

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 130

Introduced By: Pahls, 31; Carlson, 38; Christensen, 44; Gay, 14; Hansen, 42; Langemeier, 23; Pankonin, 2; Pirsch, 4

Read first time: January 8, 2007

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Nebraska Installment Loan Act; to
 2 amend sections 45-1013 and 45-1033, Revised Statutes
 3 Cumulative Supplement, 2006; to provide for a licensee
 4 relocation fee; to harmonize provisions; and to repeal the
 5 original sections.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 45-1013, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 45-1013. (1) For the annual renewal of an original license
4 under the Nebraska Installment Loan Act, the licensee shall file with
5 the department a fee of two hundred fifty dollars and a renewal
6 application containing such information as the director may require to
7 indicate any material change in the information contained in the
8 original application or succeeding renewal applications.

9 (2) For the move of its place of business, a licensee shall
10 file with the department a fee of one hundred fifty dollars and an
11 application containing such information as the director may require
12 to determine whether the relocation should be approved. Upon receipt
13 of the fee and application, the director shall publish a notice of
14 the filing of the application in a newspaper of general circulation
15 in the county where the licensee proposes to relocate. If the
16 director receives any substantive objection to the proposed
17 relocation within fifteen days after publication of such notice, he
18 or she shall hold a hearing on the application in accordance with the
19 Administrative Procedure Act. The expense of any publication required
20 by this section shall be paid by the applicant licensee.

21 Sec. 2. Section 45-1033, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 45-1033. (1) The director may, following a hearing under the
24 Administrative Procedure Act, suspend or revoke any license issued
25 pursuant to the Nebraska Installment Loan Act. The director may also
26 impose an administrative fine on the licensee for each separate
27 violation of the act. The director may take one or more of these

1 actions if the director finds:

2 (a) The licensee has materially violated or demonstrated a
3 continuing pattern of violating the Nebraska Installment Loan Act or
4 rules and regulations adopted and promulgated under the act, any order
5 issued under the act, or any other state or federal law applicable to
6 the conduct of its business;

7 (b) A fact or condition exists which, if it had existed at
8 the time of the original application for the license, would have
9 warranted the director to deny the application;

10 (c) The licensee has violated a voluntary consent or
11 compliance agreement which had been entered into with the director;

12 (d) The licensee has knowingly provided or caused to be
13 provided to the director any false or fraudulent representation of a
14 material fact or any false or fraudulent financial statement or
15 suppressed or withheld from the director any information which, if
16 submitted by the licensee, would have resulted in denial of the
17 license application;

18 (e) The licensee has refused to permit an examination by the
19 director of the licensee's business, records, and accounts pursuant to
20 subsection (1) of section 45-1017 or refused or failed to comply with
21 subsection (2) of section 45-1017 or failed to make any report
22 required under section 45-1018. Each day the licensee continues in
23 violation of this subdivision constitutes a separate violation;

24 (f) The licensee has failed to maintain records as required
25 by the director following written notice. Each day the licensee
26 continues in violation of this subdivision constitutes a separate
27 violation;

1 (g) The licensee knowingly has employed any individual or
2 knowingly has maintained a contractual relationship with any
3 individual acting as an agent, if such individual has been convicted
4 of, pleaded guilty to, or was found guilty after a plea of nolo
5 contendere to (i) a misdemeanor under any state or federal law which
6 involves dishonesty or fraud or which involves any aspect of the
7 mortgage banking business, financial institution business, or
8 installment loan business or (ii) any felony under state or federal
9 law;

10 (h) The licensee has violated the written restrictions or
11 conditions under which the license was issued; or

12 (i) The licensee, or if the licensee is a business entity,
13 one of the officers, directors, members, partners, or controlling
14 shareholders, was found guilty after a plea of nolo contendere to (i)
15 a misdemeanor under any state or federal law which involves dishonesty
16 or fraud or which involves any aspect of the mortgage banking
17 business, financial institution business, or installment loan business
18 or (ii) any felony under state or federal law.

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

22 (3)(a) If a licensee fails to renew its license as required
23 by subsection (1) of section 45-1013 and does not voluntarily
24 surrender the license pursuant to section 45-1032, the department may
25 issue a notice of expiration of the license to the licensee in lieu of
26 revocation proceedings.

27 (b) If a licensee fails to maintain a surety bond as

1 required by section 45-1007, the department may issue a notice of
2 cancellation of the license in lieu of revocation proceedings.

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

7 (5) Revocation, suspension, cancellation, or expiration of a
8 license shall not affect civil or criminal liability for acts
9 committed before the revocation, suspension, cancellation, or
10 expiration or liability for any fines which may be imposed against the
11 licensee or any of its officers, directors, shareholders, partners, or
12 members pursuant to this section or section 45-1069 for acts committed
13 before the surrender.

14 Sec. 3. Original sections 45-1013 and 45-1033, Revised
15 Statutes Cumulative Supplement, 2006, are repealed.