding the charge applicable to the first  
13 of the installments deferred, multiplied by the number of months in  
14 the deferment period. The deferment period is that period during  
15 which no payment is made or required by reason of such deferment.  
16 The deferment charge may be collected at the time of deferment or  
17 at any time thereafter. The portion of the precomputed charges  
18 applicable to each deferred balance and installment period  
19 following the deferment period shall remain the same as that  
20 applicable to such balance and periods under the original ~~contract~~  
21 ~~of~~ loan contract. No installment on which a default charge has  
22 been collected, or on account of which any partial payment has been  
23 made, shall be deferred or included in the computation of the  
24 deferment charge unless such default charge or partial payment is  
25 refunded to the borrower or credited to the deferment charge. Any  
26 payment received at the time of deferment may be applied first to  
27 the deferment charge and the remainder, if any, applied to the  
28 unpaid balance of the contract, except that if such payment is

1 sufficient to pay, in addition to the appropriate deferment charge,  
2 any installment which is in default and the applicable default  
3 charge, it shall be first so applied and any such installment shall  
4 not be deferred or subject to the deferment charge. If a loan is  
5 prepaid in full during the deferment period, the borrower shall  
6 receive, in addition to the required rebate, a rebate of that  
7 portion of the deferment charge applicable to any unexpired full  
8 month or months of such deferment period; and

9 (f) If two or more full installments are in default for  
10 one full month or more at any installment date and if the contract  
11 so provides, the licensee may reduce the contract balance by the  
12 rebate which would be required for prepayment in full as of such  
13 installment date and the amount remaining unpaid shall be deemed to  
14 be the unpaid principal balance and thereafter in lieu of charging,  
15 collecting, receiving, and applying charges as provided in this  
16 subsection, charges may be charged, collected, received, and  
17 applied at the agreed rate as otherwise provided by this section  
18 until the loan is fully paid.

19 (3) The charges, as referred to in subsection (1) of this  
20 section, shall not be compounded. The charging, collecting, and  
21 receiving of charges as provided in subsection (2) of this section  
22 shall not be deemed compounding. If part or all of the  
23 consideration for a loan contract is the unpaid principal balance  
24 of a prior loan, then the principal amount payable under such loan  
25 contract may include any unpaid charges on the prior loan which  
26 have accrued within sixty days before the making of such loan  
27 contract and may include the balance remaining after giving the  
28 rebate required by subsection (2) of this section. Except as

1 provided in subsection (2) of this section, charges shall (a) be  
2 computed and paid only as a percentage per month of the unpaid  
3 principal balance or portions thereof and (b) be computed on the  
4 basis of the number of days actually elapsed. For ~~the purpose~~  
5 purposes of computing charges, whether at the maximum rate or less,  
6 a month shall be that period of time from any date in a month to  
7 the corresponding date in the next month but if there is no such  
8 corresponding date then to the last day of the next month, and a  
9 day shall be considered one-thirtieth of a month when computation  
10 is made for a fraction of a month.

11 (4) Except as provided in subsections (5) and (6) of this  
12 section, in addition to that provided for under ~~sections 45-114 to~~  
13 ~~45-158~~ the Nebraska Installment Loan Act, no further or other  
14 amount whatsoever shall be directly or indirectly charged,  
15 contracted for, or received. If any amount, in excess of the  
16 charges permitted, is charged, contracted for, or received, the  
17 loan contract ~~of loan~~ shall not on that account be void, but the  
18 licensee shall have no right to collect or receive any interest or  
19 other charges whatsoever. If such interest or other charges have  
20 been collected or contracted for, the licensee shall refund to the  
21 borrower all interest and other charges collected and shall not  
22 collect any interest or other charges contracted for and thereafter  
23 due on the loan involved, as liquidated damages, and the licensee  
24 or its assignee, if found liable, shall pay the costs of any action  
25 relating thereto, including a reasonable attorney's ~~fee~~ fees. No  
26 licensee shall be found liable under ~~the provisions~~ of this  
27 subsection if the licensee shows by a preponderance of the evidence  
28 that the violation was not intentional and resulted from a bona

1 fide error notwithstanding the maintenance of procedures reasonably  
2 adopted to avoid any such error.

3 (5) A borrower may be required to pay all reasonable  
4 expenses incurred in connection with the making, closing,  
5 disbursing, extending, readjusting, or renewing of loans. Such  
6 expenses may include abstracting, recording, releasing, and  
7 registration fees, premiums paid for nonfiling insurance, premiums  
8 paid on insurance policies covering tangible personal property  
9 securing the loan, title examinations, credit reports, survey, and  
10 taxes or charges imposed upon or in connection with the making and  
11 recording or releasing of any mortgage. Except as provided in  
12 subsection (6) of this section, a borrower may also be required to  
13 pay a nonrefundable loan origination fee not to exceed the lesser  
14 of five hundred dollars or an amount equal to seven percent of that  
15 part of the original principal balance of any loan not in excess of  
16 two thousand dollars and five percent on that part of the original  
17 principal balance in excess of two thousand dollars. Such  
18 reasonable initial charges may be collected from the borrower or  
19 included in the principal balance of the loan at the time the loan  
20 is made and shall not be considered interest or a charge for the  
21 use of the money loaned.

22 (6)(a) Loans secured solely by real estate shall not be  
23 subject to the limitations on the rate of interest provided in  
24 subsection (1) of this section or the limitations on the  
25 nonrefundable loan origination fee under subsection (5) of this  
26 section if (i) the principal amount of the loan is seven thousand  
27 five hundred dollars or more and (ii) the sum of the principal  
28 amount of the loan and the balances of all other liens against the

1 property do not exceed one hundred percent of the appraised value  
2 of the property.

3 (b) An origination fee on such loan shall be computed  
4 only on the principal amount of the loan reduced by any portion of  
5 the principal that consists of the amount required to pay off  
6 another loan made under this subsection by the same licensee.

7 (c) A prepayment penalty on such loan shall be permitted  
8 only if (i) the maximum amount of the penalty to be assessed is  
9 stated in writing at the time the loan is made, (ii) the loan is  
10 prepaid in full within two years from the date of the loan, and  
11 (iii) the loan is prepaid with money other than the proceeds of  
12 another loan made by the same licensee. Such prepayment penalty  
13 shall not exceed six months interest on eighty percent of the  
14 original principal balance computed at the agreed rate of interest  
15 on the loan.

16 (d) A licensee making a loan pursuant to this subsection  
17 may obtain an interest in any fixtures attached to such real estate  
18 and any insurance proceeds payable in connection with such real  
19 estate or the loan.

20 (e) For purposes of this subsection, principal amount of  
21 the loan means the total sum owed by the borrower including, but  
22 not limited to, insurance premiums, loan origination fees, or any  
23 other amount that is financed, except that for purposes of  
24 subdivision (6)(b) of this section loan origination fees shall not  
25 be included in calculating the principal amount of the loan.

26 (7)(a) A licensee making a mortgage loan as defined in  
27 subdivision (8) of section 45-702 on real property as defined in  
28 subdivision (10) of such section shall comply with subdivisions

1 (1), (2), (3), (4), (6), and (7) of section 45-711.

2 (b) A licensee making a loan pursuant to this subsection  
3 shall ~~not later than January 17, 2001,~~ establish and maintain a  
4 toll-free telephone number or accept collect telephone calls to  
5 respond to inquiries from borrowers, if the licensee services  
6 mortgage loans. If a licensee services mortgage loans, it shall  
7 continue to maintain a toll-free telephone number or accept collect  
8 calls to respond to inquiries from borrowers for a period of ninety  
9 days after the date the licensee ceased to service mortgage loans.  
10 A telephonic messaging service which does not permit the borrower  
11 an option of personal contact with an employee, agent, or  
12 contractor of the licensee shall not satisfy the conditions of this  
13 subsection.

14 Sec. 30. Section 45-138, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 ~~45-138.~~ (1) Licensees may charge, contract for, or  
17 receive any amount or rate of interest permitted by section  
18 ~~45-101.03, or 45-101.04, or 45-137~~ section 29 of this act upon any  
19 loan or upon any part or all of any aggregate indebtedness of the  
20 same person. The charging, contracting for, or receiving of a rate  
21 of interest permitted by section 45-101.04 ~~shall~~ does not exempt  
22 the licensee from compliance with ~~any of the provisions of sections~~  
23 ~~45-114 to 45-158~~ the Nebraska Installment Loan Act, except for  
24 loans made pursuant to subdivisions (4) and (11) of section  
25 45-101.04.

26 (2) Except as provided in subdivision (2)(a) of section  
27 ~~45-137~~ 29 of this act, no licensee shall enter into any loan  
28 ~~contract of loan~~ under ~~sections 45-114 to 45-158,~~ the act under

1 which the borrower agrees to make any payment of principal more  
2 than thirty-six calendar months from the date of making such  
3 contract when the principal balance is not more than three thousand  
4 dollars. Every loan contract precomputed pursuant to subsection  
5 (2) of section ~~45-137~~ 29 of this act shall provide for repayment of  
6 principal and charges in installments which shall be payable at  
7 approximately equal periodic intervals of time and so arranged that  
8 no installment is substantially greater in amount than any  
9 preceding installment. When necessary in order to facilitate  
10 payment in accordance with the ~~debtor's~~ borrower's principal source  
11 of income or when the loan contract is not precomputed pursuant to  
12 subsection (2) of section ~~45-137~~ 29 of this act, the payment  
13 schedule may reduce or omit installment payments. Any ~~contract of~~  
14 ~~loan~~ loan contract made in violation of this section, either  
15 knowingly or without the exercise of due care to prevent the ~~same~~  
16 violation, shall not on that account be void, but the licensee  
17 ~~shall have~~ has no right to collect or receive any interest or  
18 charges on such loan. If any interest or other charges have been  
19 collected or contracted for, the licensee shall refund to the  
20 borrower all interest and other charges collected and shall not  
21 collect thereafter any interest or other charges contracted for and  
22 thereafter due on the loan involved, as liquidated damages, and the  
23 licensee or its assignee, if found liable, shall pay the costs of  
24 any action relating thereto, including a reasonable attorney's ~~fee~~  
25 fees. No licensee shall be found liable under ~~the provisions of~~  
26 this subsection if the licensee shows by a preponderance of the  
27 evidence that the violation was not intentional and resulted from a  
28 bona fide error notwithstanding the maintenance of procedures

1 reasonably adopted to avoid any such error.

2           Sec. 31.     Section 45-139, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~45-139.~~ (1) The following types of insurance or one or  
5 more of ~~the same~~ the following types of insurance may be written in  
6 connection with loans made by licensees under ~~sections 45-114 to~~  
7 ~~45-158~~ the Nebraska Installment Loan Act:

8           (a) Fire, theft, windstorm, or comprehensive, including  
9 fire, theft, and windstorm, fifty dollars or more deductible  
10 collision, and bodily injury liability and property damage  
11 liability upon motor vehicles;

12           (b) Fire and extended-coverage insurance upon real and  
13 tangible personal property;

14           (c) Involuntary unemployment or job protection insurance.  
15 In the event of a renewal of a loan contract, this type of  
16 insurance shall be canceled and a refund of the unearned premium  
17 credited or made before new insurance of this type may be  
18 rewritten. Such insurance shall not be required as a condition  
19 precedent to the making of such loan; and

20           (d) Life, health, and accident insurance or any of them,  
21 except that the amount of such insurance shall not exceed the total  
22 amount to be repaid under the loan contract and the term shall not  
23 extend beyond the final maturity date of the loan contract. In the  
24 event of a renewal of a loan contract, this type of insurance shall  
25 be canceled and a refund of the unearned premium credited or made  
26 before new insurance of this type may be written in connection with  
27 such loan. Such insurance shall not be required as a condition  
28 precedent to the making of such loan.

1           (2) In addition to the types of insurance written under  
2 subsection (1) of this section by licensees under ~~sections 45-114~~  
3 ~~to 45-158~~ the act, any other type of insurance may be written for a  
4 licensee's borrower or the borrower's immediate family whether or  
5 not in connection with a loan, except that such insurance shall not  
6 be required as a condition precedent to the making of any loan.  
7 Nothing in this subsection ~~shall alter or eliminate~~ alters or  
8 eliminates any insurance licensing requirements.

9           (3) Notwithstanding ~~the provisions of~~ sections ~~45-137 and~~  
10 ~~45-138~~ 29 and 30 of this act, any gain or advantage, in the form of  
11 commission or otherwise, to the licensee or to any employee,  
12 affiliate, or associate of the licensee from such insurance or its  
13 sale shall not be deemed to be an additional or further charge in  
14 connection with the loan contract. The insurance premium for such  
15 insurance may be collected from the borrower or included in the  
16 loan contract at the time the loan is made.

17           (4) Insurance permitted under this section shall be  
18 obtained through a duly licensed insurance agent, agency, or  
19 broker. Premiums shall not exceed those fixed by law or current  
20 applicable manual rates. Insurance written, as authorized by this  
21 section, may contain a mortgage clause or other appropriate  
22 provision to protect the insurable interest of the licensee.

23           Sec. 32. Section 45-140, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~45-140.~~ The licensee shall, at the time the loan is  
26 made, give to the borrower, or if more than one, to one of them, a  
27 statement concerning any insurance procured by or through the  
28 licensee, which ~~shall include~~ includes the amount of any premium

1 which the borrower has paid or is obligated to pay, the amount, the  
2 expiration date of the policy, and a concise description of the  
3 risks insured. If a borrower procures insurance by or through a  
4 licensee, the licensee shall deliver to the borrower within fifteen  
5 days after the making of the loan an executed copy of the insurance  
6 policy or certificate of insurance.

7           Sec. 33.     Section 45-142, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           ~~45-142.~~ No ~~such person, firm, partnership, limited~~  
10 ~~liability company, corporation, or association so licensed licensee~~  
11 shall receive any security agreement or assignment of salary or  
12 wages signed in blank. All ~~7~~ ~~but all~~ blank spaces shall be filled  
13 in with ink or typewritten or printed with the proper names and  
14 amounts showing the name of the person, ~~firm, partnership, limited~~  
15 ~~liability company, corporation, or association~~ by whom the ~~person~~  
16 individual making the conveyance or assignment is employed. No  
17 assignment or order for wages ~~shall be~~ is valid ~~which if it~~  
18 contains an amount in excess of the sum borrowed together with the  
19 interest and charges as provided ~~herein~~ in the Nebraska Installment  
20 Loan Act.

21           Sec. 34.     Section 45-143, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           ~~45-143.~~ No licensee shall take a power of attorney, or  
24 any instrument signed by an attorney in fact and not personally, or  
25 any instrument signed in which blanks are left to be filled after  
26 execution.

27           Sec. 35.     Section 45-144, Reissue Revised Statutes of  
28 Nebraska, is amended to read:

1           ~~45-144.~~ No assignment of or order for wages to secure a  
 2 loan or advancement ~~shall be~~ is valid when made by a married man or  
 3 woman, unless the written consent of the wife or husband to the  
 4 making of ~~said~~ such loan is attached thereto.

5           Sec. 36. Section 45-145, Reissue Revised Statutes of  
 6 Nebraska, is amended to read:

7           ~~45-145.~~ Every ~~person, firm, partnership, limited~~  
 8 ~~liability company, corporation, or association~~ licensed as provided  
 9 ~~in sections 45-114 to 45-158~~ licensee shall, at the time any loan  
 10 is made, give to the borrower, or if there are two or more  
 11 borrowers, to one of them, a statement in the English language  
 12 disclosing in clear and distinct terms the information required to  
 13 be disclosed under the federal Consumer Credit Protection Act.

14           Sec. 37. A licensee may voluntarily surrender a license  
 15 by delivering to the director written notice of the surrender.  
 16 Surrender of a license (1) shall not affect civil or criminal  
 17 liability for acts committed before the surrender and (2) shall not  
 18 impair or affect the obligation of a preexisting lawful contract  
 19 between the licensee and any person, including a borrower.

20           Sec. 38. (1) The director may, following a hearing under  
 21 the Administrative Procedure Act, suspend or revoke any license  
 22 issued pursuant to the Nebraska Installment Loan Act if the  
 23 director finds any of the following:

24           (a) The licensee has materially violated or demonstrated  
 25 a continuing pattern of violating the Nebraska Installment Loan Act  
 26 or rules and regulations adopted and promulgated under the act or  
 27 any other state or federal law applicable to the conduct of its  
 28 business; or

1           (b) A fact or condition exists which, if it had existed  
2 at the time of the original application for the license, would have  
3 warranted the director to deny the application.

4           (2) Except as provided in this section, a license shall  
5 not be revoked or suspended except after notice and a hearing in  
6 accordance with the Administrative Procedure Act.

7           (3)(a) If a licensee fails to renew its license as  
8 required by section 18 of this act and does not voluntarily  
9 surrender the license pursuant to section 37 of this act, the  
10 department may issue a notice of expiration of the license to the  
11 licensee in lieu of revocation proceedings.

12           (b) If a licensee fails to maintain a surety bond as  
13 required by section 12 of this act, the department may issue a  
14 notice of cancellation of the license in lieu of revocation  
15 proceedings.

16           (4) Revocation, suspension, cancellation, or expiration  
17 of a license shall not impair or affect the obligation of a  
18 preexisting lawful contract between the licensee and any person,  
19 including a borrower.

20           (5) Revocation, suspension, cancellation, or expiration  
21 of a license shall not affect civil or criminal liability for acts  
22 committed before the revocation, suspension, cancellation, or  
23 expiration.

24           Sec. 39. Section 45-148, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           ~~45-148.~~ Whenever, for any cause, ~~such a~~ license is  
27 revoked, the ~~Department of Banking and Finance~~ department shall not  
28 issue another license to the licensee, unless the department is

1 otherwise ordered by a court of competent jurisdiction to do so.

2 Sec. 40. Section 45-149, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 ~~45-149.~~ At the request of the ~~party~~ licensee or any  
5 other aggrieved person, the ~~Department of Banking and Finance~~  
6 department shall prepare a written record which ~~shall include~~  
7 includes a transcript of the evidence, the findings with respect  
8 ~~thereto to the evidence~~, the order, and the reasons supporting the  
9 suspension or revocation, ~~or suspension~~, or denial of a license,  
10 and shall, after being paid for the cost ~~thereof of the written~~  
11 record, deliver to the licensee or other aggrieved person a copy  
12 ~~thereof of the written record~~ in person or by ~~either~~ certified or  
13 registered mail.

14 Sec. 41. Section 45-150, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 ~~45-150.~~ In addition to any other remedy ~~he or she~~ he,  
17 she, or it may have, any licensee or any other person considering  
18 ~~himself or herself~~ himself, herself, or itself aggrieved by any  
19 action of the ~~Department of Banking and Finance~~ department under  
20 ~~sections 45-114 to 45-158~~ the Nebraska Installment Loan Act may  
21 appeal the action, and the appeal shall be in accordance with the  
22 Administrative Procedure Act.

23 Sec. 42. Section 45-153, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~45-153.~~ Any person, ~~firm, partnership, limited liability~~  
26 ~~company, corporation, or association or officer or employee thereof~~  
27 violating ~~any of the provisions of sections 45-138 to 45-145~~ shall  
28 ~~be 30 to 36 of this act~~ is guilty of a Class II misdemeanor.

1           Sec. 43.   Section 45-154, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~45-154.   Any contract of loan~~ If, in the making of, or  
4 collection on, any loan contract, in the making or collection of  
5 ~~which~~ any act is done which constitutes a Class II misdemeanor  
6 under section ~~45-153~~ 42 of this act, shall not on that account that  
7 loan shall not be void, but the ~~lender~~ licensee shall have no right  
8 to collect or receive any interest or charges whatsoever.   If any  
9 interest or other charges have been collected, the ~~lender~~ licensee  
10 shall forfeit and refund to the borrower all interest and other  
11 charges collected on the loan involved.

12           Sec. 44.   Section 45-155, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~45-155.   Violation of sections 45-114 to 45-158 the~~  
15 Nebraska Installment Loan Act, except as provided by section 45-188  
16 63 of this act in connection with any indebtedness, however  
17 acquired, shall not render such indebtedness void and  
18 uncollectible.   If however, any interest or other charges have been  
19 collected or contracted for on such indebtedness, the licensee  
20 shall refund to the borrower all interest and other charges which  
21 have been collected, and shall not collect thereafter any interest  
22 or other charges contracted for and thereafter due on the loan  
23 involved, as liquidated damages, and the licensee or its assignee,  
24 if found liable, shall pay the costs of any action relating  
25 thereto, including a reasonable attorney's ~~fee~~ fees.   No licensee  
26 shall be found liable under ~~the provisions of~~ this section if the  
27 licensee shows by a preponderance of the evidence that the  
28 violation was not intentional and resulted from a bona fide error

1 notwithstanding the maintenance of procedures reasonably adopted to  
 2 avoid any such error.

3           Sec. 45.     Section 45-156, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5           ~~45-156.~~ Upon repayment of the loan in full, the licensee  
 6 shall mark plainly every obligation or copy ~~thereof~~ of the  
 7 obligation and security or copy ~~thereof~~ of the security signed by  
 8 any obligor with the word Paid or Canceled and shall release any  
 9 mortgage, trust deed, or lien, restore any pledge, and cancel and  
 10 return any note or copy ~~thereof~~ of the note and any assignment or  
 11 copy ~~thereof~~ of the assignment given to the licensee. For purposes  
 12 of this section, a copy ~~shall meet~~ meets the requirements of  
 13 section 25-12,112.

14           Sec. 46.     Section 45-157, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16           ~~45-157.~~ Whenever the ~~Department of Banking and Finance~~  
 17 director has reasonable cause to believe that any person is  
 18 violating or is threatening to or intends to violate section ~~45-137~~  
 19 ~~or 45-138~~ 29 or 30 of this act, ~~it~~ he or she may, in addition to  
 20 all actions provided for in ~~sections 45-114, 45-137, 45-138, 45-142~~  
 21 ~~to 45-145, 45-153, 45-154, and 45-156~~ to 45-158 the Nebraska  
 22 Installment Loan Act, and without prejudice thereto, enter an order  
 23 requiring such person to cease and desist or to refrain from such  
 24 violation. An action may also be brought, on the relation of the  
 25 Attorney General and the ~~department~~ director, to enjoin such person  
 26 from engaging in or continuing such violation or from doing any act  
 27 or acts in furtherance ~~thereof~~ of such violation. In any such  
 28 action an order or judgment may be entered awarding such

1 preliminary or final injunction as may be deemed proper. In  
 2 addition to all other means provided by law for the enforcement of  
 3 a restraining order or injunction, the court, in which such action  
 4 is brought, ~~shall have~~ has power and jurisdiction to impound and  
 5 appoint a receiver for the property and business of the defendant,  
 6 including books, papers, documents, and records pertaining thereto  
 7 or so much thereof as the court may deem reasonably necessary to  
 8 prevent violations of ~~sections 45-114, 45-137, 45-138, 45-142 to~~  
 9 ~~45-145, 45-153, 45-154, and 45-156 to 45-158~~ the act through or by  
 10 means of the use of ~~said~~ such property and business. Such  
 11 receiver, when so appointed and qualified, ~~shall have~~ has such  
 12 powers and duties as to custody, collection, administration,  
 13 winding up, and liquidation of such property and business as shall,  
 14 from time to time, be conferred upon the ~~said~~ receiver by the  
 15 court.

16           Sec. 47.       Section 45-158, Reissue Revised Statutes of  
 17 Nebraska, is amended to read:

18           ~~45-158.~~ No loan, made outside this state, in the amount  
 19 or of the value of three thousand dollars or less, for which a  
 20 greater rate of interest, consideration, or charges than is  
 21 permitted by section ~~45-138~~ 30 of this act has been charged,  
 22 contracted for, or received, shall be enforced in this state.  
 23 Every person, ~~in anywise~~ participating ~~therein~~ in such loan in this  
 24 state, ~~shall be~~ is subject to ~~the provisions of sections 45-114,~~  
 25 ~~45-137, 45-138, 45-142 to 45-145, 45-153, 45-154, and 45-156 to~~  
 26 ~~45-158,~~ PROVIDED, the Nebraska Installment Loan Act, except that  
 27 ~~the foregoing act~~ shall not apply to loans legally made in any  
 28 state under and in accordance with a regulatory small loan law

1 similar in principle to such ~~sections~~ act.

2           Sec. 48.     Section 45-173, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~45-173.~~ Except as otherwise provided by law and ~~sections~~  
5 ~~45-114, 45-117, 45-137, 45-138, 45-155, and 45-173~~ to 45-188 the  
6 Nebraska Installment Loan Act, a licensee shall not contact any  
7 ~~person,~~ individual who is not living, residing, or present in the  
8 household of the borrower regarding the borrower's obligation to  
9 pay a debt, other than the borrower's spouse, the borrower's  
10 attorney, another creditor, or a credit reporting agency.

11           Sec. 49.     Section 45-174, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           ~~45-174.~~ The borrower may waive the benefits of section  
14 ~~45-173~~ 48 of this act at any time by giving consent, if such  
15 consent is given at a time subsequent to the date the debt arises.

16           Sec. 50.     Section 45-175, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           ~~45-175.~~ The licensee may contact any person without the  
19 borrower's consent:

20           (1) To ascertain information relating to a borrower's  
21 credit worthiness, credit standing, credit capacity, character,  
22 general reputation, personal characteristics, or mode of living  
23 which is used or expected to be used or collected in whole or in  
24 part for the purpose of serving as a factor in establishing the  
25 borrower's eligibility for credit or insurance if such contacts are  
26 not designed to collect a delinquent debt; or

27           (2) To locate the borrower when the licensee has reason  
28 to believe the borrower has changed his or her employment or has

1 moved from his or her last-known address.

2           Sec. 51.     Section 45-176, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~45-176.~~   If the borrower has defaulted on his or her  
5 promise to pay and if he or she has given specific notice in  
6 writing, by registered or certified mail, instructing the licensee  
7 to cease further contacts with the borrower in regard to the  
8 indebtedness, the licensee shall, after such notice, except as  
9 provided in sections ~~45-177 and 45-178~~ 52 and 53 of this act, limit  
10 contacts to one notice per month by mail. No notice shall be  
11 designed to threaten action not otherwise permitted by law.

12           Sec. 52.     Section 45-177, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~45-177.~~   (1) Sections ~~45-173 to 45-176~~ 48 to 51 of this  
15 act shall not prohibit the licensee from:

16           (a) Contacting any person in order to discover property  
17 belonging to the borrower that may be seized to satisfy a debt that  
18 has been reduced to judgment;

19           (b) Making amicable demand and filing suit on the debt;  
20 or

21           (c) Contacting persons related to the ~~debtor~~ borrower if  
22 permission is specifically given in writing at the time the debt  
23 arises or at any time after such debt arises.

24           (2) In connection with the collection of any loan, a  
25 licensee may not:

26           (a) Use or threaten to use violence;

27           (b) Use obscene or profane language;

28           (c) Cause a telephone to ring or engage a person in

1 telephone conversation at times known to be inconvenient to the  
2 borrower;

3 (d) Falsely represent the character, amount, or legal  
4 status of any debt;

5 (e) Falsely represent that an individual is an attorney  
6 when he or she is not;

7 (f) Falsely represent that nonpayment of any debt will  
8 result in the arrest or imprisonment of the borrower or any member  
9 of the borrower's household;

10 (g) Threaten to take any action that the licensee knows  
11 cannot legally be taken at the time the threat is made;

12 (h) Falsely represent that the borrower committed any  
13 crime when he or she did not;

14 (i) Communicate or threaten to communicate to any person  
15 credit information which is known to be false;

16 (j) Use or distribute any written communication which  
17 falsely represents that it is a document authorized, issued, or  
18 approved by any court, official, or agency of the United States or  
19 any state;

20 (k) Charge or collect any fees, charges, or expenses,  
21 incidental to the collection of any loan, unless such amount is  
22 expressly authorized by the loan agreement or permitted by law;

23 (l) Accept from any person a check or other payment  
24 instrument postdated by more than five days unless such person is  
25 notified in writing of the licensee's intent to deposit such check  
26 or instrument not more than ten nor less than three business days  
27 prior to such deposit;

28 (m) Solicit any postdated check or other postdated

1 payment instrument for the purpose of threatening or instituting  
2 criminal prosecution;

3 (n) Deposit or threaten to deposit any postdated check  
4 prior to the date on such check;

5 (o) Cause charges to be made to any person for  
6 communications by concealment of the true purpose of the  
7 communication, including, but not limited to, collect telephone  
8 calls and telegram fees;

9 (p) Communicate with a borrower regarding a debt by  
10 postcard; or

11 (q) Communicate with a borrower at the borrower's place  
12 of employment if the licensee has received actual notice that the  
13 borrower's employer prohibits the borrower from receiving such  
14 communication.

15 Sec. 53. Section 45-178, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 ~~45-178.~~ Nothing in sections ~~45-173~~ and ~~45-176~~ 48 and 51  
18 of this act shall limit a borrower's right to bring an action for  
19 damages. When the licensee has filed suit and obtained judgment,  
20 the licensee shall be permitted to resume contacts with the  
21 borrower against whom judgment has been obtained.

22 Sec. 54. Section 45-179, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 ~~45-179.~~ An agreement of the parties to a loan, with  
25 respect to default on the part of the borrower, is enforceable only  
26 to the extent that:

27 (1) The borrower fails to make a payment on the loan or  
28 other charges required by the agreement; or

1           (2) The prospect of payment, performance, or realization  
2 of collateral is significantly impaired. The burden of  
3 establishing the prospect of significant impairment is on the  
4 licensee.

5           Sec. 55. Section 45-180, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           ~~45-180.~~ (1) With respect to a loan, after a borrower has  
8 been in default for ten days for failure to make a required  
9 payment, a licensee may give the borrower the notice described in  
10 this section. A licensee gives notice to the borrower under this  
11 section when ~~he~~ the licensee delivers the notice to the borrower or  
12 delivers or mails the notice to the last-known address of the  
13 borrower's residence.

14           (2) The notice shall be in writing and shall  
15 conspicuously state: The name, address, and telephone number of  
16 the licensee to which payment is to be made, a brief identification  
17 of the loan, the borrower's right to cure the default, the amount  
18 of payment and date by which payment must be made to cure the  
19 default, and that any credit insurance issued in connection with  
20 the loan contract may be canceled unless the borrower cures the  
21 default. ~~The Department of Banking and Finance~~ department shall  
22 prescribe the form of such notice.

23           Sec. 56. Section 45-181, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~45-181.~~ (1) With respect to a loan, after a default  
26 consisting only of the borrower's failure to make a required  
27 payment, a licensee may neither accelerate maturity of the unpaid  
28 balance of the obligation nor take possession of collateral, except

1 voluntarily surrendered collateral, because of such default until  
2 twenty days after a notice of the borrower's right to cure is  
3 given. The borrower shall have twenty days after the notice is  
4 given to cure any default consisting of a failure to make the  
5 required payment by tendering the amount of all unpaid sums due at  
6 the time of the tender, without acceleration, plus any unpaid  
7 charges. Cure restores the borrower to his or her rights under the  
8 agreement as though the default had not occurred.

9 (2) With respect to defaults on the same obligation after  
10 a licensee has once given a notice of borrower's right to cure, the  
11 borrower shall have no further right to cure and the licensee has  
12 no obligation to proceed against the borrower or the collateral.

13 Sec. 57. Section 45-182, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~45-182.~~ Upon default by a borrower with respect to a  
16 loan, unless the borrower voluntarily surrenders possession of the  
17 collateral to the licensee, the licensee may take possession of the  
18 collateral without judicial process only if possession can be taken  
19 without entry into a dwelling or a locked, unoccupied motor  
20 vehicle, and without the use of force or other breach of the peace.

21 Sec. 58. Section 45-183, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~45-183.~~ (1) No ~~natural person~~ individual, other than the  
24 spouse of the borrower, is obligated as a cosigner, comaker,  
25 guarantor, endorser, surety, or similar party with respect to a  
26 loan, unless before or contemporaneously with signing any separate  
27 agreement of loan or any writing setting forth the terms of the  
28 borrower's agreement, the ~~person~~ individual receives a separate

1 written notice that contains a completed identification of the loan  
2 he or she may have to pay and reasonably informs him or her of his  
3 or her obligation with respect to it.

4 (2) Such notice shall be in the form prescribed by the  
5 ~~Department of Banking and Finance~~ department.

6 (3) ~~A person~~ An individual entitled to notice under this  
7 section shall also be given a copy of any writing setting forth the  
8 terms of the borrower's agreement and of any separate agreement of  
9 obligation signed by the ~~person~~ individual entitled to the notice.

10 Sec. 59. Section 45-184, Revised Statutes Supplement,  
11 2000, is amended to read:

12 ~~45-184.~~ (1) A borrower is not liable for a deficiency  
13 unless the licensee has disposed of the collateral in good faith  
14 and in a commercially reasonable manner.

15 (2) If the licensee takes possession or voluntarily  
16 accepts surrender of goods in which the licensee has a security  
17 interest to secure a loan and at the time thereof the unpaid  
18 balance due on the loan is three thousand dollars or less, the  
19 borrower is not personally liable to the licensee for the unpaid  
20 balance of the debt arising from the loan and the licensee's duty  
21 to dispose of the collateral is governed by the provisions on  
22 disposition of collateral, article 9, Uniform Commercial Code.

23 (3) The borrower may be liable in damages to the licensee  
24 if the borrower has wrongfully damaged the collateral if, after  
25 default, failure to cure, and demand, the borrower has wrongfully  
26 failed to make the collateral available to the licensee.

27 (4) If the licensee elects to bring an action against the  
28 borrower for a debt arising from a loan, when under this section

1 the licensee would not be entitled to a deficiency judgment if the  
2 licensee took possession of the collateral, and obtains judgment  
3 (a) the licensee may not take possession of the collateral, and (b)  
4 the collateral is not subject to levy or sale on execution or  
5 similar proceedings pursuant to the judgment.

6 Sec. 60. Section 45-185, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~45-185.~~ The licensee shall give to the borrower a copy  
9 of any writing evidencing a loan if the writing requires or  
10 provides for the signature of the borrower. The writing evidencing  
11 the borrower's obligation to pay under a loan shall contain a clear  
12 and conspicuous notice in form and content substantially as  
13 follows:

14 NOTICE TO CONSUMER: 1. Do not sign this paper before  
15 you read it. 2. You are entitled to a copy of this paper. 3.  
16 You may prepay the unpaid balance at any time without penalty and  
17 may be entitled to receive a refund of unearned charges in  
18 accordance with law.

19 Upon written request of a borrower, the licensee shall  
20 provide a written statement of the dates and amounts of payments  
21 made and the amounts of any default and deferment charges assessed  
22 preceding the month in which the request is received and the total  
23 amount unpaid as the end of the period covered by the statement and  
24 a copy of the loan agreement, security agreement, and a facsimile  
25 of any insurance certificate issued as part of the transaction, if  
26 applicable. The licensee may charge a reasonable fee for such  
27 copies, not to exceed fifty cents per page.

28 Sec. 61. Section 45-186, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~45-186.~~ A licensee shall not refuse to enter into a loan  
3 or impose finance charges or other terms or conditions of credit  
4 more onerous than those regularly extended by that licensee to  
5 borrowers of similar economic backgrounds because of the age,  
6 color, creed, national origin, political affiliation, race,  
7 religion, sex, marital status, or disability of the borrower, or  
8 because the borrower receives public assistance, social security  
9 benefits, pension benefits, or the like.

10           Sec. 62. Section 45-187, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           ~~45-187.~~ No licensee shall, directly or indirectly,  
13 require a borrower as a condition of granting a loan to such  
14 borrower to reaffirm or otherwise obligate himself or herself to  
15 pay a former debt to the licensee which has been discharged in  
16 bankruptcy proceedings.

17           Sec. 63. Section 45-188, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~45-188.~~ Any violation of sections ~~45-173 to 45-188~~ 48 to  
20 63 of this act in connection with any loan transaction, however  
21 acquired, shall not render the indebtedness, any interest, or other  
22 charges void or uncollectible. In an action, other than a class  
23 action, the borrower may recover from the licensee violating such  
24 sections an award of liquidated damages in an amount determined by  
25 the court, but not less than five hundred dollars nor more than one  
26 thousand dollars. In any legal action brought pursuant to this  
27 section in which the licensee is found liable, the court shall  
28 award costs and reasonable attorneys' fees to the borrower. A

1 licensee is not liable under this section if the licensee notifies  
2 the borrower of an error before the licensee receives from the  
3 borrower written notice of the error or before the borrower has  
4 brought an action under this section, and the licensee corrects the  
5 error within thirty days after notifying the borrower. A licensee  
6 may not be held liable in any action brought under this section if  
7 the licensee shows by a preponderance of evidence that the  
8 violation was not intentional and resulted from a bona fide error  
9 notwithstanding the maintenance of procedures reasonably adapted to  
10 avoid the error.

11 Sec. 64. Section 45-194, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 ~~45-194.~~ For purposes of sections ~~45-194 to 45-1,103~~ 64  
14 to 72 of this act, unless the context otherwise requires, the  
15 definitions found in sections ~~45-195 to 45-197~~ 65 and 66 of this  
16 act shall also be used.

17 Sec. 65. Section 45-195, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 ~~45-195.~~ Billing cycle ~~shall mean~~ means the time interval  
20 between periodic billing dates. A billing cycle shall be  
21 considered monthly if the closing date of the cycle is the same  
22 date each month or does not vary by more than four days from such  
23 date.

24 Sec. 66. Section 45-196, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 ~~45-196.~~ Preauthorized loan ~~shall mean~~ means a loan made  
27 by a licensee pursuant to an agreement between the licensee and the  
28 borrower whereby:

1           (1) The licensee may permit the borrower to obtain  
2 advances of money from the licensee from time to time or the  
3 licensee may advance money on behalf of the borrower from time to  
4 time as directed by the borrower;

5           (2) The amount of each advance and permitted charge and  
6 cost is debited to the borrower's account and payments and other  
7 credits are credited to the same account;

8           (3) The charges are computed on the unpaid principal  
9 balance or balances of the account from time to time;

10           (4) The borrower has the privilege of paying the account  
11 in full at any time or, if the account is not in default, in  
12 monthly installments or fixed or determinable amounts as provided  
13 in the agreement; and

14           (5) The loan agreement expressly states that it covers  
15 preauthorized loans. Preauthorized loan ~~shall~~ does not mean a  
16 transaction, resulting in either a credit or a debit to the  
17 borrower's account, which is initiated by the use or application of  
18 a plastic, metal, or other type of credit or transaction card.

19           Sec. 67. Section 45-198, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           ~~45-198.~~ A licensee may make preauthorized loans and may  
22 contract for and receive charges on such loans as set forth in  
23 subsection (1) of section ~~45-137~~ 29 of this act as follows:

24           (1) A licensee shall not compound charges by adding any  
25 unpaid charges authorized by section ~~45-137~~ or sections 45-194 to  
26 ~~45-1,103~~ 29 of this act or sections 64 to 72 of this act to the  
27 unpaid principal balance of the borrower's account, except that the  
28 unpaid principal balance may include the additional charges

1 authorized by section ~~45-1,100.~~ 69 of this act;

2 (2) Charges authorized by section ~~45-137 or sections~~  
3 ~~45-194 to 45-1,103~~ 29 of this act or sections 64 to 72 of this act  
4 shall be deemed not to exceed the maximum charges permitted by such  
5 sections if such charges are computed in each billing cycle by any  
6 of the following methods:

7 (a) By converting each graduated monthly rate to a daily  
8 rate and multiplying such daily rate by the applicable portion of  
9 the daily unpaid principal balance of the account, in which case  
10 each daily rate is determined by multiplying the authorized monthly  
11 rate by twelve and dividing by three hundred sixty-five;

12 (b) By multiplying each graduated monthly rate by the  
13 applicable portion of the average daily unpaid principal balance of  
14 the account in the billing cycle, in which case the average daily  
15 unpaid principal balance is the sum of the amount unpaid each day  
16 during the cycle divided by the number of days in the cycle; or

17 (c) By converting each graduated monthly rate to a daily  
18 rate and multiplying such daily rate by the applicable portion of  
19 the average daily unpaid principal balance of the account in the  
20 billing cycle, in which case each daily rate is determined by  
21 multiplying the authorized monthly rate by twelve and dividing by  
22 three hundred sixty-five, and the average daily unpaid principal  
23 balance is the sum of the amount unpaid each day during the cycle  
24 divided by the number of days in the cycle; and -

25 (3) For each method of computation set forth in  
26 ~~subsection~~ subdivision (2) of this section, the billing cycle shall  
27 be monthly and the unpaid principal balance on any day shall be  
28 determined by adding to any balance unpaid as of the beginning of

1 that day all advances and other permissible amounts charged to the  
2 borrower and deducting all payments and other credits made or  
3 received that day.

4 Sec. 68. Section 45-199, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 ~~45-199.~~ The borrower under a preauthorized loan may at  
7 any time pay all or any part of the unpaid balance in his or her  
8 account, or, if the account is not in default, the borrower may pay  
9 the unpaid principal balance in monthly installments. Minimum  
10 monthly payment requirements shall be determined by the licensee  
11 and set forth in the preauthorized loan agreement, except that the  
12 minimum monthly payment shall not be less than one and one-half  
13 percent of the average daily unpaid principal balance of an account  
14 having an average daily balance of more than three thousand dollars  
15 nor less than two percent of the average daily unpaid principal  
16 balance of an account having an average daily balance of three  
17 thousand dollars or less.

18 Sec. 69. Section 45-1,100, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~45-1,100.~~ In addition to the charges permitted under  
21 section ~~45-198~~ 67 of this act, a licensee may contract for and  
22 receive the fees, costs, and expenses permitted by ~~sections 45-114~~  
23 ~~to 45-158~~ the Nebraska Installment Loan Act on other loans, subject  
24 to all the conditions and restrictions set forth in ~~such sections~~  
25 the act with the following variations:

26 (1) If credit life or disability insurance is provided  
27 and if the insured dies or becomes disabled when there is an  
28 outstanding preauthorized loan indebtedness, the insurance shall be

1 sufficient to pay the total balance of the loan due on the date of  
2 the borrower's death or the amount due as of the end of the  
3 previous billing cycle, whichever is less, in the case of credit  
4 life insurance, or all minimum payments which become due on the  
5 loan during the covered period of disability in the case of credit  
6 disability insurance. The additional charge for credit life  
7 insurance or credit disability insurance shall be calculated in  
8 each billing cycle by applying the current monthly premium rate for  
9 such insurance, as such rate may be determined by the Director of  
10 Insurance, to the unpaid balances in the borrower's account, using  
11 either of the methods specified in section ~~45-198~~ 67 of this act  
12 for the calculation of loan charges;

13 (2) No credit life or disability insurance written in  
14 connection with a preauthorized loan shall be canceled by the  
15 ~~lender licensee~~ because of delinquency of the borrower in the  
16 making of the required minimum payments on the loan unless one or  
17 more of such payments is past due for a period of ninety days or  
18 more, and the ~~lender licensee~~ shall advance to the insurer the  
19 amounts required to keep the insurance in force during such period,  
20 which amounts may be debited to the borrower's account;

21 (3) The ~~Department of Banking and Finance~~ department may,  
22 by rule and regulation, require a statement of insurance that will  
23 be appropriate for preauthorized loans in lieu of that required by  
24 section ~~45-140~~ 32 of this act; and

25 (4) The amount, terms, and conditions of any insurance  
26 against loss or damage to property must be reasonable in relation  
27 to the character and value of the property insured and the maximum  
28 anticipated amount of credit to be extended.

1           Sec. 70. Section 45-1,101, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~45-1,101.~~ A licensee may retain any security interest,  
4 including a mortgage on real estate, until the preauthorized  
5 account is terminated.

6           Sec. 71. Section 45,1,102, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~45-1,102.~~ Subsection (2) of section ~~45-138~~ 30 of this  
9 act and sections ~~45-145 and 45-156~~ 36 and 45 of this act shall not  
10 apply to preauthorized loans.

11           Sec. 72. Section 45-1,103, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           ~~45-1,103.~~ The ~~Department of Banking and Finance~~  
14 department may approve record-keeping systems for licensees and may  
15 prescribe policies and procedures necessary to the administration  
16 of sections ~~45-194 to 45-1,103~~ 64 to 72 of this act.

17           Sec. 73. Section 45-1,110, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           45-1,110. Sections 45-1,105 to 45-1,110 shall not apply  
20 to any licensee operating ~~pursuant to sections 45-114 to 45-158 and~~  
21 ~~45-173 to 45-188~~ under the Nebraska Installment Loan Act.

22           Sec. 74. Section 45-1,116, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           ~~45-1,116.~~ (1) ~~Reverse mortgage~~ For purposes of this  
25 section, reverse-mortgage loan means a loan made by a lender  
26 ~~authorized to engage in business as a licensee operating under a~~  
27 ~~license duly issued by the Department of Banking and Finance under~~  
28 ~~sections 45-114 to 45-158~~ which (a) is secured by residential real

1 property, (b) is nonrecourse to the borrower except in the event of  
2 fraud by the borrower or waste to the property given as security  
3 for the loan, (c) provides cash advances to the borrower based upon  
4 the equity in the borrower's owner-occupied principal residence,  
5 (d) requires no payment of principal or interest until the entire  
6 loan becomes due and payable, and (e) otherwise complies with the  
7 terms of this section.

8 (2) ~~Reverse mortgage~~ Reverse-mortgage loans shall be  
9 governed by the following rules without regard to the requirements  
10 set out elsewhere for other types of mortgage transactions: (a)  
11 Payment in whole or in part is permitted without penalty at any  
12 time during the period of the loan; (b) an advance and interest on  
13 the advance have priority over a lien filed after the closing of a  
14 ~~reverse mortgage~~ reverse-mortgage loan; (c) an interest rate may be  
15 fixed or adjustable and may also provide for interest that is  
16 contingent on appreciation in the value of the property; and (d)  
17 the advance shall not be reduced in amount or number based on an  
18 adjustment in the interest rate when a ~~reverse mortgage~~  
19 reverse-mortgage loan provides for periodic advances to a borrower.

20 (3) ~~Reverse mortgage~~ Reverse-mortgage loans may be made  
21 or acquired without regard to the following provisions for other  
22 types of mortgage transactions: (a) Limitations on the purpose and  
23 use of future advances or any other mortgage proceeds; (b)  
24 limitations on future advances to a term of years or limitations on  
25 the term of credit line advances; (c) limitations on the term  
26 during which future advances take priority over intervening  
27 advances; (d) requirements that a maximum mortgage amount be stated  
28 in the mortgage; (e) limitations on loan-to-value ratios; (f)

1 prohibitions on balloon payments; (g) prohibitions on compounded  
 2 interest and interest on interest; and (h) requirements that a  
 3 percentage of the loan proceeds must be advanced prior to loan  
 4 assignment.

5 (4) A ~~lender~~ licensee may, in connection with a ~~reverse~~  
 6 ~~mortgage~~ reverse-mortgage loan, charge to the borrower (a) a  
 7 nonrefundable loan origination fee which does not exceed two  
 8 percent of the appraised value of the home at the time the loan is  
 9 made, (b) a reasonable fee paid to third parties originating loans  
 10 on behalf of the ~~lender~~ licensee, and (c) such other fees as are  
 11 necessary and required for inspections, insurance, appraisals, and  
 12 surveys.

13 (5) ~~Lenders~~ Licensees failing to make loan advances as  
 14 required in the loan documents and failing to cure the default as  
 15 required in the loan documents shall forfeit an amount equal to the  
 16 greater of two hundred dollars or one percent of the amount of the  
 17 loan advance the ~~lender~~ licensee failed to make.

18 ~~(6) Nothing in this section shall be construed to limit~~  
 19 ~~the department's authority to examine, audit, or inspect reverse~~  
 20 ~~mortgage loans for compliance with requirements for loans made by a~~  
 21 ~~licensee operating under sections 45-114 to 45-158.~~

22 Sec. 75. Original sections 8-319, 8-330, 8-820.01,  
 23 44-1703, 45-114, 45-115, 45-117, 45-119, 45-120, 45-122 to 45-124,  
 24 45-126 to 45-129, 45-131 to 45-136, 45-138 to 45-140, 45-142 to  
 25 45-145, 45-148 to 45-150, 45-153 to 45-155, 45-156 to 45-158,  
 26 45-173 to 45-183, 45-185 to 45-188, 45-194 to 45-196, 45-198 to  
 27 45-1,103, 45-1,110, and 45-1,116, Reissue Revised Statutes of  
 28 Nebraska, and sections 45-101.04, 45-116, 45-118, 45-121, 45-130,

1 45-137, and 45-184, Revised Statutes Supplement, 2000, are  
2 repealed.

3           Sec. 76. The following sections are outright repealed:  
4 Sections 45-146, 45-147, 45-188.01, and 45-197, Reissue Revised  
5 Statutes of Nebraska.