A BILL FOR AN ACT relating to the Delayed Deposit Services Licensing Act;
to amend sections 45-905, 45-906, 45-912, and 45-915, Reissue
Revised Statutes of Nebraska, and sections 45-901, 45-902, 45-910,
and 45-911, Revised Statutes Cumulative Supplement, 2018; to update
a definition, define a term, add a processing fee, and change
licensing provisions; 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 section 5 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, 2020, 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. Section 45-905, Reissue Revised Statutes of Nebraska, is amended to read:

45-905 (1) An applicant for a license shall submit an application, under oath, to the director on forms prescribed by the director. The forms shall contain such information as the director may prescribe, including, but not limited to:

(a) The applicant's financial condition;

(b) The qualifications and business history of the applicant and of its officers, directors, shareholders, partners, or members;

(c) Whether the applicant or any of its officers, directors, shareholders, partners, or members have ever been convicted of any (i) misdemeanor involving any aspect of a delayed deposit services business or any business of a similar nature or (ii) felony;

(d) Whether the applicant or any of its officers, directors, shareholders, partners, or members have ever been permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of a
delayed deposit services business or any business of a similar nature;

(e) A description of the applicant's proposed method of doing
business; and

(f) If the applicant is an individual, the applicant's social
security number.

(2) The director shall cause a criminal history record information
check to be conducted of the applicant, its officers, directors,
shareholders, partners, or members and, on or after January 1, 2021, as
provided in subsection (1) of section 5 of this act. The direct cost of
the criminal history record information check shall be paid by the
applicant.

Sec. 4. Section 45-906, Reissue Revised Statutes of Nebraska, is
amended to read:

45-906 The application required by section 45-905 shall be
accompanied by:

(1) A nonrefundable application fee of five hundred dollars and any
processing fee allowed under subsection (2) of section 5 of this act; and

(2) A surety bond in the base amount sum of fifty thousand dollars
which, on or after January 1, 2021, shall be increased by fifty thousand
dollars for each branch office established or to be established in
Nebraska. The surety bond shall be executed by the licensee and a
surety company authorized to do business in Nebraska and approved by the
director conditioned for the faithful performance by the licensee of the
duties and obligations pertaining to the delayed deposit services
business so licensed and the prompt payment of any judgment recovered
against the licensee. The bond or a substitute bond shall remain in
effect during all periods of licensing or the licensee shall immediately
cease doing business and its license shall be surrendered to or canceled
by the department. A surety may cancel a bond only upon thirty days'
written notice to the director.

(3) The director may at any time require the filing of a new or
supplemental bond in the form as provided in subdivision (2) of this section if he or she determines that the bond filed under this section is exhausted or is inadequate for any reason, including, but not limited to, the financial condition of the licensee or the applicant for a license, or violations of the Delayed Deposit Services Licensing Act, any rule, regulation, or order thereunder, or any state or federal law applicable to the licensee or applicant for a license. The new or supplemental bond shall not exceed one hundred thousand dollars over the amount of the bond required by subdivision (2) of this section.

Sec. 5. (1) On and after January 1, 2021, 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 director 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) Fingerprints of any principal officer, director, partner, member, or sole proprietor submitted to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national, and international criminal history record information check;

(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 director;

(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; and
(d) 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 may 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 applicants, 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 applicant or licensee.

(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.

(7) The director may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the United States Department of Justice or any other governmental agency in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for
purposes of subsection (5) of this section.

Sec. 6. Section 45-910, Revised Statutes Cumulative Supplement, 2018, is amended to read:

45-910 (1) A license issued pursuant to the Delayed Deposit Services Licensing Act shall be conspicuously posted at the licensee's place of business.

(2) All licenses shall remain in effect until the next succeeding May 1, unless earlier canceled, suspended, or revoked by the director pursuant to section 45-922 or surrendered by the licensee pursuant to section 45-911.

(b) All licenses issued on or after the effective date of this act and before January 1, 2021, shall remain in effect until December 31, 2021, unless earlier canceled, suspended, or revoked by the director pursuant to section 45-922 or surrendered by the licensee pursuant to section 45-911. All licenses issued on or after January 1, 2021, shall remain in effect until the next succeeding December 31, unless earlier canceled, suspended, or revoked by the director pursuant to section 45-922 or surrendered by the licensee pursuant to section 45-911.

(3) Licenses may be renewed annually by filing with the director (a) a renewal fee consisting of five hundred dollars and any processing fee allowed under subsection (2) of section 5 of this act for the main office location and five hundred dollars and any processing fee allowed under subsection (2) of section 5 of this act for each branch office location and (b) an application for renewal in writing through the Nationwide Mortgage Licensing System and Registry containing such information as the director may require to indicate any material change in the information contained in the original application or succeeding renewal applications.

Sec. 7. Section 45-911, Revised Statutes Cumulative Supplement, 2018, is amended to read:

45-911 A licensee may surrender a delayed deposit services business
license by delivering to the director written notice that the license is
surrendered and any processing fee allowed under subsection (2) of
section 5 of this act. The department may issue a notice of cancellation
of the license following such surrender in lieu of revocation
proceedings. The surrender shall not affect the licensee's civil or
criminal liability for acts committed prior to such surrender, affect the
liability for any fines which may be levied against the licensee or any
of its officers, directors, shareholders, partners, or members for acts
committed before the surrender, affect the liability of the surety on the
bond, or entitle such licensee to a return of any part of the annual
license fee or fees. The director may establish procedures for the
disposition of the books, accounts, and records of the licensee and may
require such action as he or she deems necessary for the protection of
the makers of checks which are outstanding at the time of surrender of
the license.

Sec. 8. Section 45-912, Reissue Revised Statutes of Nebraska, is
amended to read:

45-912 A licensee shall be required to notify the director in
writing through the Nationwide Mortgage Licensing System and Registry
within thirty days after the occurrence of any material development,
including, but not limited to:

(1) Bankruptcy or corporate reorganization;

(2) Business reorganization;

(3) Institution of license revocation procedures by any other state
or jurisdiction;

(4) The filing of a criminal indictment or complaint against the
licensee or any of its officers, directors, shareholders, partners,
members, employees, or agents;

(5) A felony conviction against the licensee or any of the
licensee's officers, directors, shareholders, partners, members,
employees, or agents; or
(6) The termination of employment or association with the licensee of any of the licensee's officers, directors, shareholders, partners, members, employees, or agents for violations or suspected violations of the Delayed Deposit Services Licensing Act, any rule, regulation, or order thereunder, or any state or federal law applicable to the licensee.

Sec. 9. 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, on or before December 31, 2020, 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.

(2) On or before December 31, 2020, a licensee may 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) On or after January 1, 2021, a licensee shall designate an office in Nebraska as its principal place of business. 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.

(4) On or after January 1, 2021, a licensee may operate branch offices in Nebraska. 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.

(5) (3) A fee of one hundred fifty dollars and any processing fee allowed under shall be paid to the director for each request made pursuant to subsection (1) or (2) of this section. Five of this act shall be submitted with each request made pursuant to this section.

Sec. 10. Original sections 45-905, 45-906, 45-912, and 45-915, Reissue Revised Statutes of Nebraska, and sections 45-901, 45-902, 45-910, and 45-911, Revised Statutes Cumulative Supplement, 2018, are repealed.