 Introduced by La Grone, 49.

Read first time January 15, 2019

Committee: Banking, Commerce and Insurance

A BILL FOR AN ACT relating to finance; to amend sections 45-901 and 45-1001, Revised Statutes Cumulative Supplement, 2018; to adopt the Unsecured Consumer Loan Licensing Act; to provide penalties; to create a fund; to clarify licensing provisions under the Delayed Deposit Services Licensing Act and 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. Sections 1 to 33 shall be known and may be cited as the Unsecured Consumer Loan Licensing Act.

Sec. 2. For purposes of the Unsecured Consumer Loan 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, 2019, and includes all fees, interest, and charges contained in an unsecured consumer loan contract, except for charges permitted for the presentation of instruments that are not negotiable under subsection (1)(e) of section 19 of this act;

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

(3) Default means a borrower's failure to repay an unsecured consumer loan transaction in compliance with the terms contained in an unsecured consumer loan agreement;

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

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

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

(7) Licensee means any person licensed under the Unsecured Consumer Loan Licensing Act;

(8) 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;

(9) 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; and

(10) Unsecured consumer loan business means any person who offers a
loan: (a) With a principal loan amount no greater than one thousand
dollars with loan payments that shall not exceed nine percent gross
monthly income; (b) in which the lender holds the borrower's check or
checks for a specific period, or receives the borrower's written
authorization to debit the borrower's account, other than as a result of
default under an agreement, either express or implied, for a specific
period, before the lender (i) offers the check or checks for deposit or
presentment or (ii) exercises the authorization or authorizations to
debit the borrower's account; (c) that does not take a security interest
in any property of the borrower; and (d) which is payable according to
the agreement between the licensee and consumer.

Sec. 3. The Unsecured Consumer Loan Licensing Act shall not apply
to a financial institution organized under the laws of this state or the
laws of the United States.

Sec. 4. (1) No person shall operate an unsecured consumer loan
business in this state unless the person is licensed by the director as
provided in the Unsecured Consumer Loan Licensing Act. Any unsecured
consumer loan transaction that is made by a person who is required to be
licensed pursuant to the act but who is not licensed is void, and the
person making such unsecured consumer loan business transaction has no
right to collect, receive, or retain any principal, interest, fees, or
any other charges in connection with such unsecured consumer loan
transaction.

(2) Nothing in this section shall prevent a person licensed under
the Unsecured Consumer Loan Licensing Act from acquiring a license under
the Delayed Deposit Services Licensing Act or the Nebraska Installment
Loan Act.

Sec. 5. (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 any of the applicant's officers, directors, shareholders, partners, or members;
(c) Whether the applicant or any of the applicant's officers, directors, shareholders, partners, or members have ever been convicted of any (i) misdemeanor involving any aspect of an unsecured consumer loan business, or any business of a similar nature or (ii) felony;
(d) Whether the applicant or any of the applicant's 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 an unsecured consumer loan 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 and any of the applicant's officers, directors, shareholders, partners, or members. The direct cost of the criminal history record information check shall be paid by the applicant.

Sec. 6. (1) Licensees under the Unsecured Consumer Loan 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 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 act, the department is authorized to contract with the Nationwide Mortgage Licensing System and Registry or any other entity 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 Unsecured Consumer Loan Licensing Act. The department may allow such system to collect licensing fees on behalf of the department
and allow such system to collect a processing fee for the services of the
system directly from each licensee or applicant for a license.

(3) The director is required to 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 the contract between the
department and the Nationwide Mortgage Licensing System and Registry
pertaining to the provisions of the breach of security system.

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

Sec. 7. The application required by section 5 of this act shall be
accompanied by:

(1) A nonrefundable application fee of five hundred dollars; and

(2) A surety bond in the amount of fifty thousand dollars to 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 unsecured consumer loan 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 Unsecured Consumer Loan Licensing Act or 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.

Sec. 8. (1) When an application for an unsecured consumer loan license has been accepted by the director as substantially complete, notice of the filing of the application shall be published by the director for three successive weeks in a legal newspaper published in or of general circulation in the county where the applicant proposes to operate the unsecured consumer loan business. A public hearing shall be held on each application except as provided in subsection (2) of this section. The date for hearing shall not be less than thirty days after the last publication. Written protest against the issuance of the license may be filed with the department by any person not less than five days before the date set for hearing. The director, in his or her discretion, may grant a continuance. The costs of the hearing shall be paid by the applicant. The director may investigate the propriety of the issuance of a license to the applicant. The costs of such investigation shall be paid by the applicant.

(2) The director may waive the hearing requirements of subsection (1) of this section if (a) the applicant has held and operated under a license to engage in the unsecured consumer loan business in Nebraska pursuant to the Unsecured Consumer Loan Licensing Act for at least three calendar years immediately prior to the filing of the application, (b) no written protest against the issuance of the license has been filed with the department within fifteen days after publication of a notice of the filing of the application one time in a newspaper of general circulation.
in the county where the applicant proposes to operate the unsecured consumer loan business, and (c) in the judgment of the director, the experience, character, and general fitness of the applicant warrant the belief that the applicant will comply with the act.

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

Sec. 9. The director shall issue a license to an applicant, if, after public hearing and any investigation of the applicant, the director determines that:

(1) The experience, character, and general fitness of the applicant and any of the applicant's officers, directors, shareholders, partners, or members are such as to warrant the belief that the applicant will conduct the unsecured consumer loan business honestly, fairly, and efficiently;

(2) The applicant and any of the applicant's officers, directors, shareholders, partners, or members have not been convicted of a felony in this state or any other jurisdiction which would indicate moral turpitude on the part of the applicant;

(3) The applicant is financially responsible and will conduct the unsecured consumer loan business pursuant to the Unsecured Consumer Loan Licensing Act; and

(4) The applicant has assets of at least twenty-five thousand dollars available for operating the unsecured consumer loan business.

Sec. 10. The director shall approve or deny an application for a license by written order not more than ninety days after the filing of a substantially complete application. Failure of the director to act on a substantially complete application within ninety days shall constitute approval of the application. An order of the director issued pursuant to this section may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 11. (1) A license issued pursuant to the Unsecured Consumer
Loan Licensing Act shall be conspicuously posted at the licensee's place of business.

(2) A license shall remain in effect until the next succeeding May 1, unless earlier canceled, suspended, or revoked by the director pursuant to section 24 of this act or surrendered by the licensee pursuant to section 12 of this act.

(3) Licenses may be renewed annually by filing with the director (a) a renewal fee consisting of five hundred dollars for the main office location and five hundred dollars for each branch office location and (b) an application for renewal 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. 12. A licensee may surrender an unsecured consumer loan business license by delivering to the director written notice that the license is surrendered. 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 liability for any fines which may be levied against the licensee or any of the licensee's 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 borrowers whose unsecured consumer loans are outstanding at the time of surrender of the license.

Sec. 13. A licensee shall be required to notify the director in writing 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 the licensee's 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 Unsecured Consumer Loan Licensing Act or any rule, regulation, or order thereunder, or any state or federal law applicable to the licensee.

Sec. 14. A license issued pursuant to the Unsecured Consumer Loan Licensing Act shall not be transferable or assignable.

Sec. 15. The prior written approval of the director shall be required whenever a change in control of a licensee is proposed. Control in the case of a corporation means (1) direct or indirect ownership or the right to control ten percent or more of the voting shares of the corporation or (2) the ability of a person or group acting in concert to elect a majority of the directors or otherwise effect a change in policy. Control in the case of any other entity means any change in the principals of the organization, whether active or passive. The director may require such information as he or she deems necessary to determine whether a new application is required. Costs incurred by the director in investigating a change of control request shall be paid by the person or persons requesting such approval.

Sec. 16. (1) A licensee may offer an unsecured consumer loan business at an office location designated in the application. A licensee may change the location of its office or offices 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) A licensee may conduct an online unsecured consumer loan
business under the Unsecured Consumer Loan Act so long as the licensee
designates at least one principal place of business within this state.

(3) The director shall charge a fee of one hundred fifty dollars for
each request made pursuant to subsection (1) of this section.

Sec. 17. (1) Each licensee shall keep or make available the books
and records relating to transactions made under the Unsecured Consumer
Loan Licensing Act as are necessary to enable the department to determine
whether the licensee is complying with the act. The books and records
shall be maintained in a manner consistent with accepted accounting
practices.

(2) A licensee shall, at a minimum, include in its books and records
copies of all application materials relating to borrowers, disclosure
agreements, checks or electronic payment authorizations, payment
receipts, and proofs of compliance required by section 22 of this act.

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

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

Sec. 18. A licensee may operate an unsecured consumer loan business
at a location where any other business is operated or in association or
conjunction with any other business if:

(1) The books, accounts, and records of the unsecured consumer loan
business are kept and maintained separate and apart from the books, accounts, and records of the other business;

(2) The other business is not of a type which would tend to conceal evasion of the requirements of the Unsecured Consumer Loan Licensing Act. If the director determines upon investigation that the other business is of a type which would conceal evasion of the requirements of the act, the director shall order such licensee to cease the operation of the other business at such location; and

(3) At least thirty days prior to conducting such other business, the licensee provides written notice to the director of (a) the licensee's intent to conduct such other business at its location or locations and (b) the nature of such other business and the director does not disapprove of such other business within thirty days after receiving the written notice.

Sec. 19. (1) Every licensee shall, at the time any unsecured consumer loan is made, give to the borrower, or if there are two or more borrowers, to one of them, a written notice disclosing:

(a) The name of the borrower, transaction date, and transaction amount;

(b) The scheduled installment payment due dates and total payments due;

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

(d) The date on which the check or checks or electronic debits will be deposited or presented for negotiation; and

(e) Any penalty not to exceed fifteen dollars which the licensee will charge if a check is not negotiable on the date agreed upon or the authorization to debit the borrower's account is dishonored. The licensee may assess one such charge regardless of how many times a check or an authorization to debit the borrower's account may be submitted by a licensee and dishonored.
(2) The notice required by this section shall include the following language, all capitalized and in at least ten-point font:

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

2. THE LAW DOES NOT ALLOW THIS TYPE OF TRANSACTION TO BE MORE THAN ONE THOUSAND DOLLARS ($1,000) IN PRINCIPAL LOAN AMOUNT, EXCLUDING FEES AND CHARGES, FROM ONE LENDER.

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

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

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

Sec. 20. No licensee shall charge a fee in excess of twenty percent of the first three hundred dollars plus seven and one-half percent of any amount in excess of three hundred dollars. Such fee shall be deemed fully earned as of the date of the transaction and shall not be refundable or prorated in the event of prepayment. In addition, the licensee may charge a monthly maintenance fee on each unsecured consumer loan, not to exceed eleven dollars and twenty-five cents per one hundred dollars loaned. The monthly maintenance fee may be charged beginning with the first month, but shall be refundable on a pro rata basis upon payment in full prior to the maturity date. The lender shall only charge those charges authorized in this section in connection with an unsecured consumer loan.

Sec. 21. (1) No licensee shall:

(a) Require the borrower to receive payment by a method which causes the borrower to pay additional or further fees and charges to the licensee or other person;

(b) Accept the proceeds of an unsecured consumer loan transaction as
(c) Renew, roll over, defer, or in any way extend an unsecured consumer loan by allowing the borrower to pay less than the total amount of the unsecured consumer loan transaction and any authorized fees or charges;

(d) Enter into another unsecured consumer loan transaction with the same borrower on the same business day as the completion of a transaction unless prior to entering into the transaction the borrower and the licensee verify on a form prescribed by the department that completion of the prior transaction has occurred. The licensee shall retain written proof of compliance with this subdivision. If a licensee fails or is unable to provide such proof to the department upon request, there shall be a rebuttable presumption that a violation of this subdivision has occurred and the department may pursue any remedies or actions available to it under the Unsecured Consumer Loan Licensing Act.

(2) For purposes of this section, (a) completion of an unsecured consumer loan transaction means the licensee has presented a borrower's check or checks for payment to a financial institution or electronically debited the borrower's account or the borrower has redeemed the check or checks by paying the full amount of the unsecured consumer loan transaction in cash to the licensee and (b) licensee means (i) a person related to the licensee by common ownership or control, (ii) a person in whom such licensee has any financial interest of ten percent or more, or (iii) any employee or agent of the licensee.

(3) No unsecured consumer loan licensee shall make an unsecured consumer loan for a term of less than one hundred eighty days.

Sec. 22. (1) The director shall examine the books, accounts, and records of each licensee no more than annually, except as provided in section 23 of this act. The costs of the director incurred in an examination shall be paid by the licensee the same as set forth in
sections 8-605 and 8-606.

(2) The director may accept any examination, report, or information regarding a licensee from the Bureau of Consumer Financial Protection or a foreign state agency. The director may provide any examination, report, or information regarding a licensee to the Bureau of Consumer Financial Protection or a foreign state agency. As used in this section, unless the context otherwise requires, foreign state agency means any duly constituted regulatory or supervisory agency which has authority over unsecured consumer loan licensees or similar entities, and which is created under the laws of any other state or any territory of the United States, including Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands, or which is operating under the code of law for the District of Columbia.

Sec. 23. (1) The director may examine or investigate complaints about or reports of alleged violations of the Unsecured Consumer Loan Licensing Act or any rule, regulation, or order of the director thereunder. The director may order the actual cost of such examination or investigation to be paid by the person who is the subject of the examination or investigation, whether the alleged violator is licensed or not.

(2) The director may publish information concerning any violation of the Unsecured Consumer Loan Licensing Act or any rule, regulation, or order of the director under the act.

(3) For purposes of any investigation, examination, or proceeding under the Unsecured Consumer Loan Licensing Act, the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the examination, investigation, or proceeding.

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

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

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

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

Sec. 24. (1) The director may, following a hearing in accordance
with the Administrative Procedure Act, suspend or revoke any license
issued pursuant to the Unsecured Consumer Loan Licensing Act if he or she
finds:

(a) A licensee or any of the licensee's officers, directors,
partners, or members has knowingly violated the Unsecured Consumer Loan
Licensing Act or any rule, regulation, or order of the director
thereunder;

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

(c) A licensee has abandoned the licensee's place of business for a
period of thirty days or more;

(d) A licensee or any of the licensee's officers, directors,
partners, or members has knowingly subscribed to, made, or caused to be
made any false statement or false entry in the books and records of any
licensee, has knowingly subscribed to or exhibited false papers with the
intent to deceive the department, has failed to make a true and correct
entry in the books and records of such licensee of its business and
transactions in the manner and form prescribed by the department, or has
mutilated, altered, destroyed, secreted, or removed any of the books or
records of such licensee without the written approval of the department;
or

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

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

(3)(a) If a licensee fails to renew its license as required by
section 11 of this act and does not voluntarily surrender the license
pursuant to section 12 of this act, the department may issue a notice of
expiration of the license to the licensee in lieu of revocation
proceedings.

(b) If a licensee fails to maintain a surety bond as required by section 7 of this act, the department may issue a notice of cancellation of the license in lieu of revocation proceedings.

(4) Revocation, suspension, cancellation, or expiration of a license shall not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including an unsecured consumer loan transaction borrower.

(5) Revocation, suspension, cancellation, or expiration of a license shall not affect civil or criminal liability for acts committed before the revocation, suspension, cancellation, or expiration or liability for fines levied against the licensee or any of the licensee's officers, directors, shareholders, partners, or members pursuant to section 27 of this act.

Sec. 25. (1) If the director believes that any person has engaged in or is about to engage in any act or practice constituting a violation of the Unsecured Consumer Loan Licensing Act or any rule, regulation, or order of the director thereunder, the director may issue a cease and desist order.

(2) Upon entry of a cease and desist order the director shall promptly notify in writing all persons to whom the order is directed that it has been entered and the reasons for the order. Any person to whom the order is directed may in writing request a hearing within fifteen business days after the date of the issuance of the order. Upon receipt of such written request, the matter shall be set for hearing within thirty business days after receipt by the director, unless the parties consent to a later date or the hearing officer sets a later date for good cause shown. If a hearing is not requested within fifteen business days and no hearing is ordered by the director, the order of the director shall automatically become final and shall remain in effect until modified or vacated by the director. If a hearing is requested or
ordered, the director, after notice and hearing, shall issue his or her
written findings of fact and conclusions of law and may affirm, vacate, or modify the order.

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

Sec. 26. Notwithstanding the administrative remedy provided in section 25 of this act, if the director believes that any person has engaged in or is about to engage in any act or practice constituting a violation of the Unsecured Consumer Loan Licensing Act or a violation of any rule, regulation, or order of the director thereunder, the director may initiate an action in the district court of Lancaster County to enjoin such acts or practices and to enforce compliance with the act or any order under the act. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted or a receiver or conservator may be appointed for the defendant's assets. The director shall not be required to post a bond.

Sec. 27. (1) If the director finds, after notice and hearing in accordance with the Administrative Procedure Act, that any person has violated the Unsecured Consumer Loan Licensing Act or any rule, regulation, or order of the director thereunder, the director may order such person to pay (a) an administrative fine of not more than five thousand dollars for each separate violation and (b) the costs of investigation.

(2) If any person is found to have violated subdivision (1)(b), (1)(c), or (1)(d) of section 21 of this act, the director may also order such person (a) to return to the borrower or borrowers all fees collected plus all or part of the amount of the unsecured consumer loan transaction which the licensee accepted in violation of such subdivision or
subdivisions and (b) not to engage in any unsecured consumer loan
transaction with any borrower for at least three days after the
completion of a unsecured consumer loan transaction with the borrower for
a period up to one year. If a person fails to pay an administrative fine
and the costs of investigation ordered pursuant to subsection (1) of this
section, a lien in the amount of such fine and costs may be imposed upon
all assets and property of such person in this state and may be recovered
in a civil action by the director. Failure of the person to pay such fine
and costs shall constitute a separate violation of the act.

Sec. 28. Any person required to be licensed under the Unsecured
Consumer Loan Licensing Act who operates an unsecured consumer loan
business in this state without first obtaining a license under the act or
while such license is suspended or revoked by the director shall be
guilty of a Class IV felony.

Sec. 29. (1) The director shall collect fees, charges, costs, and
fines under the Unsecured Consumer Loan Licensing Act and remit them to
the State Treasurer. Except as provided in subsection (2) of this
section, the State Treasurer shall credit the fees, charges, and costs to
the Financial Institution Assessment Cash Fund and distribute the fines
in accordance with Article VII, section 5, of the Constitution of
Nebraska.

(2) For renewal fees collected pursuant to section 11 of this act,
the State Treasurer shall (a) credit one hundred fifty dollars of each
renewal fee for a main office to the Financial Institution Assessment
Cash Fund and three hundred fifty dollars of each renewal fee for a main
office to the Financial Literacy Cash Fund and (b) credit one hundred
dollars of each renewal fee for a branch office to the Financial
Institution Assessment Cash Fund and four hundred dollars of each renewal
fee for a branch office to the Financial Literacy Cash Fund.

Sec. 30. Obtaining a license pursuant to the Unsecured Consumer
Loan Licensing Act shall constitute sufficient contact with the state for
the exercise of personal jurisdiction over the licensee in any action arising out of the licensee's activities in this state.

Sec. 31. The director may adopt and promulgate rules and regulations and issue orders, rulings, findings, and demands as may be necessary to carry out the purposes of the Unsecured Consumer Loan Licensing Act.

Sec. 32. The Financial Literacy Cash Fund is created. Amounts credited to the fund shall include that portion of each renewal fee as provided in section 29 of this act and such other revenue as is incidental to administration of the fund. The fund shall be administered by the University of Nebraska and shall be used to provide assistance to nonprofit entities that offer financial literacy programs to students in grades kindergarten through twelve. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 33. Nothing in the Unsecured Consumer Loan Licensing Act shall prevent a licensee from acquiring a license under the Delayed Deposit Services Licensing Act or the Nebraska Installment Loan Act or both.

Sec. 34. Section 45-901, Revised Statutes Cumulative Supplement, 2018, is amended to read:

45-901 Sections 45-901 to 45-931 and section 35 of this act shall be known and may be cited as the Delayed Deposit Services Licensing Act.

Sec. 35. Nothing in the Delayed Deposit Services Licensing Act shall prevent a licensee from acquiring a license under the Unsecured Consumer Loan Licensing Act.

Sec. 36. Section 45-1001, Revised Statutes Cumulative Supplement, 2018, is amended to read:

45-1001 Sections 45-1001 to 45-1070 and section 37 of this act shall be known and may be cited as the Nebraska Installment Loan Act.

Sec. 37. Nothing in the Nebraska Installment Loan Act shall prevent
a licensee from acquiring a license under the Unsecured Consumer Loan Licensing Act.

Sec. 38. Original sections 45-901 and 45-1001, Revised Statutes Cumulative Supplement, 2018, are repealed.