

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 194**

FINAL READING

Introduced by Vargas, 7; Linehan, 39; Albrecht, 17; Blood, 3; Pansing  
Brooks, 28.

Read first time January 10, 2017

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to interest, loans, and debt; to amend  
2 sections 45-804, 45-904, 45-907, 45-911, 45-915.01, 45-917, 45-918,  
3 45-921, 45-922, 45-923, and 45-1001, Reissue Revised Statutes of  
4 Nebraska, section 45-901, Revised Statutes Cumulative Supplement,  
5 2016, and sections 45-902 and 45-919, Revised Statutes Supplement,  
6 2017; to prohibit certain fees under the Credit Services  
7 Organization Act; to change provisions relating to the Delayed  
8 Deposit Services Licensing Act; to define and redefine terms; to  
9 change and add prohibited acts by licensees and their affiliates; to  
10 add and change provisions relating to notice, fees, collection of  
11 returned checks, prepayment, rescission of a delayed deposit  
12 transaction, payment of proceeds, distribution and amount of fines,  
13 and cease and desist orders; to provide for extended payment plans;  
14 to provide reporting duties for licensees and the Department of  
15 Banking and Finance; to provide for a minimum term for loans under  
16 the Nebraska Installment Loan Act; to harmonize provisions; to  
17 provide operative dates; and to repeal the original sections.  
18 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 45-804, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 45-804 A credit services organization, a salesperson, an agent, or a  
4 representative of a credit services organization, or an independent  
5 contractor who sells or attempts to sell the services of a credit  
6 services organization shall not:

7 (1) Charge a buyer or receive from a buyer money or other valuable  
8 consideration before completing performance of all services, other than  
9 those described in subdivision (2) of this section, which the credit  
10 services organization has agreed to perform for the buyer unless the  
11 credit services organization has obtained a surety bond or established  
12 and maintained a surety account as provided in section 45-805;

13 (2) Charge a buyer or receive from a buyer money or other valuable  
14 consideration for obtaining or attempting to obtain an extension of  
15 credit that the credit services organization has agreed to obtain for the  
16 buyer before the extension of credit is obtained;

17 (3) Charge a buyer or receive from a buyer money or other valuable  
18 consideration solely for referral of the buyer to a retail seller who  
19 will or may extend credit to the buyer if the credit that is or will be  
20 extended to the buyer is substantially the same as that available to the  
21 general public;

22 (4) Make or use a false or misleading representation in the offer or  
23 sale of the services of a credit services organization, including (a)  
24 guaranteeing to erase bad credit or words to that effect unless the  
25 representation clearly discloses that this can be done only if the credit  
26 history is inaccurate or obsolete and (b) guaranteeing an extension of  
27 credit regardless of the person's previous credit problem or credit  
28 history unless the representation clearly discloses the eligibility  
29 requirements for obtaining an extension of credit;

30 (5) Engage, directly or indirectly, in a fraudulent or deceptive  
31 act, practice, or course of business in connection with the offer or sale

1 of the services of a credit services organization;

2 (6) Make or advise a buyer to make a statement with respect to a  
3 buyer's credit worthiness, credit standing, or credit capacity that is  
4 false or misleading or that should be known by the exercise of reasonable  
5 care to be false or misleading to a consumer reporting agency or to a  
6 person who has extended credit to a buyer or to whom a buyer is applying  
7 for an extension of credit; ~~or~~

8 (7) Advertise or cause to be advertised, in any manner whatsoever,  
9 the services of a credit services organization without filing a  
10 registration statement with the Secretary of State under section 45-806  
11 unless otherwise provided by the Credit Services Organization Act; or -

12 (8) Notwithstanding any other provision of law, charge any brokerage  
13 fees or any other fees or charges whatsoever in connection with a loan  
14 governed by the Nebraska Installment Loan Act.

15 Sec. 2. Section 45-901, Revised Statutes Cumulative Supplement,  
16 2016, is amended to read:

17 45-901 Sections 45-901 to 45-930 and sections 10, 11, 12, 13, 15,  
18 and 19 of this act shall be known and may be cited as the Delayed Deposit  
19 Services Licensing Act.

20 Sec. 3. Section 45-902, Revised Statutes Supplement, 2017, is  
21 amended to read:

22 45-902 For purposes of the Delayed Deposit Services Licensing Act:

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

30 (2) ~~(1)~~ Check means any check, draft, or other instrument for the  
31 payment of money. Check also means an authorization to debit an account

1 electronically;

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

5 (4) (2) Delayed deposit services business means any person who for a  
6 fee (a) accepts a check dated subsequent to the date it was written or  
7 (b) accepts a check dated on the date it was written and holds the check  
8 for a period of days prior to deposit or presentment pursuant to an  
9 agreement with or any representation made to the maker of the check,  
10 whether express or implied;

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

12 (6) (3) Director means the Director of Banking and Finance or his or  
13 her designee;

14 (7) (4) Financial institution has the same meaning as in section  
15 8-101.03;

16 (8) (5) Licensee means any person licensed under the Delayed Deposit  
17 Services Licensing Act; and

18 (9) Maker means an individual who receives the proceeds of a delayed  
19 deposit transaction; and

20 (10) (6) Person means an individual, proprietorship, association,  
21 joint venture, joint stock company, partnership, limited partnership,  
22 limited liability company, business corporation, nonprofit corporation,  
23 or any group of individuals however organized.

24 Sec. 4. Section 45-904, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 45-904 No person shall operate a delayed deposit services business  
27 or make or offer a delayed deposit transaction in this state unless the  
28 person is licensed by the director as provided in the Delayed Deposit  
29 Services Licensing Act. Any delayed deposit transaction that is made by a  
30 person who is required to be licensed pursuant to the act but who is not  
31 licensed is void, and the person making such delayed deposit transaction

1 has no right to collect, receive, or retain any principal, interest,  
2 fees, or any other charges in connection with such delayed deposit  
3 transaction.

4       Sec. 5. Section 45-907, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6       45-907 (1) When an application for a delayed deposit services  
7 business license has been accepted by the director as substantially  
8 complete, notice of the filing of the application shall be published by  
9 the director for three successive weeks in a legal newspaper published in  
10 or of general circulation in the county where the applicant proposes to  
11 operate the delayed deposit services business. A public hearing shall be  
12 held on each application except as provided in subsection (2) of this  
13 section. The date for hearing shall not be less than thirty days after  
14 the last publication. Written protest against the issuance of the license  
15 may be filed with the department ~~Department of Banking and Finance~~ by any  
16 person not less than five days before the date set for hearing. The  
17 director, in his or her discretion, may grant a continuance. The costs of  
18 the hearing shall be paid by the applicant. The director may investigate  
19 the propriety of the issuance of a license to the applicant. The costs of  
20 such investigation shall be paid by the applicant.

21       (2) The director may waive the hearing requirements of subsection  
22 (1) of this section if (a) the applicant has held and operated under a  
23 license to engage in the delayed deposit services business in Nebraska  
24 pursuant to the Delayed Deposit Services Licensing Act for at least three  
25 calendar years immediately prior to the filing of the application, (b) no  
26 written protest against the issuance of the license has been filed with  
27 the department within fifteen days after publication of a notice of the  
28 filing of the application one time in a newspaper of general circulation  
29 in the county where the applicant proposes to operate the delayed deposit  
30 services business, and (c) in the judgment of the director, the  
31 experience, character, and general fitness of the applicant warrant the

1 belief that the applicant will comply with the act.

2 (3) The expense of any publication made pursuant to this section  
3 shall be paid by the applicant.

4 Sec. 6. Section 45-911, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 45-911 A licensee may surrender a delayed deposit services business  
7 license by delivering to the director written notice that the license is  
8 surrendered. The ~~department~~ Department of Banking and Finance may issue a  
9 notice of cancellation of the license following such surrender in lieu of  
10 revocation proceedings. The surrender shall not affect the licensee's  
11 civil or criminal liability for acts committed prior to such surrender,  
12 affect the liability for any fines which may be levied against the  
13 licensee or any of its officers, directors, shareholders, partners, or  
14 members for acts committed before the surrender, affect the liability of  
15 the surety on the bond, or entitle such licensee to a return of any part  
16 of the annual license fee or fees. The director may establish procedures  
17 for the disposition of the books, accounts, and records of the licensee  
18 and may require such action as he or she deems necessary for the  
19 protection of the makers of checks which are outstanding at the time of  
20 surrender of the license.

21 Sec. 7. Section 45-915.01, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 45-915.01 (1) Each licensee shall keep or make available the books  
24 and records relating to transactions made under the Delayed Deposit  
25 Services Licensing Act as are necessary to enable the department to  
26 determine whether the licensee is complying with the act. The books and  
27 records shall be maintained in a manner consistent with accepted  
28 accounting practices.

29 (2) A licensee shall, at a minimum, include in its books and records  
30 copies of all application materials relating to makers, disclosure  
31 agreements, checks, payment receipts, and proofs of compliance required

1 by section 45-919.

2 (3) A licensee shall preserve or keep its books and records relating  
3 to every delayed deposit transaction for three years from the date of the  
4 inception of the transaction, or two years from the date a final entry is  
5 made thereon, including any applicable collection effort, whichever is  
6 later.

7 (4) The licensee shall maintain its books, accounts, and records,  
8 whether in physical or electronic form, at its designated principal place  
9 of business, except that books, accounts, and records which are older  
10 than two years may be maintained at any other place within this state as  
11 long as such records are available for inspection by the department  
12 ~~Department of Banking and Finance.~~

13 Sec. 8. Section 45-917, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 45-917 (1)(a) ~~(1)~~ Every licensee shall, at the time any delayed  
16 deposit ~~services~~ transaction is made, give to the maker of the check, or  
17 if there are two or more makers, to one of them, a notice written in  
18 plain English disclosing:

19 (i) The name of the maker, transaction date, and transaction amount;

20 (ii) The payment due date and total payment due;

21 (iii) The total of fees on the transaction, expressed as both a  
22 dollar amount and an annual percentage rate;

23 ~~(a) The fee to be charged for the transaction;~~

24 (iv) (b) The date on which the check will be deposited or presented  
25 for negotiation; and

26 (v) (c) Any penalty not to exceed fifteen dollars which the licensee  
27 will charge if the check is not negotiable on the date agreed upon. If  
28 the licensee required the maker to give two checks for one delayed  
29 deposit transaction, the licensee shall charge only one penalty in the  
30 event both checks are not negotiable on the date agreed upon.

31 (b) The notice required by this subsection shall include the

1 following language, all capitalized and in at least ten-point font:

2 1. THIS TYPE OF SERVICE SHOULD BE USED ONLY TO MEET SHORT-TERM CASH  
3 NEEDS.

4 2. THE LAW DOES NOT ALLOW THIS TYPE OF TRANSACTION TO BE MORE THAN  
5 FIVE HUNDRED DOLLARS (\$500) IN TOTAL, INCLUDING FEES AND CHARGES, FROM  
6 ONE LENDER.

7 3. YOU HAVE THE RIGHT TO RESCIND THIS TRANSACTION IF YOU DO SO BY  
8 THE NEXT BUSINESS DAY BEFORE 5 P.M.

9 4. YOU HAVE THE RIGHT TO RESCIND YOUR AUTHORIZATION FOR ELECTRONIC  
10 PAYMENT.

11 (2) In addition to the notice required by subsection (1) of this  
12 section, every licensee shall conspicuously display a schedule of all  
13 fees, charges, and penalties for all services provided by the licensee.  
14 Such notice shall be posted at every office of the licensee.

15 Sec. 9. Section 45-918, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 45-918 (1) No licensee shall charge as a fee a total amount in  
18 excess of fifteen dollars per one hundred dollars or pro rata for any  
19 part thereof on the face amount of a check for services provided by the  
20 licensee.

21 (2) The fees set forth in this section shall not be charged to  
22 individuals on active duty military or their spouses or dependents in an  
23 amount that exceeds what is allowed under 10 U.S.C. 987, as such section  
24 existed on January 1, 2018.

25 Sec. 10. If a check held by a licensee as a result of a delayed  
26 deposit transaction is returned unpaid to the licensee from a payor  
27 financial institution due to insufficient funds, a closed account, a  
28 stop-payment order, or any other reason, not including a bank error, the  
29 licensee shall have the right to exercise all civil means authorized by  
30 law to collect the face value of the check. In addition, the licensee may  
31 contract for and collect one returned check charge for each delayed



1 deposit transaction, not to exceed fifteen dollars, plus court costs and  
2 reasonable attorney's fees as awarded by a court and incurred as a result  
3 of the default. However, such attorney's fees shall not exceed the amount  
4 of the check. The licensee shall not collect any other fees as a result  
5 of default. A returned check charge shall not be allowed if, due to  
6 forgery or theft, the transaction proceeds check is dishonored by the  
7 financial institution.

8       Sec. 11. A licensee shall accept prepayment from a maker prior to  
9 the due date without charging the maker a penalty of any kind.

10       Sec. 12. (1) A maker shall have the right to rescind a delayed  
11 deposit transaction before 5 p.m. the next business day following the  
12 delayed deposit transaction.

13       (2) Prior to the licensee negotiating or presenting the check, the  
14 maker shall have the right to redeem any check held by a licensee as a  
15 result of a delayed deposit transaction if the maker pays the full amount  
16 to the licensee.

17       Sec. 13. (1) A licensee may pay the proceeds from a delayed deposit  
18 transaction or rebate to the maker in the form of check, money order,  
19 cash, stored value card, internet transfer, or authorized automated  
20 clearinghouse transaction. Neither the licensee nor any affiliate of the  
21 licensee shall charge the maker an additional finance charge or fee for  
22 cashing the licensee's check or for negotiating forms of transaction  
23 proceeds or rebates other than cash.

24       (2) A licensee may utilize electronic payment through transfer or  
25 withdrawal of funds from the maker's account only, but only with the  
26 written authorization of the maker.

27       Sec. 14. Section 45-919, Revised Statutes Supplement, 2017, is  
28 amended to read:

29       45-919 (1) No licensee shall:

30       (a) At any one time hold from any one maker more than two checks;

31       (b) At any one time hold from any one maker a check or checks in an

1 aggregate face amount of more than five hundred dollars;

2 (c) Hold or agree to hold a check for more than thirty-four days. A  
3 check which is in the process of collection for the reason that it was  
4 not negotiable on the day agreed upon shall not be deemed as being held  
5 in excess of the thirty-four-day period;

6 (d) Require the maker to receive payment by a method which causes  
7 the maker to pay additional or further fees and charges to the licensee,  
8 an affiliate of the licensee, or any other person;

9 (e) Accept a check as repayment, refinancing, or any other  
10 consolidation of a check or checks held by the same licensee;

11 (f) Except as provided in section 15 of this act, renew Renew, roll  
12 over, defer, or in any way extend a delayed deposit transaction by  
13 allowing the maker to pay less than the total amount of the check and any  
14 authorized fees or charges. This subdivision shall not prevent a licensee  
15 that agreed to hold a check for less than thirty-four days from agreeing  
16 to hold the check for an additional period of time no greater than the  
17 thirty-four days it would have originally been able to hold the check if  
18 (i) the extension is at the request of the maker, (ii) no additional fees  
19 are charged for the extension, and (iii) the delayed deposit transaction  
20 is completed as required by subdivision (1)(c) of this section. The  
21 licensee shall retain written or electronic proof of compliance with this  
22 subdivision. If a licensee fails, or is unable, to provide such proof to  
23 the department upon request, there shall be a rebuttable presumption that  
24 a violation of this subdivision has occurred and the department may  
25 pursue any remedies or actions available to it under the Delayed Deposit  
26 Services Licensing Act;~~or~~

27 (g) Enter into another delayed deposit transaction with the same  
28 maker on the same business day as the completion of a delayed deposit  
29 transaction unless prior to entering into the transaction the maker and  
30 the licensee verify on a form prescribed by the department that  
31 completion of the prior delayed deposit transaction has occurred. The

1 licensee shall retain written proof of compliance with this subdivision.  
2 If a licensee fails, or is unable, to provide such proof to the  
3 department upon request, there shall be a rebuttable presumption that a  
4 violation of this subdivision has occurred and the department may pursue  
5 any remedies or actions available to it under the act; -

6 (h) Charge, collect, or receive any finance charges, fees, interest,  
7 or similar charges for loan brokerage, insurance, or any other ancillary  
8 products;

9 (i) Negotiate or present a paper check for payment unless the check  
10 is endorsed with the actual business name of the licensee;

11 (j) Engage, in connection with a delayed deposit transaction, in  
12 unfair or deceptive practices or advertising under the Uniform Deceptive  
13 Trade Practices Act to engage in any act that limits or restricts the  
14 application of the Delayed Deposit Services Licensing Act, including, but  
15 not limited to, making transactions disguised as personal property,  
16 personal sales, or leaseback transactions, or disguise transaction  
17 proceeds as cash rebated for the pretextual installment sale of goods and  
18 services; or

19 (k) Attempt to deposit or negotiate a check after two consecutive  
20 failed collection attempts unless the licensee has obtained a new,  
21 written payment authorization from the maker.

22 (2) No licensee, affiliate of a licensee, or any other person,  
23 including a person operating as a credit services organization, shall  
24 charge, collect, or receive any finance charges, fees, interest, or  
25 similar charges that would cause a maker to pay an amount in excess of or  
26 in addition to those permitted under the Delayed Deposit Services  
27 Licensing Act in connection with a delayed deposit transaction,  
28 including, but not limited to, charges for loan brokerage, insurance, or  
29 any other ancillary products.

30 (3) ~~(2)~~ For purposes of this section, (a) completion of a delayed  
31 deposit transaction means the licensee has presented a maker's check for

1 payment to a financial institution as defined in section 8-101.03 or the  
2 maker redeemed the check by paying the full amount of the check in cash  
3 to the licensee and (b) licensee shall include (i) a person related to  
4 the licensee by common ownership or control, (ii) a person in whom such  
5 licensee has any financial interest of ten percent or more, or (iii) any  
6 employee or agent of the licensee.

7       Sec. 15. (1) A maker who cannot pay back a delayed deposit  
8 transaction when it is due may elect once in any twelve-month period to  
9 repay the delayed deposit transaction to the licensee by means of an  
10 extended payment plan.

11       (2) To request an extended payment plan, the maker, before the due  
12 date of the outstanding delayed deposit transaction, must request the  
13 plan and sign an amendment to the delayed deposit agreement that reflects  
14 the new payment schedule and terms.

15       (3) The extended payment plan's terms must allow the maker, at no  
16 additional cost, to repay the outstanding delayed deposit transaction,  
17 including any fee due, in at least four equal payments that coincide with  
18 the maker's periodic pay dates.

19       (4) The maker may prepay an extended payment plan in full at any  
20 time without penalty. The licensee shall not charge the maker any  
21 interest or additional fees during the term of the extended payment plan.

22       (5) If the maker fails to pay any extended payment plan installment  
23 when due, the maker shall be in default of the payment plan and the  
24 licensee immediately may accelerate payment on the remaining balance.  
25 Upon default, the licensee may take action to collect all amounts due.

26       Sec. 16. Section 45-921, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28       45-921 (1) The director may examine or investigate complaints about  
29 or reports of alleged violations of the Delayed Deposit Services  
30 Licensing Act or any rule, regulation, or order of the director  
31 thereunder. The director may order the actual cost of such examination or

1 investigation to be paid by the person who is the subject of the  
2 examination or investigation, whether the alleged violator is licensed or  
3 not.

4 (2) The director may publish information concerning any violation of  
5 the act or any rule, regulation, or order of the director under the act.

6 (3) For purposes of any investigation, examination, or proceeding  
7 under the act, the director may administer oaths and affirmations,  
8 subpoena witnesses, compel their attendance, take evidence, and require  
9 the production of any books, papers, correspondence, memoranda,  
10 agreements, or other documents or records which the director deems  
11 relevant or material to the examination, investigation, or proceeding.

12 (4) In the case of contumacy by or refusal to obey a subpoena issued  
13 to any person, the district court of Lancaster County, upon application  
14 by the director, may issue an order requiring such person to appear  
15 before the director and to produce documentary evidence if so ordered to  
16 give evidence on the matter under investigation or in question. Failure  
17 to obey the order of the court may be punished by the court as contempt.

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

23 (6) If the director finds, after notice and opportunity for hearing  
24 in accordance with the Administrative Procedure Act, that any person has  
25 violated subsection (5) of this section, the director may order such  
26 person to pay (a) an administrative fine of not more than two ~~one~~  
27 thousand dollars for each separate violation and (b) the costs of  
28 investigation. The department shall remit fines collected under this  
29 subsection to the State Treasurer for distribution in accordance with  
30 Article VII, section 5, of the Constitution of Nebraska ~~All fines~~  
31 ~~collected by the department pursuant to this subsection shall be remitted~~

1 ~~to the State Treasurer for credit to the permanent school fund.~~

2 (7) If a person fails to pay an administrative fine and the costs of  
3 investigation ordered pursuant to subsection (6) of this section, a lien  
4 in the amount of such fine and costs may be imposed upon all assets and  
5 property of such person in this state and may be recovered in a civil  
6 action by the director. The lien shall attach to the real property of  
7 such person when notice of the lien is filed and indexed against the real  
8 property in the office of the register of deeds in the county where the  
9 real property is located. The lien shall attach to any other property of  
10 such person when notice of the lien is filed against the property in the  
11 manner prescribed by law. Failure of the person to pay such fine and  
12 costs shall constitute a separate violation of the Delayed Deposit  
13 Services Licensing Act.

14 Sec. 17. Section 45-922, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 45-922 (1) The director may, following a hearing in accordance with  
17 the Administrative Procedure Act, suspend or revoke any license issued  
18 pursuant to the Delayed Deposit Services Licensing Act if he or she  
19 finds:

20 (a) A licensee or any of its officers, directors, partners, or  
21 members has knowingly violated the act or any rule, regulation, or order  
22 of the director thereunder;

23 (b) A fact or condition existing which, if it had existed at the  
24 time of the original application for such license, would have warranted  
25 the director to refuse to issue such license;

26 (c) A licensee has abandoned its place of business for a period of  
27 thirty days or more;

28 (d) A licensee or any of its officers, directors, partners, or  
29 members has knowingly subscribed to, made, or caused to be made any false  
30 statement or false entry in the books and records of any licensee, has  
31 knowingly subscribed to or exhibited false papers with the intent to

1 deceive the department ~~Department of Banking and Finance~~, has failed to  
2 make a true and correct entry in the books and records of such licensee  
3 of its business and transactions in the manner and form prescribed by the  
4 department, or has mutilated, altered, destroyed, secreted, or removed  
5 any of the books or records of such licensee without the written approval  
6 of the department or as provided in section 45-925; or

7 (e) A licensee has knowingly violated a voluntary consent or  
8 compliance agreement which had been entered into with the director.

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

12 (3)(a) If a licensee fails to renew its license as required by  
13 section 45-910 and does not voluntarily surrender the license pursuant to  
14 section 45-911, the department may issue a notice of expiration of the  
15 license to the licensee in lieu of revocation proceedings.

16 (b) If a licensee fails to maintain a surety bond as required by  
17 section 45-906, the department may issue a notice of cancellation of the  
18 license in lieu of revocation proceedings.

19 (4) Revocation, suspension, cancellation, or expiration of a license  
20 shall not impair or affect the obligation of a preexisting lawful  
21 contract between the licensee and any person, including a maker of a  
22 check.

23 (5) Revocation, suspension, cancellation, or expiration of a license  
24 shall not affect civil or criminal liability for acts committed before  
25 the revocation, suspension, cancellation, or expiration or liability for  
26 fines levied against the licensee or any of its officers, directors,  
27 shareholders, partners, or members, pursuant to section 45-925, for acts  
28 committed before the revocation, suspension, cancellation, or expiration.

29 Sec. 18. Section 45-923, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 45-923 If the director believes that any person has engaged in or is

1 about to engage in any act or practice constituting a violation of the  
2 Delayed Deposit Services Licensing Act or any rule, regulation, or order  
3 of the director, the director may issue a cease and desist order and  
4 prohibit the making of additional delayed deposit transactions as part of  
5 such order.

6 Upon entry of a cease and desist order the director shall promptly  
7 notify in writing all persons to whom the order is directed that it has  
8 been entered and of the reasons for the order. Any person to whom the  
9 order is directed may in writing request a hearing within fifteen  
10 business days after the date of the issuance of the order. Upon receipt  
11 of such written request, the matter shall be set for hearing within  
12 thirty business days after receipt by the director, unless the parties  
13 consent to a later date or the hearing officer sets a later date for good  
14 cause. If a hearing is not requested within fifteen business days and  
15 none is ordered by the director, the order of the director shall  
16 automatically become final and shall remain in effect until modified or  
17 vacated by the director. If a hearing is requested or ordered, the  
18 director, after notice and hearing, shall issue his or her written  
19 findings of fact and conclusions of law and may affirm, vacate, or modify  
20 the order.

21 The director may vacate or modify an order if he or she finds that  
22 the conditions which caused its entry have changed or that it is  
23 otherwise in the public interest to do so. Any person aggrieved by a  
24 final order of the director may appeal the order, and the appeal shall be  
25 in accordance with the Administrative Procedure Act.

26 Sec. 19. (1) Licensees shall, on an annual basis, provide the  
27 following information to the director, in a uniform manner prescribed by  
28 the department: Total number of makers; total number of transactions;  
29 average transaction size; total contracted transaction charges; total  
30 transaction actual charges; number of defaulted transactions; number of  
31 charged-off transactions; dollar value of transactions charged off;



1 number of nonnegotiable check fees and dollar value for the same; average  
2 contracted annual percentage rate; and any other nonprivate information  
3 which may be requested in the discretion of the director.

4 (2) The department shall compile the total number of licensees  
5 operating in this state by location and the information required in  
6 subsection (1) of this section regarding the transaction activities of  
7 licensees and makers under the Delayed Deposit Services Licensing Act and  
8 shall report electronically to the Clerk of the Legislature on or before  
9 December 1, 2018, and annually thereafter.

10 Sec. 20. Section 45-1001, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 45-1001 Sections 45-1001 to 45-1069 and section 21 of this act shall  
13 be known and may be cited as the Nebraska Installment Loan Act.

14 Sec. 21. Notwithstanding any other provision of law, the minimum  
15 term of a loan contract for any loan governed by the Nebraska Installment  
16 Loan Act shall be six months from the loan transaction date.

17 Sec. 22. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,  
18 15, 16, 17, 18, 20, 21, and 23 of this act become operative on January 1,  
19 2019. The other sections of this act become operative on their effective  
20 date.

21 Sec. 23. Original sections 45-804, 45-904, 45-907, 45-911,  
22 45-915.01, 45-917, 45-918, 45-921, 45-922, 45-923, and 45-1001, Reissue  
23 Revised Statutes of Nebraska, section 45-901, Revised Statutes Cumulative  
24 Supplement, 2016, and sections 45-902 and 45-919, Revised Statutes  
25 Supplement, 2017, are repealed.