



Ninety-Ninth Legislature - Second Session - 2006
Committee Statement
LB 1193

Hearing Date: February 13, 2006

Committee On: Banking, Commerce and Insurance

Introducer(s): (Landis)

Title: Change provisions of the Delayed Deposit Services Licensing Act

Roll Call Vote – Final Committee Action:

- X Advanced to General File
 - Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

- 8 Yes Senators Mines, Redfield, Flood, Jensen, Johnson, Langemeier,
 Louden, Pahls
 - No
 - Present, not voting
 - Absent
-

Proponents:

Senator David Landis
John Munn
Trina Thomas
Kurt Yost

Representing:

Introducer
NE Department of Banking and Finance
NE Association of Check Cashers
Midwest Check Cashing, Inc.

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 1193 (Landis) would amend various provisions of the Delayed Deposit Services Licensing Act. The bill would provide, section by section, as follows:

Section 1 would amend section 45-901 of the Delayed Deposit Services Licensing Act to provide for section 12 of the bill to be codified within the act.

Section 2 would amend section 45-906 of the Delayed Deposit Services Licensing Act to provide that the Director of Banking and Finance may require the filing of a new or supplemental

surety bond not to exceed \$100,000 if the \$50,000 surety bond otherwise required to be filed under this section is exhausted or is inadequate for any reason including (a) the financial condition of the licensee or applicant for a license or (b) violations of state or federal law applicable to the licensee or applicant for a license.

Section 3 would amend section 45-907 of the Delayed Deposit Services Licensing Act to provide that the Director of Banking and Finance may waive the requirement for a public hearing on an application for a delayed deposit services business license if (a) the applicant has held and operated under a license to engage in the delayed deposit services business in Nebraska for at least three calendar years immediately prior to the filing of the application, (b) no written protest against issuance of the license has been filed with the Department of Banking and Finance, 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.

Section 4 would amend section 45-911 of the Delayed Deposit Services Licensing Act to provide that if a licensee surrenders a license, the Department of Banking and Finance may issue a notice of cancellation of the license following the surrender in lieu of revocation proceedings and that the surrender shall not 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.

Section 5 would amend section 45-912 of the Delayed Deposit Services Licensing Act to provide that a licensee shall be required to notify the Director of Banking and Finance of the termination of any officer, director, shareholder, partner, member, employee, or agent for violation or suspected violation of the act, any rule, regulation, or order thereunder, or any state or federal law applicable to the licensee.

Section 6 would amend section 45-915 of the Delayed Deposit Services Licensing Act to repeal a requirement that a licensee shall maintain its books, accounts, and records at its designated principal place of business. (These requirements would be replaced by new section 12 of the bill.)

Section 7 would amend section 45-916 of the Delayed Deposit Services Licensing Act which currently provides that a licensee may operate a delayed deposit services 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 are kept separate and apart and (2) the other business is not of a type which would tend to conceal evasion of the act. The bill would amend this section to provide additionally that a licensee may so operate a delayed deposit services business if at least 30 days prior to conducting such other business, (1) the licensee provides written notice to the director of (a) its intent to conduct such other business at its location or locations and (b) the nature of such other business and (2) the director does not disapprove of such other business within 30 days after receiving the written notice.

Section 8 would amend section 45-917 of the Delayed Deposit Services Licensing Act to provide that if a licensee requires a customer to make two checks for one transaction then the licensee shall charge only one penalty if both checks do not clear.

Section 9 would amend section 45-919 of the Delayed Deposit Services Licensing Act to provide that:

(1) A licensee shall not hold or agree to hold a check for more than 34 days, rather than 31 days.

(2) A licensee shall not renew, roll over, defer, or extend a transaction by allowing the customer to pay less than the total amount of the check and any authorized fees or charges. This shall not prevent a licensee from agreeing to hold a check for an additional time within the maximum 34 days allowed by the act if the extension is requested by the customer and no additional fees are charged. The licensee shall retain proof of compliance with these provisions and the failure to produce such proof for the Department of Banking and Finance is a rebuttable presumption of a violation.

(3) A licensee shall not enter into another transaction with the same customer on the same day as the completion of a transaction unless prior to entering into the transaction the customer and licensee verify in writing that completion of the prior transaction occurred. The licensee shall retain proof of compliance with these provisions and the failure to produce such proof for the department is a rebuttable presumption of a violation.

The amendments to this section would provide a definition of “completion of a delayed deposit transaction” and expand the existing definition of “licensee” to include a person in whom the licensee has any financial interest of ten percent or more rather than any financial interest at all.

Section 10 would amend section 45-922 of the Delayed Deposit Services Licensing Act to provide that (1) the Director of Banking and Finance may suspend or revoke any license of a licensee or any officer, director, partner, or member for providing false information to the Department of Banking and Finance, for failing to make true and correct entries in the books and records, or for mutilating, altering, destroying, secreting, or removing books or records without approval of the department (2) revocation, suspension, cancellation, or expiration of a license shall not affect liability for fines levied against the licensee or any officer, director, shareholder, partner, or member for acts committed before the revocation, suspension, cancellation, or expiration.

Section 11 would amend section 45-925 of the Delayed Deposit Services Licensing Act to provide that if a person is found to have engaged in any illegal roll over, the Director of Banking and Finance may order such person to (1) return to the customer all fees and the amount of the check accepted in violation and (2) for up to one year, not engage in any transaction with any customer for at least three days after the completion of a transaction with the same customer.

Section 12 would enact a new section in the Delayed Deposit Services Licensing Act to provide record keeping requirements for licensees.

Section 13 would provide for repealers.

Explanation of amendments, if any:

Senator Mick Mines, Chairperson