Introduction by Kolterman, 24.

Read first time January 17, 2019

Committee: Banking, Commerce and Insurance

A BILL FOR AN ACT relating to finance; to amend section 45-915, Reissue Revised Statutes of Nebraska, and sections 45-901, 45-902, and 45-1001, Revised Statutes Cumulative Supplement, 2018; to change licensing and operating provisions, provide powers and duties for the Department of Banking and Finance and Director of Banking and Finance, and define a term under the Delayed Deposit Services Licensing Act; to clarify a licensing provision under the Nebraska Installment Loan Act; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 45-901, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Checks of an applicant's or a licensee's criminal history record information through fingerprint or other data bases, except that the department shall not require the submission of fingerprints by (A) an
executive officer or director of an applicant or licensee which is either
a publicly traded company or a wholly owned subsidiary of a publicly
traded company or (B) an applicant or licensee who has previously
submitted the fingerprints of an executive officer or director directly
to the Nationwide Mortgage Licensing System and Registry and the Federal
Bureau of Investigation;

(ii) Checks of civil or administrative records;

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

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

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

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

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

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

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

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

(4) The director shall establish a process whereby applicants and
licensees may challenge information entered by the director into the Nationwide Mortgage Licensing System and Registry.

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

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

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

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

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

(3) A fee of one hundred fifty dollars shall be paid to the director for each request made pursuant to subsection (1) or (2) of this section.
Sec. 6. Section 45-1001, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

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

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