

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 355

FINAL READING

Introduced by La Grone, 49.

Read first time January 16, 2019

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to finance; to amend sections 45-340 and
2 45-705, Reissue Revised Statutes of Nebraska, and sections 8-2737,
3 45-335, 45-346, 45-346.01, 45-348, 45-727, 45-734, and 45-737,
4 Revised Statutes Cumulative Supplement, 2018; to change provisions
5 relating to licensee and authorized delegate examinations under the
6 Nebraska Money Transmitters Act; to define a term, update a
7 reference to salespersons, and change certain license and fee
8 provisions under the Nebraska Installment Sales Act; to change
9 mortgage banker license application provisions, provide for
10 temporary powers as a mortgage loan originator licensee as
11 prescribed, change inactive mortgage loan originator licensee
12 provisions, and change certain mortgage banker licensee
13 recordkeeping duties under the Residential Mortgage Licensing Act;
14 to provide operative dates; and to repeal the original sections.
15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-2737, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 8-2737 (1) The director may conduct an ~~annual onsite~~ examination of
4 a licensee upon reasonable written notice to the licensee. The director
5 may examine a licensee without prior notice if the director has a
6 reasonable basis to believe that the licensee is in noncompliance with
7 the Nebraska Money Transmitters Act. ~~If the director concludes that an~~
8 ~~onsite examination of a licensee is necessary, the licensee shall pay an~~
9 ~~examination fee and the director shall charge for the actual cost of the~~
10 ~~examination at an hourly rate set by the director which is sufficient to~~
11 ~~cover all reasonable expenses associated with the examination.~~

12 (2) An ~~The onsite~~ examination may be conducted in conjunction with
13 examinations to be performed by representatives of agencies of another
14 state or states or departments or agencies of the United States. The
15 director, in lieu of an ~~onsite~~ examination, may accept the examination
16 report of an agency of another state or a department or an agency of the
17 United States or a report prepared by an independent accounting firm.
18 Reports so accepted are considered for all purposes as an official report
19 of the department director. ~~The licensee shall be responsible for the~~
20 ~~reasonable expenses incurred by the department, the agencies of another~~
21 ~~state, or an independent licensed or certified public accountant in~~
22 ~~making the examination or report.~~

23 (3) ~~(2)~~ The director may request financial data from a licensee in
24 addition to that required under section 8-2734.

25 (4) The director may ~~or~~ conduct an ~~onsite~~ examination of any
26 authorized delegate ~~or location~~ of a licensee within this state upon
27 reasonable written notice to the licensee and the authorized delegate.
28 The director may conduct an examination of any authorized delegate
29 without prior notice to the authorized delegate or licensee only if the
30 director has a reasonable basis to believe that the licensee or
31 authorized delegate is in noncompliance with the Nebraska Money

1 ~~Transmitters Act. When the director examines an authorized delegate's~~
2 ~~operations, the authorized delegate shall pay all reasonably incurred~~
3 ~~costs of such examination. When the director examines a licensee's~~
4 ~~location, the licensee shall pay all reasonably incurred costs of such~~
5 ~~examination.~~

6 (5) The total charge for an examination under this section shall be
7 paid by the licensee or authorized delegate as set forth in sections
8 8-605 and 8-606.

9 Sec. 2. Section 45-335, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 45-335 For purposes of the Nebraska Installment Sales Act, unless
12 the context otherwise requires:

13 (1) Goods means all personal property, except money or things in
14 action, and includes goods which, at the time of sale or subsequently,
15 are so affixed to realty as to become part thereof whether or not
16 severable therefrom;

17 (2) Services means work, labor, and services of any kind performed
18 in conjunction with an installment sale but does not include services for
19 which the prices charged are required by law to be established and
20 regulated by the government of the United States or any state;

21 (3) Buyer means a person who buys goods or obtains services from a
22 seller in an installment sale;

23 (4) Seller means a person who sells goods or furnishes services to a
24 buyer under an installment sale;

25 (5) Installment sale means any transaction, whether or not involving
26 the creation or retention of a security interest, in which a buyer
27 acquires goods or services from a seller pursuant to an agreement which
28 provides for a time-price differential and under which the buyer agrees
29 to pay all or part of the time-sale price in one or more installments and
30 within one hundred forty-five months, except that installment contracts
31 for the purchase of mobile homes may exceed such one-hundred-forty-five-

1 month limitation. Installment sale does not include a consumer rental
2 purchase agreement defined in and regulated by the Consumer Rental
3 Purchase Agreement Act;

4 (6) Installment contract means an agreement entered into in this
5 state evidencing an installment sale except those otherwise provided for
6 in separate acts;

7 (7) Cash price or cash sale price means the price stated in an
8 installment contract for which the seller would have sold or furnished to
9 the buyer and the buyer would have bought or acquired from the seller
10 goods or services which are the subject matter of the contract if such
11 sale had been a sale for cash instead of an installment sale. It may
12 include the cash price of accessories or services related to the sale
13 such as delivery, installation, alterations, modifications, and
14 improvements and may include taxes to the extent imposed on the cash
15 sale;

16 (8) Basic time price means the cash sale price of the goods or
17 services which are the subject matter of an installment contract plus the
18 amount included therein, if a separate identified charge is made therefor
19 and stated in the contract, for insurance, registration, certificate of
20 title, debt cancellation contract, debt suspension contract, electronic
21 title and lien services, guaranteed asset protection waiver, and license
22 fees, filing fees, an origination fee, and fees and charges prescribed by
23 law which actually are or will be paid to public officials for
24 determining the existence of or for perfecting, releasing, or satisfying
25 any security related to the credit transaction or any charge for
26 nonfiling insurance if such charge does not exceed the amount of fees and
27 charges prescribed by law which would have been paid to public officials
28 for filing, perfecting, releasing, and satisfying any security related to
29 the credit transaction and less the amount of the buyer's downpayment in
30 money or goods or both;

31 (9) Time-price differential, however denominated or expressed, means

1 the amount, as limited in the Nebraska Installment Sales Act, to be added
2 to the basic time price;

3 (10) Time-sale price means the total of the basic time price of the
4 goods or services, the amount of the buyer's downpayment in money or
5 goods or both, and the time-price differential;

6 (11) Sales finance company means a person purchasing one or more
7 installment contracts from one or more sellers. Sales finance company
8 includes, but is not limited to, a financial institution or installment
9 loan licensee, if so engaged;

10 (12) Department means the Department of Banking and Finance;

11 (13) Director means the Director of Banking and Finance;

12 (14) Financial institution has the same meaning as in section
13 8-101.03;

14 (15) Debt cancellation contract means a loan term or contractual
15 arrangement modifying loan terms under which a financial institution or
16 licensee agrees to cancel all or part of a buyer's obligation to repay an
17 extension of credit from the financial institution or licensee upon the
18 occurrence of a specified event. The debt cancellation contract may be
19 separate from or a part of other loan documents. The term debt
20 cancellation contract does not include loan payment deferral arrangements
21 in which the triggering event is the buyer's unilateral election to defer
22 repayment or the financial institution's or licensee's unilateral
23 decision to allow a deferral of repayment;

24 (16) Debt suspension contract means a loan term or contractual
25 arrangement modifying loan terms under which a financial institution or
26 licensee agrees to suspend all or part of a buyer's obligation to repay
27 an extension of credit from the financial institution or licensee upon
28 the occurrence of a specified event. The debt suspension contract may be
29 separate from or a part of other loan documents. The term debt suspension
30 contract does not include loan payment deferral arrangements in which the
31 triggering event is the buyer's unilateral election to defer repayment or

1 the financial institution's or licensee's unilateral decision to allow a
2 deferral of repayment;

3 (17) Guaranteed asset protection waiver means a waiver that is
4 offered, sold, or provided in accordance with the Guaranteed Asset
5 Protection Waiver Act;

6 (18) Licensee means any person who obtains a license under the
7 Nebraska Installment Sales Act;

8 (19) Person means individual, partnership, limited liability
9 company, association, financial institution, trust, corporation, and any
10 other legal entity;

11 (20) Breach of security of the system means unauthorized acquisition
12 of data that compromises the security, confidentiality, or integrity of
13 the information maintained by the Nationwide Mortgage Licensing System
14 and Registry, its affiliates, or its subsidiaries;

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

21 (22)(a) Control in the case of a corporation means (i) direct or
22 indirect ownership of or the right to control twenty-five percent or more
23 of the voting shares of the corporation or (ii) the ability of a person
24 or group acting in concert to elect a majority of the directors or
25 otherwise effect a change in policy.

26 (b) Control in the case of any other entity means (i) the power,
27 directly or indirectly, to direct the management or policies of the
28 entity, (ii) the contribution of twenty-five percent or more of the
29 capital of the entity, or (iii) the right to receive, upon dissolution,
30 twenty-five percent or more of the capital of the entity; and -

31 (23) Branch office means any location, other than the main office

1 location, at which the business of a licensee is to be conducted,
2 including (a) any offices physically located in Nebraska, and (b) any
3 offices that, while not physically located in this state, intend to
4 transact business with Nebraska residents.

5 Sec. 3. Section 45-340, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 45-340 Installment contracts negotiated and entered into by mail
8 without personal solicitation by salespersons ~~salesmen~~ or other
9 representatives of the seller and based upon the catalog of the seller or
10 other printed solicitation of business, which is distributed and made
11 available generally to the public, if such catalog or other printed
12 solicitation clearly sets forth the cash and time-sale prices and other
13 terms of sales to be made through such medium, may be made as provided in
14 this section. All provisions of the Nebraska Installment Sales Act shall
15 apply to such sales except that the seller shall not be required to
16 deliver a copy of the contract to the buyer as provided in section 45-336
17 and if the contract when received by the seller contains any blank spaces
18 the seller may insert in the appropriate blank space the amounts of money
19 and other terms which are set forth in the seller's catalog or other
20 printed solicitation which is then in effect. In lieu of sending the
21 buyer a copy of the contract as provided in section 45-336, the seller
22 shall furnish to the buyer a written statement of any items inserted in
23 the blank spaces in the contract received from the buyer.

24 Sec. 4. Section 45-346, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 45-346 (1) A license issued under the Nebraska Installment Sales Act
27 is nontransferable and nonassignable. The same person may obtain
28 additional licenses for each place of business operating as a sales
29 finance company in this state upon compliance with the act as to each
30 license, except that on or after January 1, 2020, a person is no longer
31 required to obtain a new license for each place of business and may

1 maintain a branch office or offices upon compliance with the act.

2 (2) Application for a license shall be on a form prescribed and
3 furnished by the director and shall include, but not be limited to, (a)
4 the applicant's name and any trade name or doing business as designation
5 which the applicant intends to use in this state, (b) the applicant's
6 main office address, (c) all branch office addresses at which business is
7 to be conducted, (d) the names and titles of each director and principal
8 officer of the applicant, (e) the names of all shareholders, partners, or
9 members of the applicant, (f) a description of the activities of the
10 applicant in such detail as the department may require, (g) if the
11 applicant is an individual, his or her social security number, and (h)
12 audited financial statements showing a minimum net worth of one hundred
13 thousand dollars. ~~If the applicant is an individual or a sole~~
14 ~~proprietorship, the application shall include the applicant's social~~
15 ~~security number.~~

16 (3) An applicant for a license shall file with the department a
17 surety bond in the amount of fifty thousand dollars, furnished by a
18 surety company authorized to do business in this state. The bond shall be
19 for the use of the State of Nebraska and any Nebraska resident who may
20 have claims or causes of action against the applicant. The surety may
21 cancel the bond only upon thirty days' written notice to the director.

22 (4) A license fee of one hundred fifty dollars, and, if applicable,
23 a one-hundred dollar fee for each branch office listed in the
24 application, and any processing fee allowed under subsection (2) of
25 section 45-354 shall be submitted along with each application.

26 (5) An initial license shall remain in full force and effect until
27 the next succeeding December 31. Each license shall remain in force until
28 revoked, suspended, canceled, expired, or surrendered.

29 (6) The director shall, after an application has been filed for a
30 license under the act, investigate the facts, and if he or she finds that
31 the experience, character, and general fitness of the applicant, of the

1 members thereof if the applicant is a corporation or association, and of
2 the officers and directors thereof if the applicant is a corporation, are
3 such as to warrant belief that the business will be operated honestly,
4 fairly, and efficiently within the purpose of the act, the director shall
5 issue and deliver a license to the applicant to do business as a sales
6 finance company in accordance with the license and the act. The director
7 shall have the power to reject for cause any application for a license.

8 (7) The director shall, within his or her discretion, make an
9 examination and inspection concerning the propriety of the issuance of a
10 license to any applicant. The cost of such examination and inspection
11 shall be borne by the applicant.

12 (8) If an applicant for a license under the act does not complete
13 the license application and fails to respond to a notice or notices from
14 the department to correct the deficiency or deficiencies for a period of
15 one hundred twenty days or more after the date the department sends the
16 initial notice to correct the deficiency or deficiencies, the department
17 may deem the application as abandoned and may issue a notice of
18 abandonment of the application to the applicant in lieu of proceedings to
19 deny the application.

20 Sec. 5. Section 45-346.01, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 45-346.01 (1) A licensee may move its main office place of business
23 from one place to another without obtaining a new license if the licensee
24 gives ~~written~~ notice thereof to the director through the Nationwide
25 Mortgage Licensing System and Registry at least thirty days prior to such
26 move.

27 (2) A licensee shall notify the director through the Nationwide
28 Mortgage Licensing System and Registry at least thirty days prior to the
29 occurrence of any of the following:

30 (a) The establishment of a new branch office. Notice of each such
31 establishment shall be accompanied by a fee of one hundred dollars and

1 any processing fee allowed under subsection (2) of section 45-354;

2 (b) The relocation or closing of an existing branch office; or

3 (c) A change of name, trade name, or doing business as designation.

4 (3) (2) A licensee shall maintain the minimum net worth as required
5 by section 45-346 while a license issued under the Nebraska Installment
6 Sales Act is in effect. The minimum net worth shall be proven by an
7 annual audit conducted by a certified public accountant. A licensee shall
8 submit a copy of the annual audit to the director as required by section
9 45-348 or upon written request of the director. If a licensee fails to
10 maintain the required minimum net worth, the department may issue a
11 notice of cancellation of the license in lieu of revocation proceedings.

12 (4) (3) The surety bond or a substitute bond as required by section
13 45-346 shall remain in effect while a license issued under the Nebraska
14 Installment Sales Act is in effect. If a licensee fails to maintain a
15 surety bond or substitute bond, the licensee shall immediately cease
16 doing business and surrender the license to the department. If the
17 licensee does not surrender the license, the department may issue a
18 notice of cancellation of the license in lieu of revocation proceedings.

19 Sec. 6. Section 45-348, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 45-348 (1) An installment sales license may be renewed annually on
22 or before December 31 by paying to the director a fee of one hundred
23 fifty dollars, plus one hundred dollars for each branch office, if
24 applicable, for each license held as a license fee for the succeeding
25 year and any processing fee allowed under subsection (2) of section
26 45-354 and by submitting such information as the director may require to
27 indicate any material change in the information contained in the original
28 application or succeeding renewal applications, including a copy of the
29 licensee's most recent annual audit.

30 (2) A licensee may voluntarily surrender a license at any time by
31 delivering to the director written notice of the surrender. The

1 department shall ~~cancel~~ ~~issue a notice of cancellation of~~ the license
2 following such surrender.

3 (3) If a licensee fails to renew its license and does not
4 voluntarily surrender the license pursuant to this section, the
5 department may issue a notice of expiration of the license to the
6 licensee in lieu of revocation proceedings.

7 Sec. 7. Section 45-705, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 45-705 (1) No person shall act as a mortgage banker or use the title
10 mortgage banker in this state unless he, she, or it is licensed as a
11 mortgage banker, is registered with the department as provided in section
12 45-704, is licensed under the Nebraska Installment Loan Act, or is
13 otherwise exempt from the act pursuant to section 45-703.

14 (2) Applicants for a license as a mortgage banker shall submit to
15 the department an application on a form prescribed by the department. The
16 application shall include, but not be limited to, (a) the applicant's
17 corporate name and no more than one trade name or doing business as
18 designation which the applicant intends to use in this state, if
19 applicable, (b) the applicant's main office address, (c) all branch
20 office addresses at which business is to be conducted, (d) the names and
21 titles of each director and principal officer of the applicant, (e) the
22 names of all shareholders, partners, or members of the applicant, (f) a
23 description of the activities of the applicant in such detail as the
24 department may require, ~~and~~ (g) if the applicant is an individual, his or
25 her social security number, and (h) fingerprints of any principal
26 officer, director, partner, member, or sole proprietor for submission to
27 the Federal Bureau of Investigation and any other governmental agency or
28 entity authorized to receive such information for a state, national, and
29 international criminal history record information check.

30 (3) The application for a license as a mortgage banker shall include
31 or be accompanied by, in a manner as prescribed by the director, (a) the

1 name and street address in this state of a registered agent appointed by
2 the licensee for receipt of service of process and (b) the written
3 consent of the registered agent to the appointment. A post office box
4 number may be provided in addition to the street address.

5 (4) The application for a license as a mortgage banker shall be
6 accompanied by an application fee of four hundred dollars and, if
7 applicable, a seventy-five-dollar fee for each branch office listed in
8 the application and any processing fee allowed under subsection (2) of
9 section 45-748.

10 (5) ~~The director may prescribe that the application for a license as~~
11 a mortgage banker shall include or be accompanied by, in a manner as
12 prescribed by the director, a background investigation of each applicant
13 by means of fingerprints and a check of his or her criminal history
14 record information maintained by the Federal Bureau of Investigation
15 through the Nationwide Mortgage Licensing System and Registry. If the
16 applicant is a partnership, association, corporation, or other form of
17 business organization, the director shall ~~may~~ require a criminal history
18 record information check on each member, director, or principal officer
19 of each applicant or any individual acting in the capacity of the manager
20 of an office location. Fingerprints of any principal officer, director,
21 partner, member, or sole proprietor shall be submitted to the Federal
22 Bureau of Investigation and any other governmental agency or entity
23 authorized to receive such information for a state, national, and
24 international criminal history record information check. The applicant
25 shall be responsible for the direct costs associated with criminal
26 history record information checks performed. The information obtained
27 thereby may be used by the director to determine the applicant's
28 eligibility for licensing under this section. Except as authorized
29 pursuant to subsection (2) of section 45-748, receipt of criminal history
30 record information by a private person or entity is prohibited.

31 (6) In order to reduce the points of contact which the Federal

1 Bureau of Investigation may have to maintain for purposes of subsection
2 (5) of this section, the director may use the Nationwide Mortgage
3 Licensing System and Registry as a channeling agent for requesting
4 information from and distributing information to the United States
5 Department of Justice or any other governmental agency.

6 (7) (6) A license as a mortgage banker granted under the Residential
7 Mortgage Licensing Act shall not be assignable.

8 (8) (7) An application is deemed filed when accepted as
9 substantially complete by the director.

10 Sec. 8. Section 45-727, Revised Statutes Cumulative Supplement,
11 2018, is amended to read:

12 45-727 (1) An individual, unless specifically exempted from the
13 Residential Mortgage Licensing Act under section 45-703 or, on or after
14 November 24, 2019, unless having temporary authority under subsections
15 (4) or (5) of this section, shall not engage in, or offer to engage in,
16 the business of a mortgage loan originator with respect to any
17 residential real estate or dwelling located or intended to be located in
18 this state without first obtaining and maintaining annually a license
19 under the act. Each licensed mortgage loan originator shall obtain and
20 maintain a valid unique identifier issued by the Nationwide Mortgage
21 Licensing System and Registry.

22 (2) An independent agent shall not engage in the activities as a
23 loan processor or underwriter unless such independent agent loan
24 processor or underwriter obtains and maintains a license under subsection
25 (1) of this section. Each independent agent loan processor or underwriter
26 licensed as a mortgage loan originator shall obtain and maintain a valid
27 unique identifier issued by the Nationwide Mortgage Licensing System and
28 Registry.

29 (3) For the purposes of implementing an orderly and efficient
30 licensing process, the director may adopt and promulgate licensing rules
31 or regulations and interim procedures for licensing and acceptance of

1 applications. For previously registered or licensed individuals, the
2 director may establish expedited review and licensing procedures.

3 (4) Beginning November 24, 2019, upon becoming employed by a
4 mortgage banker licensed in this state, an individual who is a registered
5 mortgage loan originator shall be deemed to have temporary authority to
6 act as a mortgage loan originator in this state for one hundred twenty
7 days after submitting a mortgage loan originator application unless:

8 (a) The individual withdraws his or her mortgage loan originator
9 application;

10 (b) The director denies the mortgage loan originator application;

11 (c) The director grants the individual a mortgage loan originator
12 license;

13 (d) The application remains incomplete more than one hundred twenty
14 days after the application was submitted;

15 (e) The individual has had an application for a mortgage loan
16 originator license denied, revoked, or suspended at any time in any
17 governmental jurisdiction;

18 (f) The individual has been subject to, or served with, a cease and
19 desist order in any governmental jurisdiction;

20 (g) The individual has been convicted of a misdemeanor or felony
21 that precludes licensure under the act; or

22 (h) The individual was not a registered mortgage loan originator for
23 at least one year prior to application under the act.

24 (5) Beginning November 24, 2019, an individual who is a licensed
25 mortgage loan originator in another state employed by a mortgage banker
26 licensed in this state shall be deemed to have temporary authority to act
27 as a mortgage loan originator in this state for one hundred twenty days
28 after submitting a mortgage loan originator application unless:

29 (a) The individual withdraws his or her mortgage loan originator
30 application;

31 (b) The director denies the mortgage loan originator application;

1 (c) The director grants the individual a mortgage loan originator
2 license;

3 (d) The application remains incomplete more than one hundred twenty
4 days after the application was submitted;

5 (e) The individual has had an application for a mortgage loan
6 originator license denied, revoked, or suspended at any time in any
7 governmental jurisdiction;

8 (f) The individual has been subject to, or served with, a cease and
9 desist order in any governmental jurisdiction;

10 (g) The individual has been convicted of a misdemeanor or felony
11 that precludes licensure under the act; or

12 (h) The individual has not been a licensed mortgage loan originator
13 in another state for at least thirty days prior to application under the
14 act.

15 (6) Beginning November 24, 2019, any person employing an individual
16 who is deemed to have temporary authority to act as a mortgage loan
17 originator in this state, and any individual who is deemed to have
18 temporary authority to act as a mortgage loan originator in this state,
19 shall be subject to the requirements of the act to the same extent as if
20 that individual was a licensed mortgage loan originator under the act.

21 Sec. 9. Section 45-734, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 45-734 (1) A mortgage loan originator whose license is placed on
24 inactive status under this section shall not act as a mortgage loan
25 originator in this state until such time as the license is reactivated.

26 (2) The department shall place a mortgage loan originator license on
27 inactive status upon the occurrence of one of the following:

28 (a) Upon receipt of a notice from either the licensed mortgage
29 banker, registrant, installment loan company, or mortgage loan originator
30 that the mortgage loan originator's relationship as an employee or
31 independent agent of a licensed mortgage banker or installment loan

1 company has been terminated;

2 (b) Upon the cancellation of the employing licensed mortgage
3 banker's license pursuant to section 45-742 or upon the cancellation of
4 the employing installment loan company's license pursuant to subdivision
5 (3)(b) of section 45-1033 for failure to maintain the required surety
6 bond;

7 (c) Upon the voluntary surrender of the employing licensed mortgage
8 banker's license pursuant to section 45-742 or upon the voluntary
9 surrender of the employing installment loan company's license pursuant to
10 section 45-1032;

11 (d) Upon the expiration of the employing licensed mortgage banker's
12 license pursuant to section 45-742 or upon the expiration of the
13 employing installment loan company's license pursuant to subdivision (3)
14 (a) of section 45-1033 if such mortgage loan originator has renewed his
15 or her license pursuant to section 45-732;

16 (e) Upon the revocation or suspension of the employing licensed
17 mortgage banker's license pursuant to section 45-742 or upon the
18 revocation or suspension of the employing installment loan company's
19 license pursuant to subsection (1) of section 45-1033; or

20 (f) Upon the cancellation, surrender, or expiration of the employing
21 registrant's registration with the department.

22 (3) If a mortgage loan originator license becomes inactive under
23 this section, the license shall remain inactive until the license
24 expires, the licenseholder surrenders the license, the license is revoked
25 or suspended pursuant to section 45-742, or the license is reactivated.

26 (4) Except as provided in subsection (5) of this section, a A
27 mortgage loan originator who holds an inactive mortgage loan originator
28 license may renew such inactive license if he or she remains otherwise
29 eligible for renewal pursuant to section 45-732 except for being covered
30 by a surety bond pursuant to subdivision (1)(f) of section 45-729. Such
31 renewal shall not reactivate the license.

1 (5) A mortgage loan originator who holds an inactive mortgage loan
2 originator license that has been renewed one time may not renew such
3 inactive license for a second annual licensing period unless (a) the
4 inactive license was reactivated after such inactive license was renewed
5 or (b) the mortgage loan originator demonstrates good cause to the
6 director to allow renewal of the inactive license for an additional
7 annual licensing period.

8 (6) (5) The department has the authority to reactivate a mortgage
9 loan originator license upon receipt of a notice pursuant to section
10 45-735 that the mortgage loan originator licensee has been hired as a
11 mortgage loan originator by a licensed mortgage banker, registrant, or
12 installment loan company and if such mortgage loan originator meets the
13 conditions for licensing at the time the reactivation notice is received,
14 including, but not limited to, coverage by a surety bond pursuant to
15 subdivision (1)(f) of section 45-729.

16 Sec. 10. Section 45-737, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 45-737 A licensee licensed as a mortgage banker shall:

19 (1) Disburse required funds paid by the borrower and held in escrow
20 for the payment of insurance payments no later than the date upon which
21 the premium is due under the insurance policy;

22 (2) Disburse funds paid by the borrower and held in escrow for the
23 payment of real estate taxes prior to the time such real estate taxes
24 become delinquent;

25 (3) Pay any penalty incurred by the borrower because of the failure
26 of the licensee to make the payments required in subdivisions (1) and (2)
27 of this section unless the licensee establishes that the failure to
28 timely make the payments was due solely to the fact that the borrower was
29 sent a written notice of the amount due more than fifteen calendar days
30 before the due date to the borrower's last-known address and failed to
31 timely remit the amount due to the licensee;

1 (4) At least annually perform a complete escrow analysis. If there
2 is a change in the amount of the periodic payments, the licensee shall
3 mail written notice of such change to the borrower at least twenty
4 calendar days before the effective date of the change in payment. The
5 following information shall be provided to the borrower, without charge,
6 in one or more reports, at least annually:

7 (a) The name and address of the licensee;

8 (b) The name and address of the borrower;

9 (c) A summary of the escrow account activity during the year which
10 includes all of the following:

11 (i) The balance of the escrow account at the beginning of the year;

12 (ii) The aggregate amount of deposits to the escrow account during
13 the year; and

14 (iii) The aggregate amount of withdrawals from the escrow account
15 for each of the following categories:

16 (A) Payments applied to loan principal;

17 (B) Payments applied to interest;

18 (C) Payments applied to real estate taxes;

19 (D) Payments for real property insurance premiums; and

20 (E) All other withdrawals; and

21 (d) A summary of loan principal for the year as follows:

22 (i) The amount of principal outstanding at the beginning of the
23 year;

24 (ii) The aggregate amount of payments applied to principal during
25 the year; and

26 (iii) The amount of principal outstanding at the end of the year;

27 (5) Establish and maintain a toll-free telephone number or accept
28 collect telephone calls to respond to inquiries from borrowers, if the
29 licensee services residential mortgage loans. If a licensee ceases to
30 service residential mortgage loans, it shall continue to maintain a toll-
31 free telephone number or accept collect telephone calls to respond to

1 inquiries from borrowers for a period of twelve months after the date the
2 licensee ceased to service residential mortgage loans. A telephonic
3 messaging service which does not permit the borrower an option of
4 personal contact with an employee, agent, or contractor of the licensee
5 shall not satisfy the conditions of this section. Each day such licensee
6 fails to comply with this subdivision shall constitute a separate
7 violation of the Residential Mortgage Licensing Act;

8 (6) Answer in writing, within seven business days after receipt, any
9 written request for payoff information received from a borrower or a
10 borrower's designated representative. This service shall be provided
11 without charge to the borrower, except that when such information is
12 provided upon request within sixty days after the fulfillment of a
13 previous request, a processing fee of up to ten dollars may be charged;

14 (7) Record or cause to be recorded a release of mortgage pursuant to
15 the provisions of section 76-2803 or, in the case of a trust deed, record
16 or cause to be recorded a reconveyance pursuant to the provisions of
17 section 76-2803;

18 (8) Maintain a copy of all documents and records relating to each
19 residential mortgage loan and application for a residential mortgage
20 loan, including, but not limited to, loan applications, federal Truth in
21 Lending Act statements, good faith estimates, appraisals, notes, rights
22 of rescission, and mortgages or trust deeds for a period of five ~~three~~
23 years after the date the residential mortgage loan is funded or the loan
24 application is denied or withdrawn;

25 (9) Notify the director in writing or through the Nationwide
26 Mortgage Licensing System and Registry within three business days after
27 the occurrence of any of the following:

28 (a) The filing of a voluntary petition in bankruptcy by the licensee
29 or notice of a filing of an involuntary petition in bankruptcy against
30 the licensee;

31 (b) The licensee has lost the ability to fund a loan or loans after

1 it had made a loan commitment or commitments and approved a loan
2 application or applications;

3 (c) Any other state or jurisdiction institutes license denial, cease
4 and desist, suspension, or revocation procedures against the licensee;

5 (d) The attorney general of any state, the Consumer Financial
6 Protection Bureau, or the Federal Trade Commission initiates an action to
7 enforce consumer protection laws against the licensee or any of the
8 licensee's officers, directors, shareholders, partners, members,
9 employees, or agents;

10 (e) The Federal National Mortgage Association, Federal Home Loan
11 Mortgage Corporation, Federal Housing Administration, or Government
12 National Mortgage Association suspends or terminates the licensee's
13 status as an approved seller or seller and servicer;

14 (f) The filing of a criminal indictment or information against the
15 licensee or any of its officers, directors, shareholders, partners,
16 members, employees, or agents; or

17 (g) The licensee or any of the licensee's officers, directors,
18 shareholders, partners, members, employees, or agents was convicted of,
19 pleaded guilty to, or was found guilty after a plea of nolo contendere to

20 (i) a misdemeanor under state or federal law which involves dishonesty or
21 fraud or which involves any aspect of the mortgage banking business,
22 depository institution business, or installment loan company business or
23 (ii) any felony under state or federal law; and

24 (10) Notify the director in writing or through the Nationwide
25 Mortgage Licensing System and Registry within thirty days after the
26 occurrence of a material development other than as described in
27 subdivision (9) of this section, including, but not limited to, any of
28 the following:

29 (a) Business reorganization;

30 (b) A change of name, trade name, doing business as designation, or
31 main office address;

1 (c) The establishment of a branch office. Notice of such
2 establishment shall be on a form prescribed by the department and
3 accompanied by a fee of seventy-five dollars for each branch office;

4 (d) The relocation or closing of a branch office; or

5 (e) The entry of an order against the licensee or any of the
6 licensee's officers, directors, shareholders, partners, members,
7 employees, or agents, including orders to which the licensee or other
8 parties consented, by any other state or federal regulator.

9 Sec. 11. Sections 2, 3, 4, 5, 6, and 12 of this act become
10 operative on January 1, 2020. The other sections of this act become
11 operative on their effective date.

12 Sec. 12. Original section 45-340, Reissue Revised Statutes of
13 Nebraska, and sections 45-335, 45-346, 45-346.01, and 45-348, Revised
14 Statutes Cumulative Supplement, 2018, are repealed.

15 Sec. 13. Original section 45-705, Reissue Revised Statutes of
16 Nebraska, and sections 8-2737, 45-727, 45-734, and 45-737, Revised
17 Statutes Cumulative Supplement, 2018, are repealed.