

## LEGISLATIVE BILL 474

Approved by the Governor May 20, 2025

Introduced by Banking, Commerce and Insurance Committee: Jacobson, 42, Chairperson; Bostar, 29; Hallstrom, 1; Hardin, 48; Riepe, 12; von Gillern, 4; Wordekemper, 15; Sorrentino, 39.

A BILL FOR AN ACT relating to law; to amend sections 8-319, 8-330, 8-601, 8-820.01, 8-2701, 8-2702, 8-2703, 8-2704, 8-2705, 8-2706, 8-2707, 8-2708, 8-2709, 8-2710, 8-2711, 8-2712, 8-2713, 8-2714, 8-2715, 8-2716, 8-2717, 8-2718, 8-2719, 8-2720, 8-2721, 8-2722, 8-2723, 8-2725, 8-2726, 8-2727, 8-2728, 8-2731, 8-2732, 8-2733, 8-2734, 8-2736, 8-2737, 8-2738, 8-2739, 8-2740, 8-2741, 8-2742, 8-3027, 44-502, 44-1703, 44-4109.01, 45-101.04, 45-1,110, 45-334, 45-335, 45-336, 45-337, 45-338, 45-339, 45-340, 45-341, 45-342, 45-343, 45-344, 45-345, 45-347, 45-348, 45-350, 45-351, 45-352, 45-353, 45-355, 45-356, 45-702, 45-703, 45-705, 45-729, 45-734, 45-804, and 76-2711, Reissue Revised Statutes of Nebraska, sections 8-602, 8-2729, 8-2730, 8-2735, 8-3025, 45-346, 45-354, and 69-2103, Revised Statutes Cumulative Supplement, 2024, section 8-2724, Revised Statutes Cumulative Supplement, 2024, as amended by section 18, Legislative Bill 251, One Hundred Ninth Legislature, First Session, 2025, and section 4, Legislative Bill 527, One Hundred Ninth Legislature, First Session, 2025; to define, redefine, and eliminate terms under the Nebraska Money Transmitters Act; to change provisions of such act relating to applicability, licensure, powers and duties of the Director of Banking and Finance, confidentiality, enforcement, required reports, audits, disclosures, and records, authorized delegates, prohibited activities, money transmission procedures, refunds, receipts, solvency requirements, surety bonds, permissible investments, discipline of a license or designation, orders to cease and desist, consent orders, violations, fees, charges, and costs; to provide penalties and fines; to prohibit certain insurance policy or contract exclusions of certain providers; to change the name of the Nebraska Installment Sales Act to the Nebraska Installment Loan and Sales Act; to change, transfer, and eliminate provisions of the Nebraska Installment Loan Act and to eliminate such named act; to change provisions relating to certain taxes under the Medicaid Access and Quality Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 8-2743, 8-2744, 8-2745, 8-2746, 8-2747, 45-351.01, 45-1001, 45-1004, 45-1007, 45-1008, 45-1009, 45-1010, 45-1011, 45-1012, 45-1013, 45-1014, 45-1015, 45-1016, 45-1017, 45-1019, 45-1020, 45-1021, 45-1022, 45-1023, 45-1024, 45-1025, 45-1026, 45-1027, 45-1028, 45-1029, 45-1030, 45-1031, 45-1032, 45-1033, 45-1033.02, 45-1034, 45-1035, 45-1036, 45-1037, 45-1038, 45-1039, 45-1040, 45-1041, 45-1042, 45-1043, 45-1044, 45-1045, 45-1046, 45-1047, 45-1048, 45-1049, 45-1050, 45-1051, 45-1052, 45-1053, 45-1054, 45-1055, 45-1056, 45-1057, 45-1058, 45-1059, 45-1060, 45-1061, 45-1062, 45-1063, 45-1064, 45-1065, 45-1066, 45-1067, 45-1068, 45-1069, and 45-1070, Reissue Revised Statutes of Nebraska, and sections 45-346.01, 45-1002, 45-1003, 45-1005, 45-1006, 45-1018, and 45-1033.01, Revised Statutes Cumulative Supplement, 2024.

Be it enacted by the people of the State of Nebraska,

**Section 1.** Section 8-319, Reissue Revised Statutes of Nebraska, is amended to read:

8-319 (1) No loan shall be made by such association except to its own members, and no loan shall be made to any member for any sum in excess of the par value of his or her stock. The borrower shall pledge to the association, as security for the loan, shares of a maturity value equal to the principal of the loan and, except as otherwise provided in this section, ample security by mortgage or deeds of trust on real estate. For purposes of this section, real property and real estate shall include a leasehold or subleasehold estate in real property under a lease or sublease the term of which does not expire, or which is renewable automatically or at the option of the holder or of the association so as not to expire for at least five years beyond the maturity of the debt. Loans made upon improved real estate, except as otherwise provided in this section, shall not exceed ninety-five percent of the reasonable normal cash value thereof, and all loans made on any other real estate shall not exceed three-fourths of the reasonable normal cash value thereof.

(2) An association may make a loan or loans in an amount exceeding ninety-five percent of the reasonable normal cash value of the real estate security (a) if such loan or loans are made to a veteran in accord with the provisions of 38 U.S.C., as now existing or as hereafter amended, (b) if the proceeds of the loan or loans are to be used in purchasing residential property or in constructing a dwelling on unimproved property owned by such veteran to be occupied as his or her home, used for the purpose of making repairs, alterations, or improvements in or paying delinquent indebtedness, taxes, or special assessments on residential property owned by the veteran and used by him or her as his or her home, or used in purchasing any land and buildings to be used by the applicant in pursuing a gainful occupation other than farming,

and (c) if the Secretary of Veterans Affairs guarantees that portion of such loan or loans in excess of ninety-five percent of the reasonable normal cash value of the real estate security.

(3) An association is authorized to obtain insurance of its loans by the Federal Housing Administrator under Title II of the National Housing Act, as amended, and such loans so made upon improved real estate and so insured shall not be subject to the restrictions set forth in this section with reference to the maximum authorized amount of a loan.

(4) An association may make unsecured loans to its members if such loans (a) are insured under Title I and Title II of the National Housing Act, as amended, or (b) are for property alterations, repair, or improvements. The aggregate amount of loans made under subdivisions (a) and (b) of this subsection shall not at any time exceed twenty percent of the association's assets. Each loan made under subdivision (b) of this subsection shall be repayable in regular monthly installments within a period of twenty years and shall be supported by a written property statement on forms to be prescribed by the Department of Banking and Finance. An association may make secured loans to its members and may make loans under 38 U.S.C., as amended, under Chapter V, subchapter C of the Home Owners' Loan Act of 1933, as amended (12 U.S.C.), and on the security of mobile homes.

(5) The stock of such association may be accepted as security for a loan of the amount of the withdrawal value of such stock without other security.

(6) An association when so licensed may make loans to its own members upon the terms and security set forth in the Nebraska Installment Loan and Sales Act.

(7) Any provisions of this section to the contrary notwithstanding, an association may make any loan that a federal savings and loan association doing business in this state is or may be authorized to make.

(8) An association may invest in loans, obligations, and advances of credit, all of which are referred to in this subsection as loans, made for the payment of expenses of business school, technical training school, college, or university education, but no association shall make any investment in loans under this subsection if the principal amount of its investment in such loans, exclusive of any investment which is or which at the time of its making was otherwise authorized, would thereupon exceed five percent of its assets. Such loans may be secured, partly secured, or unsecured, and the association may require a comaker or comakers, insurance, guaranty under a governmental student loan guarantee plan, or other protection against contingencies. The borrower shall certify to the association that the proceeds of the loan are to be used by a full-time student solely for the payment of expenses of business, technical training school, college, or university education.

(9) An association may participate with other lenders in making loans of any type that an association may otherwise make if (a) each of the lenders is either an instrumentality of the United States Government or is insured by the Federal Deposit Insurance Corporation or, in the case of another lender, the interest of the association in such loan is superior to the participating interests of the other participants and (b) an association whose accounts are insured by the Federal Deposit Insurance Corporation which may be a federal association or an association chartered by this state, or another association chartered by this state which is not so insured, has otherwise complied with subsection (1) of this section with respect to loans to members.

(10) An association may sell to or purchase from any institution which is a savings association chartered by this state or the accounts of which are insured by the Federal Deposit Insurance Corporation a participating interest in any loan, whether or not, in the case of a purchase, the security is located within the association's regular lending area.

**Sec. 2.** Section 8-330, Reissue Revised Statutes of Nebraska, is amended to read:

8-330 Every association may require borrowing members to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Such expenses may include abstract, recording, and registration fees, title examinations, survey, escrow services, and taxes or charges imposed upon or in connection with the making and recording of any mortgage. Such reasonable charges may be collected by the association from the borrower and shall not be considered interest or a charge for the use of the money loaned. A charge not exceeding one percent or that allowed a federally chartered association for the premature prepayment may be made. The rate of interest on any loan of money shall be determined and computed upon the assumption that the debt will be paid according to the agreed terms and in the event the loan is paid or collected by court action prior to the term of the loan, any payment charged, received, or taken as an advance or forbearance which is in the nature of and taken into account in the calculation of interest, shall be spread over the stated term of the loan for the purpose of determining the rate of interest. Any amounts paid or contracted to be paid by persons other than the borrower shall not be considered interest and shall not be taken into account in the calculation of interest. Interest may be paid on escrow accounts held for the payment of taxes, insurance, and similar payments, if agreed to in writing by the borrower and association. Loans may be made by an association under a license granted it pursuant to the Nebraska Installment Loan and Sales Act, to borrowing members whose loans are secured by real estate, to the same extent and in the same amount as such loans may lawfully be made to nonborrowing members. The association shall furnish a loan settlement statement to each borrower,

indicating in detail the charges and fees such borrower has paid or obligated himself or herself to pay to the association or to any other person in connection with such loan. A copy of such statement shall be retained in the records of the association.

An association may charge and receive interest, on property improvement loans including loans made under Title I of the National Housing Act, as amended, and unsecured loans authorized in section 5(c) of the Home Owners' Loan Act, as amended.

**Sec. 3.** Section 8-601, Reissue Revised Statutes of Nebraska, is amended to read:

8-601 The Director of Banking and Finance may employ deputies, examiners, attorneys, and other assistants as may be necessary for the administration of the provisions and purposes of the Credit Union Act, Delayed Deposit Services Licensing Act, Interstate Branching and Merger Act, Interstate Trust Company Office Act, Nebraska Bank Holding Company Act of 1995, Nebraska Banking Act, Nebraska Financial Innovation Act, Nebraska Installment Loan and Sales Act, ~~Nebraska Installment Sales Act~~, Nebraska Money Transmitters Act, Nebraska Trust Company Act, and Residential Mortgage Licensing Act; Chapter 8, articles 3, 5, 6, 7, 8, 13, 14, 15, 16, 19, 20, 24, and 25; and Chapter 45, articles 1 and 2. The director may levy upon financial institutions, namely, the banks, trust companies, building and loan associations, savings and loan associations, savings banks, digital asset depositories, and credit unions, organized under the laws of this state, and holding companies, if any, of such financial institutions, an assessment each year based upon the asset size of the financial institution, except that in determining the asset size of a holding company or digital asset depository, the assets of any financial institution or holding company otherwise assessed pursuant to this section and the assets of any nationally chartered financial institution shall be excluded. The assessment for digital asset depositories under the Nebraska Financial Innovation Act shall be in an amount to offset the costs of supervision and administration of the Nebraska Financial Innovation Act. The assessment shall be a sum determined by the director in accordance with section 8-606 and approved by the Governor.

**Sec. 4.** Section 8-602, Revised Statutes Cumulative Supplement, 2024, is amended to read:

8-602 The Director of Banking and Finance shall charge and collect fees for certain services rendered by the Department of Banking and Finance according to the following schedule:

(1) For filing and examining articles of incorporation, articles of association, and bylaws, except credit unions, one hundred dollars, and for credit unions, fifty dollars;

(2) For filing and examining an amendment to articles of incorporation, articles of association, and bylaws, except credit unions, fifty dollars, and for credit unions, fifteen dollars;

(3) For issuing to banks, credit card banks, trust companies, and building and loan associations a charter, authority, or license to do business in this state, a sum which shall be determined on the basis of one dollar and fifty cents for each one thousand dollars of authorized capital, except that the minimum fee in each case shall be two hundred twenty-five dollars;

(4) For issuing to digital asset depositories under the Nebraska Financial Innovation Act a charter to do business in this state, the sum of fifty thousand dollars;

(5) For issuing an executive officer's or loan officer's license, fifty dollars at the time of the initial license, except credit unions for which the fee shall be twenty-five dollars at the time of the initial license;

(6) For affixing certificate and seal, five dollars;

(7) For making substitution of securities held by it and issuing a receipt, fifteen dollars;

(8) For issuing a certificate of approval to a credit union, ten dollars;

(9) For investigating the applications required by sections 8-117, 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the cost of such examination, investigation, and inspection, including all legal expenses and the cost of any hearing transcript, with a minimum fee under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201 of one thousand dollars. The department may require the applicant to procure and give a surety bond in such principal amount as the department may determine and conditioned for the payment of the fees provided in this subdivision;

(10) For the handling of pledged securities as provided in sections 8-210 ~~, 8-2727,~~ and 8-3022 at the time of the initial deposit of such securities, one dollar and fifty cents for each thousand dollars of securities deposited and a like amount on or before January 15 each year thereafter. The fees shall be paid by the entity pledging the securities;

(11) For investigating an application to move its location within the city or village limits of its original license or charter for banks, trust companies, and building and loan associations, two hundred fifty dollars;

(12) For investigating an application under subdivision (6) of section 8-115.01, five hundred dollars;

(13) For investigating an application for approval to establish or acquire a branch pursuant to section 8-157 or 8-2103 or to establish a mobile branch pursuant to section 8-157, two hundred fifty dollars;

(14) For investigating a notice of acquisition of control under subsection (1) of section 8-1502, five hundred dollars;

(15) For investigating an application for a cross-industry merger under section 8-1510, five hundred dollars;

(16) For investigating an application for a merger of two state banks, a merger of a state bank and a national bank in which the state bank is the surviving entity, or an interstate merger application in which the Nebraska state chartered bank is the resulting bank, five hundred dollars;

(17) For investigating an application or a notice to establish a branch trust office, five hundred dollars;

(18) For investigating an application or a notice to establish a representative trust office, five hundred dollars;

(19) For investigating an application to establish a credit union branch under section 21-1725.01, two hundred fifty dollars;

(20) For investigating an applicant under section 8-1513, five thousand dollars;

(21) For investigating a request to extend a conditional bank charter under section 8-117, one thousand dollars; and

(22) For investigating an application to establish a branch office, for a merger or an acquisition of control, or for a request to extend a conditional charter for a digital asset depository, five hundred dollars.

**Sec. 5.** Section 8-820.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-820.01 It is hereby declared to be the public policy of the State of Nebraska that for purposes of applying the federal most-favored-lender doctrine, the bank credit card rate contained in section 8-820 is not comparable or analogous to the small loan rate found in section 70 of this act sections 45-1024 and section 45-350 45-1025. The Legislature finds that the institutions making small loans and the institutions administering a bank credit card are categorically different. The transactions carried on by these institutions are categorically different. The Legislature finds that small loan borrowers and bank credit card users are not synonymous or comparable. In establishing a small loan rate, the Legislature has recognized a risk factor that is different and greater than other financial transactions and therefor justifies the charging of a higher interest rate than installment loans, personal loans, retail revolving credit plans, or bank credit card interest rates.

**Sec. 6.** Section 8-2701, Reissue Revised Statutes of Nebraska, is amended to read:

8-2701 Sections 8-2701 to 8-2742 8-2747 shall be known and may be cited as the Nebraska Money Transmitters Act.

**Sec. 7.** Section 8-2702, Reissue Revised Statutes of Nebraska, is amended to read:

8-2702 For purposes of the Nebraska Money Transmitters Act: the definitions found in sections 8-2703 to 8-2723 shall be used.

(1) Acting in concert means persons knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement;

(2) Applicant means a person filing an application for a license under the Nebraska Money Transmitters Act;

(3) Authorized delegate means a person designated by the licensee to engage in money transmission on behalf of the licensee;

(4) Average daily money transmission liability means the amount of the licensee's outstanding money transmission obligations in this state at the end of each day in a given period of time, added together, and divided by the total number of days in the given period of time. For purposes of calculating average daily money transmission liability under the Nebraska Money Transmitters Act for any licensee required to do so, the given period of time shall be each calendar quarter;

(5) Closed loop stored value means stored value that is redeemable by the issuer of such stored value only for goods or services provided by the issuer or affiliates of such issuer or franchisees of the issuer or affiliates of such franchisees, except to the extent the stored value is required by applicable law to be redeemable in cash for the cash value of the stored value;

(6)(a) Control means:

(i) Direct or indirect power over the vote of at least twenty-five percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

(ii) The power to elect or appoint a majority of key individuals, executive officers, managers, directors, trustees, or other persons that have managerial authority of a person in control of a licensee; or

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

(b) For purposes of determining the percentage of a person controlled by any other person, the person's interest shall be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law, and any other person who shares such person's residence;

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

(8) Director means the Director of Banking and Finance;

(9) Eligible rating means a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as plus or minus for Standard and

Poor's Corporation or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by Standard and Poor's Corporation, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by Standard and Poor's Corporation or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

(10) Eligible rating service means any nationally recognized statistical rating organization approved by the Securities and Exchange Commission and any other organization designated by the director by rule or order;

(11) Federally insured depository financial institution means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company organized under the laws of the United States or any state of the United States, when such bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company has federally insured deposits;

(12) In this state means at a physical location within this state for a transaction requested in person. For a transaction requested electronically or by telephone, the provider of money transmission may determine if the person requesting the transaction is in this state by relying on other information provided by such person regarding the location of the individual's residential address or the entity's principal place of business or other physical address location and any records associated with such person that the provider of money transmission may have that indicate the location of the individual's residential address or the entity's principal place of business or other physical address location, including, but not limited to, an address associated with an account;

(13) Individual means a natural person;

(14) Key individual means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee;

(15) Licensee means a person licensed under the Nebraska Money Transmitters Act;

(16) Material litigation means litigation, that according to United States generally accepted accounting principles, is significant to a person's financial health and would be required to be disclosed in the person's annual audited financial statements, report to shareholders, or similar records;

(17) Model Money Transmission Modernization Act means the Model Money Transmission Modernization Act approved for state adoption by the Conference of State Bank Supervisors Board of Directors that sets nationwide standards, including net worth, surety bond, and permissible investments requirements, to modernize the supervision and regulation of money transmitters;

(18) Monetary value means a medium of exchange, whether or not redeemable in money;

(19) Money means a medium of exchange that is authorized or adopted by the United States or a foreign government. Money includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments;

(20)(a) Money transmission means any of the following:

(i) Selling or issuing payment instruments to a person located in this state;

(ii) Selling or issuing stored value to a person located in this state; and

(iii) Receiving money for transmission from a person located in this state.

(b) Money transmission includes payroll processing services. Money transmission does not include the provision solely of online or telecommunications services or network access;

(21) Multistate licensing process means any agreement entered into by and among state regulators relating to coordinated processing of applications for money transmission licenses, applications for the acquisition of control of a licensee, control determinations, or notice and information requirements for a change of key individuals;

(22) Nationwide Mortgage Licensing System and Registry means the Nationwide Mortgage Licensing System and Registry, also known as the Nationwide Multistate Licensing System and Registry, developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries;

(23)(a) Outstanding money transmission obligation means:

(i) Any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee or has been escheated in accordance with applicable abandoned property laws; or

(ii) Any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender or has been escheated in accordance with applicable abandoned property laws.

(b) For purposes of subdivision (23) of this section, in the United States

includes, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a United States military installation that is located in a foreign country;

(24) Payment instrument means a written or electronic check, draft, money order, traveler's check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable. Payment instrument does not include stored value or any instrument that:

(a) Is redeemable by the issuer only for goods or services provided by the issuer or affiliates of such issuer or franchisees of the issuer or affiliates of such franchisees except to the extent the instrument is required by applicable law to be redeemable in cash for the cash value of the instrument; or

(b) Is not sold publicly but issued and distributed as part of a loyalty, rewards, or promotional program;

(25) Payroll processing services means receiving money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans, or make distributions of other authorized deductions from wages or salaries. Payroll processing services does not include an employer performing payroll processing services on the employer's own behalf or on behalf of an affiliate of the employer;

(26) Person means any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation, or other corporate entity identified by the director;

(27) Receipt means a paper receipt, electronic record, or other written confirmation;

(28) Receiving money for transmission or money received for transmission means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means;

(29) Remit means to make direct payments of money to a licensee or a representative of a licensee authorized to receive money or to deposit money in a bank in an account specified by the licensee; and

(30) Stored value means monetary value representing a claim against the issuer of the stored value evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services. Stored value includes, but is not limited to, prepaid access as defined by 31 C.F.R. 1010.100. Notwithstanding the foregoing, stored value does not include a payment instrument or closed loop stored value, or stored value not sold publicly but issued and distributed as part of a loyalty, rewards, or promotional program.

**Sec. 8.** Section 8-2703, Reissue Revised Statutes of Nebraska, is amended to read:

8-2703 The Nebraska Money Transmitters Act does not apply to:

(1) An operator of a payment system to the extent that such operator provides processing, clearing, or settlement services, between or among persons exempted from the Nebraska Money Transmitters Act under this section or licensees, in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transfers, or similar funds transfers;

(2) A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission, provided to the payor by the payee, provided that:

(a) There exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the behalf of the payee;

(b) The payee holds the agent out to the public as accepting payments for goods or services on the behalf of the payee; and

(c) Payment for the goods or services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee;

(3) A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity:

(a) Is properly licensed or exempt from licensing requirements of the Nebraska Money Transmitters Act;

(b) Provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(c) Bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the designated recipient of the sender;

(4) The United States or any department, agency, or instrumentality thereof or any agent of the United States or any department, agency, or instrumentality thereof;

(5) Money transmission by the United States Postal Service or by an agent of the United States Postal Service;

(6) A state, county, or city or any governmental agency, political subdivision, or instrumentality of a state, or any agent of a state, county, or city or any governmental agency, political subdivision, or instrumentality of a

state;

(7) A federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch pursuant to the International Banking Act of 1978, corporation organized pursuant to the Bank Service Company Act, or corporation organized under the Edge Act;

(8) Electronic funds transfer of governmental benefits for a federal, state, county, or other governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or on behalf of a state, county, or other governmental subdivision, agency, or instrumentality thereof;

(9) A board of trade designated as a contract market under the Commodity Exchange Act or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of such person's operation as or for such a board;

(10) A person registered as a futures commission merchant under the federal commodities laws to the extent of such person's operation as a merchant;

(11) A person registered as a securities broker-dealer under federal or state securities laws to the extent of such person's operation as a broker-dealer;

(12) An individual employed by a licensee, authorized delegate, or any person exempted from the licensing requirements of the Nebraska Money Transmitters Act when acting within the scope of employment, under the supervision of the licensee, authorized delegate, or exempted person, as an employee and not as an independent contractor;

(13) A person expressly appointed as a third-party service provider to or agent of an entity exempt under subdivision (7) of this section, solely to the extent that:

(a) Such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(b) The exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent;

(14) A person, firm, corporation, or association licensed in this state and acting within this state within the scope of a license:

(a) As a collection agency pursuant to the Collection Agency Act;

(b) As a credit services organization pursuant to the Credit Services Organization Act; or

(c) To engage in the debt management business pursuant to sections 69-1201 to 69-1217;

(15) A charter issued under the Nebraska Financial Innovation Act; and

(16) A person exempt by regulation or order if the director finds such exemption to be in the public interest and that the regulation of such person is not necessary for the purposes of the Nebraska Money Transmitters Act.

Applicant means a person filing an application for a license under the Nebraska Money Transmitters Act.

**Sec. 9.** Section 8-2704, Reissue Revised Statutes of Nebraska, is amended to read:

8-2704 The director may require that any person claiming to be exempt from licensing under the Nebraska Money Transmitters Act pursuant to section 8-2703 provide information and documentation to the director demonstrating that such person qualifies for exemption. Authorized delegate means an entity designated by the licensee or an exempt entity under the Nebraska Money Transmitters Act to engage in the business of money transmission on behalf of the licensee or exempt entity.

**Sec. 10.** Section 8-2705, Reissue Revised Statutes of Nebraska, is amended to read:

8-2705 (1) In order to carry out the purposes of the Nebraska Money Transmitters Act, the director may, subject to subsections (1) and (2) of section 8-2706:

(a) Enter into agreements or relationships with other government officials or federal and state regulatory agencies and regulatory associations in order to improve efficiencies and reduce regulatory burden by standardizing methods or procedures and sharing resources, records, or related information obtained under the Nebraska Money Transmitters Act;

(b) Use, hire, contract, or employ analytical systems, methods, or software to examine or investigate any person subject to the Nebraska Money Transmitters Act;

(c) Accept, from other state or federal governmental agencies or officials, licensing, examination, or investigation reports made by such other state or federal governmental agencies or officials; and

(d) Accept audit reports made by an independent certified public accountant or other qualified third-party auditor for an applicant or licensee and incorporate the audit report in any report of examination or investigation.

(2) The director shall have the broad administrative authority to administer, interpret, and enforce the Nebraska Money Transmitters Act, to adopt and promulgate rules or regulations implementing the act, and to recover the cost of administering and enforcing the act by imposing and collecting

proportionate and equitable fees and costs associated with applications, examinations, investigations, and other actions required to achieve the purposes of the act.

Breach of security of the system means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of the information maintained by the Nationwide Mortgage Licensing System and Registry, its affiliates, or its subsidiaries.

**Sec. 11.** Section 8-2706, Reissue Revised Statutes of Nebraska, is amended to read:

8-2706 (1) Except as otherwise provided in subsection (2) of this section, all information or reports obtained by the director from an applicant, licensee, or authorized delegate, related to an examination or investigation, on behalf of, or for the use of the director, are not public record and are not subject to disclosure pursuant to sections 84-712 to 84-712.09.

(2) The director may disclose information not otherwise subject to disclosure under subsection (1) of this section to a representative of state or federal agencies who promises in a record that the representative will maintain the confidentiality of the information or if the director finds that the disclosure is reasonably necessary for the protection and interest of the public pursuant to sections 84-712 to 84-712.09.

(3) This section does not prohibit the director from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

(4) Information contained in the records of the department that is public record and may be made available to the public either on the department's website, upon receipt by the department of a written request, or in the Nationwide Mortgage Licensing System and Registry shall include:

(a) The name, business address, telephone number, and unique identifier of any licensee;

(b) The business address of any registered agent of a licensee for service;

(c) The name, business address, and telephone number of all authorized delegates;

(d) The terms of, or a copy of, any bond filed by a licensee, provided that confidential information, including, but not limited to, prices and fees for such bond is redacted;

(e) Copies of any nonconfidential final orders of the department relating to any violation of the Nebraska Money Transmitters Act or the rules and regulations implementing the act; and

(f) Imposition of an administrative fine or penalty under the act.

Control means the power, directly or indirectly, to direct the management or policies of a licensee, whether through ownership of securities, by contract, or otherwise. Any person who (1) has the power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or any person in control of a licensee, (2) directly or indirectly has the right to vote ten percent or more of a class of stock or directly or indirectly has the power to sell or direct the sale of ten percent or more of a class of stock, (3) in the case of a limited liability company, is a managing member, or (4) in the case of a partnership, has the right to receive, upon dissolution, or has contributed, ten percent or more of the capital, is presumed to control that licensee.

**Sec. 12.** Section 8-2707, Reissue Revised Statutes of Nebraska, is amended to read:

8-2707 (1) The director may conduct an examination or investigation of a licensee or authorized delegate or otherwise take independent action authorized by the Nebraska Money Transmitters Act or by a rule or regulation adopted and promulgated or an order issued under the act as reasonably necessary or appropriate to administer and enforce the act, rules and regulations implementing the act, or other applicable law, including the Bank Secrecy Act and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001. The director may:

(a) Conduct an examination as the director may reasonably require;

(b) Conduct an examination in conjunction with an examination conducted by representatives of other state agencies or agencies of another state or of the federal government;

(c) Accept the examination report of another state agency or an agency of another state or of the federal government, or a report prepared by an independent accounting firm, which on being accepted, is considered for all purposes as an official report of the director; and

(d) Summon and examine under oath a key individual or employee of a licensee or authorized delegate and require the person to produce records regarding any matter related to the condition and business of the licensee or authorized delegate.

(2) A licensee or authorized delegate shall provide, and the director shall have full and complete access to, all records the director may reasonably require to conduct a complete examination. The records shall be provided at a location and in a format specified by the director. The director may utilize multistate record production standards and examination procedures when such standards will reasonably achieve the requirements of this subsection.

(3) Upon receipt by a licensee, an authorized delegate, or any other person of a notice of investigation or inquiry request for information from the department, the licensee, authorized delegate, or other person shall respond within twenty-one calendar days after receipt. Failure to respond is a



violation of the Nebraska Money Transmitters Act. Each day a licensee, authorized delegate, or other person fails to respond shall constitute a separate violation of the act.

(4) If the director finds, after notice and opportunity for hearing in accordance with the Administrative Procedure Act, that any person has violated the Nebraska Money Transmitters Act pursuant to subsection (3) of this section, the director may order such person to pay an administrative fine of not more than five thousand dollars for each separate violation and the costs of investigation.

(5) Unless otherwise directed by the director, a licensee shall pay all costs reasonably incurred in connection with an examination of the licensee or the licensee's authorized delegates.

Controlling person means any person in control of a licensee.

**Sec. 13.** Section 8-2708, Reissue Revised Statutes of Nebraska, is amended to read:

8-2708 (1) The director is authorized to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors and Money Transmitter Regulators Association and any affiliates and successors thereof for all licensees that hold licenses in this state and other states. As a participant in multistate supervision, the director may:

(a) Cooperate, coordinate, and share information with other state and federal regulators in accordance with section 8-2706;

(b) Enter into written cooperation, coordination, or information-sharing contracts or agreements with organizations, the membership of which is made up of state or federal governmental agencies; and

(c) Cooperate, coordinate, and share information with organizations, the membership of which is made up of state or federal governmental agencies, provided that the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with section 8-2706.

(2) Nothing in this section constitutes a waiver of the director's authority to conduct an examination or investigation or otherwise take independent action authorized by the Nebraska Money Transmitters Act or a rule or regulation adopted and promulgated or an order issued under the act to enforce compliance with applicable state or federal law.

(3) A joint examination or investigation, or acceptance of an examination or investigation report, does not waive an examination assessment provided for in the Nebraska Money Transmitters Act.

Department means the Department of Banking and Finance.

**Sec. 14.** Section 8-2709, Reissue Revised Statutes of Nebraska, is amended to read:

8-2709 (1) A person may not engage in the business of money transmission or advertise, solicit, or hold such person out as providing money transmission unless the person is licensed under the Nebraska Money Transmitters Act.

(2) Subsection (1) of this section does not apply to:

(a) A person that is an authorized delegate of a licensee under the Nebraska Money Transmitters Act acting within the scope of authority conferred by a written contract with the licensee; or

(b) A person that is exempt pursuant to section 8-2703 and does not engage in money transmission outside the scope of such exemption.

(3) A license issued under section 8-2713 is not transferable or assignable.

Director means the Director of Banking and Finance.

**Sec. 15.** Section 8-2710, Reissue Revised Statutes of Nebraska, is amended to read:

8-2710 (1) To establish consistent licensing between Nebraska and other states, the director is authorized to:

(a) Implement all licensing provisions of the Nebraska Money Transmitters Act in a manner that is consistent with other states that have adopted a version of the Model Money Transmission Modernization Act or multistate licensing processes; and

(b) Participate in nationwide protocols for licensing cooperation and coordination among state regulators provided that such protocols are consistent with the Nebraska Money Transmitters Act.

(2) In order to fulfill the purposes of the Nebraska Money Transmitters Act, the director is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to enable the director to:

(a) Collect and maintain records;

(b) Coordinate multistate licensing processes and supervision processes;

(c) Process fees; and

(d) Facilitate communication between Nebraska and licensees or other persons subject to the Nebraska Money Transmitters Act.

(3) The director is authorized to utilize the Nationwide Mortgage Licensing System and Registry for all aspects of licensing in accordance with the Nebraska Money Transmitters Act, including, but not limited to, license applications, applications for acquisitions of control, surety bonds, reporting, criminal history background checks, credit checks, fee processing, and examinations.

(4) The director is authorized to utilize the Nationwide Mortgage Licensing System and Registry forms, processes, and functionalities in

accordance with the Nebraska Money Transmitters Act. In the event the Nationwide Mortgage Licensing System and Registry does not provide functionality, forms, or processes for a provision of the act, the director is authorized to implement the requirements in a manner that facilitates uniformity with respect to licensing, supervision, reporting, and regulation of licensees which are licensed in multiple jurisdictions.

(5) The director is authorized to adopt and promulgate rules and regulations, or issue an order, to establish requirements for participation by applicants and licensees in the Nationwide Mortgage Licensing System and Registry upon the department's determination that each requirement is consistent with law, public interest, and the purposes of this section.

Electronic instrument means a card or other tangible object for the transmission or payment of money that contains a microprocessor chip, magnetic strip, or other means for the storage of information, that is prefunded, and the value of which is decremented upon each use. Electronic instrument does not include a card or other tangible object that is redeemable by the issuer or its affiliates in goods or services of the issuer or its affiliates.

**Sec. 16.** Section 8-2711, Reissue Revised Statutes of Nebraska, is amended to read:

8-2711 (1) Applicants for a license shall apply in a form and in a medium as prescribed by the director. Each such form shall contain content as set forth by rule, regulation, instruction, or procedure of the director and may be changed or updated by the director in accordance with applicable law in order to carry out the purposes of the Nebraska Money Transmitters Act and maintain consistency with Nationwide Mortgage Licensing System and Registry licensing standards and practices. The application shall state or contain, as applicable:

(a) The legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting the applicant's business;

(b) A list of any criminal conviction of the applicant and any material litigation in which the applicant has been involved in the ten-year period next preceding the submission of the application;

(c) A description of any money transmission previously provided by the applicant and the money transmission that the applicant seeks to provide in this state;

(d) A list of the applicant's proposed authorized delegates and the locations in this state where the applicant and its authorized delegates propose to engage in money transmission;

(e) A list of other states in which the applicant is licensed to engage in money transmission and any license revocation, suspension, or other disciplinary action taken against the applicant in another state;

(f) Information concerning any bankruptcy or receivership proceeding affecting the applicant or a person in control of an applicant;

(g) A sample form of contract for authorized delegates, if applicable;

(h) A sample form of payment instrument or stored value, as applicable;

(i) The name and address of any federally insured depository financial institution through which the applicant plans to conduct money transmission; and

(j) Any other information the Director or the Nationwide Mortgage Licensing System and Registry reasonably requires with respect to the applicant.

(2) If an applicant is a corporation, limited liability company, partnership, or other legal entity, the applicant shall also provide:

(a) The date of the applicant's incorporation or formation and state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant was incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parents or subsidiaries of the applicant, and whether any such parents or subsidiaries are publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, and the employment, as applicable, of each key individual and person in control of the applicant in the ten-year period preceding the submission of the application;

(e) A list of any criminal convictions and material litigation for a person in control of the applicant that is not an individual that has been involved with the applicant in the ten-year period preceding the submission of the application;

(f) A copy of audited financial statements of the applicant for the most recent fiscal year and for the two-year period preceding the submission of the application or, if determined to be acceptable to the director, certified unaudited financial statements for the most recent fiscal year or any other period acceptable to the director;

(g) A certified copy of unaudited financial statements of the applicant for the most recent fiscal quarter;

(h) If the applicant is a publicly traded corporation, a copy of the most recent report filed with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934;

(i) If the applicant is a wholly owned subsidiary of:

(i) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed pursuant to the Securities Exchange Act of 1934; or

(ii) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(j) The name and address of the applicant's registered agent in this state; and

(k) Any other information the director reasonably requires with respect to the applicant.

(3) A nonrefundable application fee of one thousand five hundred dollars must accompany an application for a license under this section.

(4) Other than the nonrefundable application fee, the director may waive one or more requirements of this section or permit an applicant to submit other information in lieu of the required information.

Executive officer means the president, chairperson of the executive committee, senior officer responsible for business decisions, chief financial officer, and any other person who performs similar functions for a licensee.

**Sec. 17.** Section 8-2712, Reissue Revised Statutes of Nebraska, is amended to read:

8-2712 (1) Any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and any key individual shall furnish to the director, through the Nationwide Mortgage Licensing System and Registry, the following items:

(a) The individual's fingerprints for submission to the Federal Bureau of Investigation and the director for purposes of a national criminal history background check unless the individual currently resides outside of the United States and has resided outside of the United States for the last ten years; and

(b) The individual's personal history and experience in a form and in a medium prescribed by the director, including the following:

(i) An independent credit report from a consumer reporting agency unless the individual does not have a social security number, in which case, this requirement shall be waived;

(ii) Information related to any criminal conviction or pending charges; and

(iii) Information related to any regulatory or administrative action and any civil litigation involving any claim of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

(2) If the individual has resided outside of the United States at any time in the last ten years, the individual shall also provide an investigative background report prepared by an independent search firm that meets the following requirements:

(a) The firm shall, at a minimum:

(i) Demonstrate that the firm has sufficient knowledge and resources and employs accepted and reasonable methodologies to conduct the research of the background report; and

(ii) Not be affiliated with, or have an interest with, the individual it is researching; and

(b) The investigative background report shall be written in the English language and shall contain the following, at a minimum:

(i) If available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns, and areas where the individual resided and worked;

(ii) Criminal record information of the individual for the past ten years, including, but not limited to, felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and areas where the individual resided and worked;

(iii) Employment history of the individual;

(iv) Media history of the individual, including an electronic search of national and local publications, wire services, and business applications; and

(v) Financial services-related regulatory history of the individual, including, but not limited to, money transmission, securities, banking, insurance, and mortgage-related industries.

(3) 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 this section.

Key shareholder means any person or group of persons acting in concert owning ten percent or more of any voting class of an applicant's stock.

**Sec. 18.** Section 8-2713, Reissue Revised Statutes of Nebraska, is amended to read:

8-2713 (1) When the director determines an application for an original license under the Nebraska Money Transmitters Act appears to include all the items and addresses all of the matters that are required, the application is complete. The director shall promptly notify the applicant in a record of the date on which the application is determined to be complete. The director shall approve, conditionally approve, or deny the application within one hundred twenty days after the completion date. The director may for good cause extend such one-hundred-twenty-day period.

(2) A determination by the director that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items, including the criminal history background check

response from the Federal Bureau of Investigation, and address all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

(3) When an application is filed and considered complete under this section, the director shall investigate the applicant's financial condition, financial responsibility, financial and business experience, character, and general fitness. The director may conduct an investigation of the applicant, the reasonable cost of which the applicant must pay. The director shall issue a license to an applicant under this section if the director finds that all of the following conditions have been fulfilled:

(a) The applicant has complied with sections 8-2711 and 8-2712; and

(b) The financial condition, financial responsibility, financial and business experience, competence, character, and general fitness of the applicant and the competence, experience, character, and general fitness of the key individuals and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

(4) The director shall issue a formal written notice of the denial of a license application within thirty days after the decision to deny such application. The director shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the director under this section may appeal within thirty days after receipt of the written notice of the denial. The appeal shall be in accordance with the Administrative Procedure Act.

(5) If an applicant for a license under the Nebraska Money Transmitters Act does not complete the license application and fails to respond to a notice or notices from the department to correct a deficiency or deficiencies for a period of one hundred twenty days or more after the date the department sends the initial notice to correct the deficiency or deficiencies, the department may deem the application as abandoned and may issue a notice of abandonment of the application to the applicant in lieu of proceedings to deny the application.

(6) The initial license term shall begin on the day the application is approved. The license shall expire on December 31 of the year in which the license term began, unless the initial license date is on or after November 1 and on or before December 31, in which instance the initial license term shall run through December 31 of the following year.

Licensee means a person licensed pursuant to the Nebraska Money Transmitters Act.

**Sec. 19.** Section 8-2714, Reissue Revised Statutes of Nebraska, is amended to read:

8-2714 (1) A license under the Nebraska Money Transmitters Act shall be renewed annually.

(2) An annual renewal fee of seven hundred fifty dollars shall be paid no more than sixty days before the license expiration.

(3) The renewal term shall be for a period of one year and shall begin on January 1 of each year after the initial license term and shall expire on December 31 of the year the renewal term begins.

(4) A licensee shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the director. The renewal report shall state or contain a description of each material change in information submitted by the licensee in its original license application which has not been reported to the director.

(5) The director may, for good cause, grant an extension to when the submission of the renewal fee and report is due for renewal for a licensee.

(6) The director is authorized to utilize the Nationwide Mortgage Licensing System and Registry to process license renewals provided that such functionality is consistent with this section.

Material litigation means any litigation that, according to generally accepted accounting principles, is deemed significant to an applicant's or licensee's financial health and would be required to be referenced in an applicant's or licensee's annual audited financial statements, report to shareholders, or similar documents.

**Sec. 20.** Section 8-2715, Reissue Revised Statutes of Nebraska, is amended to read:

8-2715 (1) If a licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license, the director may suspend or revoke the licensee's license in accordance with the procedures established by the Nebraska Money Transmitters Act or other applicable state law for such suspension or revocation.

(2) An applicant shall demonstrate that the applicant meets or will meet, and a licensee shall at all times meet, the requirements of sections 8-2730, 8-2731, and 8-2732.

Monetary value means a medium of exchange, whether or not redeemable in money.

**Sec. 21.** Section 8-2716, Reissue Revised Statutes of Nebraska, is amended to read:

8-2716 (1) Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the director prior to acquiring control. An individual is not deemed to acquire control of a licensee and is not subject to this section when that individual becomes a key individual for a licensee in the ordinary course of business.

(2) A person, or group of persons acting in concert, seeking to acquire control of a licensee shall, in cooperation with the licensee:

(a) Submit an application in a form and in a medium prescribed by the director; and

(b) Submit a nonrefundable fee of one thousand five hundred dollars with the request for approval.

(3) Upon request, the director may permit a licensee or the person, or group of persons acting in concert, to submit some or all information required by the director pursuant to this section without using the Nationwide Mortgage Licensing System and Registry.

(4) The application required by this section shall include the information required by section 8-2712 for any new key individuals that have not previously completed the requirements of section 8-2712 for a licensee.

(5) When the director determines an application for acquisition of control under this section appears to include all the items and address all of the matters that are required, the application shall be considered complete and the director shall promptly notify the applicant in writing of the date on which the application was determined to be complete.

(6) The director shall approve or deny the application within sixty days after the completion date and, if the application is not approved or denied by the director within sixty days after the completion date, the application is deemed approved and the person, or group of persons acting in concert, are not prohibited from acquiring control of the licensee. The director may for good cause extend such sixty-day period.

(7) A determination by the director that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and address all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

(8) When an application is filed and considered complete under this section, the director shall investigate the financial condition, financial responsibility, financial and business experience, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control. The director shall approve an acquisition of control pursuant to this section if the director finds that all of the following conditions have been fulfilled:

(a) The requirements of subsections (1) and (2) of this section have been met, as applicable; and

(b) The financial condition, financial responsibility, financial and business experience, competence, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control and the competence, experience, character, and general fitness of the key individuals and persons that would be in control of the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person, or group of persons acting in concert, to control the licensee.

(9) The director shall issue a formal written notice of the denial of an application to acquire control within thirty days after the decision to deny the application. The director shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the director under this section may appeal within thirty days after receipt of the written notice of the denial. The appeal shall be in accordance with the Administrative Procedure Act.

(10) The requirements of this section do not apply to any of the following:

(a) A person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting shares or voting interests of a licensee or a person in control of a licensee;

(b) A person that acquires control of a licensee by devise or descent;

(c) A person that acquires control of a licensee as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law;

(d) A person that is exempt under subdivision (7) of section 8-2703;

(e) A person that the director determines is not subject to this section based on the public interest;

(f) A public offering of securities of a licensee or a person in control of a licensee; or

(g) An internal reorganization of a person in control of the licensee where the ultimate person in control of the licensee remains the same.

(11) Persons described in subdivisions (10)(a), (b), (c), (d), (f), and (g) of this section, in cooperation with the licensee, shall notify the director within fifteen days after the acquisition of control.

(12) Before filing an application for approval to acquire control of a licensee, a person may request in writing a determination from the director as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the director determines that the person would not be a person in control of a licensee, the proposed person and transaction is not subject to the requirements of this section.

~~Money transmission means the business of the sale or issuance of payment instruments or stored value or of receiving money or monetary value for transmission to a location within or outside the United States by any and all means, including wire, facsimile, or electronic transfer. Notwithstanding any other provision of law, money transmission also includes bill payment services not limited to the right to receive payment of any claim for another but does~~

~~not include bill payment services in which an agent of a payee receives money or monetary value on behalf of such payee.~~

**Sec. 22.** Section 8-2717, Reissue Revised Statutes of Nebraska, is amended to read:

8-2717 (1) A licensee adding or replacing any key individual shall:

(a) Provide notice in a manner prescribed by the director within fifteen days after the date the key individual's appointment became effective; and

(b) Provide the information required by section 8-2712 within forty-five days of the date after the key individual's appointment.

(2) Within ninety days after the date on which the notice provided pursuant to this section was determined to be complete, the director may issue a notice of disapproval of an added or replacement key individual if the director determines that, given the competence, experience, character, or integrity of the individual, permitting the individual to be a key individual of such licensee would not be in the best interest of the public or the customers of the licensee.

(3) A notice of disapproval shall contain a statement of the basis for disapproval and shall be sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval within thirty days after receipt of such notice of disapproval. The appeal shall be in accordance with the Administrative Procedure Act.

(4) If the notice provided pursuant to this section is not disapproved within ninety days after the date on which the notice was determined to be complete, the key individual is deemed approved.

~~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.~~

**Sec. 23.** Section 8-2718, Reissue Revised Statutes of Nebraska, is amended to read:

8-2718 (1) Each licensee shall submit a report of condition within forty-five days after the end of a calendar quarter, or within any extended time as the director may prescribe.

(2) The report of condition shall include:

(a) Financial information at the licensee level;

(b) Nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission;

(c) A permissible investments report of the licensee;

(d) Transaction destination country reporting for money received for transmission, if applicable; and

(e) Any other information the director reasonably requires with respect to the licensee.

(3) The director is authorized to utilize the Nationwide Mortgage Licensing System and Registry for the submission of the report required by this section and is authorized to update as necessary the requirements of this section to carry out the purposes of the Nebraska Money Transmitters Act and maintain consistency with Nationwide Mortgage Licensing System and Registry reporting.

(4) The information required by subdivision (2)(d) of this section shall only be included in a report of condition submitted within forty-five days after the end of the fourth calendar quarter.

~~Outstanding payment instrument means any payment instrument issued by a licensee which has been sold in the United States directly by the licensee or any payment instrument issued by a licensee which has been sold by an authorized delegate of the licensee in the United States, which has been reported to the licensee as having been sold, and which has not yet been paid by or for the licensee.~~

**Sec. 24.** Section 8-2719, Reissue Revised Statutes of Nebraska, is amended to read:

8-2719 (1) Each licensee shall, within ninety days after the end of each fiscal year or within any time period after the end of the fiscal year as the director may prescribe, file with the director:

(a) An audited financial statement of the licensee for the fiscal year prepared in accordance with United States generally accepted accounting principles; and

(b) Any other information as the director may reasonably require.

(2) Such audited financial statement shall be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the director.

(3) Such audited financial statement shall include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant that is satisfactory in form and content to the director. If the certificate or opinion is qualified, the director may order the licensee to take any action as the director may find necessary to enable the independent certified public accountant or independent public accountant to remove the qualification.

~~Payment instrument means any electronic or written check, draft, money order, travelers check, or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. Payment instrument does not~~

~~include any credit card, any voucher, any letter of credit, or any instrument that is redeemable by the issuer or its affiliates in goods or services of the issuer or its affiliates.~~

**Sec. 25.** Section 8-2720, Reissue Revised Statutes of Nebraska, is amended to read:

8-2720 (1) Each licensee shall submit a report of authorized delegates within forty-five days after the end of each calendar quarter. The director is authorized to utilize the Nationwide Mortgage Licensing System and Registry for the submission of the report required by this section provided that such functionality is consistent with the requirements of this section.

(2) The authorized delegate report shall include, at a minimum, each authorized delegate's:

- (a) Company legal name;
- (b) Taxpayer employer identification number;
- (c) Principal provider identifier;
- (d) Physical address;
- (e) Mailing address;
- (f) Business conducted in other states;
- (g) Fictitious or trade names;
- (h) Contact person name, telephone number, and email;
- (i) Start date as the licensee's authorized delegate;
- (j) End date acting as the licensee's authorized delegate, if applicable;

and

(k) Any other information the director reasonably requires with respect to the authorized delegate.

Permissible investments means:

- (1) Cash;
- (2) Certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;
- (3) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the federal reserve system;
- (4) Any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;
- (5) Investment securities that are obligations of the United States or its agencies or instrumentalities, obligations that are guaranteed fully as to principal and interest by the United States, or any obligations of any state or political subdivision thereof;
- (6) Shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one of more permissible investments as set forth in this section;
- (7) Any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;
- (8) Receivables that are due to a licensee from its authorized delegates pursuant to a contract described in section 8-2739 which are not past due or doubtful of collection; or
- (9) Any other investment or similar security approved by the director.

**Sec. 26.** Section 8-2721, Reissue Revised Statutes of Nebraska, is amended to read:

8-2721 (1) A licensee shall file a report with the director within one business day after the licensee has reason to know of the occurrence of any of the following events:

- (a) The filing of a petition by or against the licensee under the United States Bankruptcy Code for bankruptcy or reorganization;
- (b) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors; or

(c) The commencement of a proceeding to revoke or suspend the license of a licensee in a state or country in which the licensee engages in business or is licensed.

(2) A licensee shall file a report with the director within three business days after the licensee has reason to know of the occurrence of any of the following events:

- (a) A charge or conviction of the licensee or of a key individual or person in control of the licensee for a felony; or
- (b) A charge or conviction of an authorized delegate for a felony.

(3)(a) Except as provided in subdivisions (b) and (c) of this subsection, a licensee shall notify the director in writing or through the Nationwide Mortgage Licensing System and Registry within three business days after the time that the licensee becomes aware of any breach of security of the system of computerized data owned or licensed by the licensee, which contains personal information about a Nebraska resident, or the unauthorized access to or use of such information about a Nebraska resident as a result of the breach. For purposes of this subsection, the terms breach of the security of the system and personal information have the same meaning as in section 87-802.

(b) If a licensee would be required under Nebraska law to provide notification to a Nebraska resident regarding such breach, then the licensee shall provide a copy of such notification to the department prior to or simultaneously with the licensee's notification to the Nebraska resident.

(c) Notice required by this subsection may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice shall be made in good faith and without unreasonable delay as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.

Person means any individual, partnership, limited liability company, association, joint-stock association, trust, or corporation. Person does not include the United States or the State of Nebraska.

**Sec. 27.** Section 8-2722, Reissue Revised Statutes of Nebraska, is amended to read:

8-2722 A licensee and an authorized delegate shall file all reports required by the federal currency reporting, record-keeping, and suspicious activity reporting requirements set forth in the Bank Secrecy Act and other federal and state laws pertaining to money laundering. The timely filing of a complete and accurate report required under this section with the appropriate federal agency is deemed to be in compliance with the requirements of this section. Remit, except as used in section 8-2747, means either to make direct payment of the funds to a licensee or its representatives authorized to receive those funds or to deposit the funds in a bank, credit union, or savings and loan association or other similar financial institution in an account specified by a licensee.

**Sec. 28.** Section 8-2723, Reissue Revised Statutes of Nebraska, is amended to read:

8-2723 (1) A licensee shall maintain the following records, for determining the licensee's compliance with the Nebraska Money Transmitters Act, for at least five years:

- (a) A record of each outstanding money transmission obligation sold;
- (b) A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
- (c) Bank statements and bank reconciliation records;
- (d) Records of outstanding money transmission obligations;
- (e) Records of each outstanding money transmission obligation paid;
- (f) A list of the last-known names and addresses of all of the licensee's authorized delegates; and
- (g) Any other records the director reasonably requires by rule or regulation.

(2) The items specified in subsection (1) of this section may be maintained in any form of record.

(3) Records specified in subsection (1) of this section may be maintained outside this state if they are made accessible to the director within seven business days after notice.

(4) All records maintained by the licensee as required in subsection (1) of this section are subject to inspection by the director pursuant to section 8-2707.

Stored value means monetary value that is evidenced by an electronic record. Stored value does not include any item that is redeemable by the issuer or its affiliates in goods or services of the issuer or its affiliates.

**Sec. 29.** Section 8-2724, Revised Statutes Cumulative Supplement, 2024, as amended by section 18, Legislative Bill 251, One Hundred Ninth Legislature, First Session, 2025, is amended to read:

8-2724 (1) Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee shall:

- (a) Adopt, and update as necessary, written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;
- (b) Enter into a written contract that complies with subsection (3) of this section; and
- (c) Conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law.

(2) An authorized delegate shall operate in full compliance with the Nebraska Money Transmitters Act.

(3) The written contract required by subdivision (1)(b) of this section shall be signed by the licensee and the authorized delegate and, at a minimum, also shall:

- (a) Appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee;
- (b) Set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of the parties;
- (c) Require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including the Nebraska Money Transmitters Act and the rules and regulations implementing the act, the Bank Secrecy Act, and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001;
- (d) Require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate;
- (e) Impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee;



(f) Require the authorized delegate to prepare and maintain records as required by the Nebraska Money Transmitters Act or the rules and regulations implementing the act, or as reasonably requested by the director;

(g) Acknowledge that the authorized delegate consents to examination or investigation by the director;

(h) State that the licensee is subject to regulation by the director and that, as part of that regulation, the director may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and

(i) Acknowledge receipt of the written policies and procedures required under subdivision (1)(a) of this section.

(4) If the licensee's license is suspended, revoked, canceled, surrendered, or expired, the licensee shall, within five business days, provide documentation to the director that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the director of the suspension, revocation, cancellation, surrender, or expiration of the license. Upon suspension, revocation, cancellation, surrender, or expiration of the license, applicable authorized delegates shall immediately cease to provide money transmission as an authorized delegate of the licensee.

(5) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If any authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property shall be considered held in trust in favor of the licensee in an amount equal to the amount of money net of fees received from money transmission by the authorized delegate on behalf of the licensee.

(6) An authorized delegate may not use a subdelegate to conduct money transmission on behalf of a licensee.

(1) The requirement for a license under the Nebraska Money Transmitters Act does not apply to:

(a) The United States or any department, agency, or instrumentality thereof;

(b) Any post office of the United States Postal Service;

(c) A state or any political subdivision thereof;

(d)(i) Banks, credit unions, digital asset depository institutions as defined in section 8-3003, building and loan associations, savings and loan associations, savings banks, or mutual banks organized under the laws of any state or the United States;

(ii) Subsidiaries of the institutions listed in subdivision (d)(i) of this subsection;

(iii) Bank holding companies which have a banking subsidiary located in Nebraska and whose debt securities have an investment grade rating by a national rating agency; or

(iv) Authorized delegates of the institutions and entities listed in subdivision (d)(i), (ii), or (iii) of this subsection, except that authorized delegates that are not banks, credit unions, building and loan associations, savings and loan associations, savings banks, mutual banks, subsidiaries of any of the foregoing, or bank holding companies shall comply with all requirements imposed upon authorized delegates under the act;

(e) The provision of electronic transfer of government benefits for any federal, state, or county governmental agency, as defined in Consumer Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such regulation existed on January 1, 2025, by a contractor for and on behalf of the United States or any department, agency, or instrumentality thereof or any state or any political subdivision thereof;

(f) An operator of a payment system only to the extent that the payment system provides processing, clearing, or settlement services between or among persons who are all exempt under this section in connection with wire transfers, credit card transactions, debit card transactions, automated clearinghouse transfers, or similar fund transfers; or

(g) A person, firm, corporation, or association licensed in this state and acting within this state within the scope of a license:

(i) As a collection agency pursuant to the Collection Agency Act;

(ii) As a credit services organization pursuant to the Credit Services Organization Act; or

(iii) To engage in the debt management business pursuant to sections 69-1201 to 69-1217.

(2) An authorized delegate of a licensee or of an exempt entity, acting within the scope of its authority conferred by a written contract as described in section 8-2739, is not required to obtain a license under the Nebraska Money Transmitters Act, except that such an authorized delegate shall comply with the other provisions of the act which apply to money transmission transactions.

**Sec. 30.** Section 8-2725, Reissue Revised Statutes of Nebraska, is amended to read:

8-2725 A person shall not engage in the business of money transmission on behalf of a person not licensed under the Nebraska Money Transmitters Act or not exempt from the act pursuant to section 8-2703. A person that engages in such business and provides money transmission to the same extent as if the unlicensed or nonexempt person were a licensee shall be jointly and severally liable with the unlicensed or nonexempt person. (1) Except as otherwise provided in section 8-2724, a person shall not engage in money transmission without a license issued pursuant to the Nebraska Money Transmitters Act.

(2) A person is engaged in money transmission if the person provides money

~~transmission services to any resident of this state even if the person providing money transmission services has no physical presence in this state or if the resident is not physically located in this state at the time when the resident enters into money transmission or otherwise receives money transmission services.~~

~~(3) If a licensee has a physical presence in this state, the licensee may conduct its business at one or more locations, directly or indirectly owned, or through one or more authorized delegates, or both, pursuant to the single license granted to the licensee.~~

~~(4) A license issued pursuant to the act is not transferable or assignable.~~

**Sec. 31.** Section 8-2726, Reissue Revised Statutes of Nebraska, is amended to read:

8-2726 (1) Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of any law, rule, or regulation has occurred, is occurring, or may occur.

(2) If a licensee does not forward money received for transmission in accordance with this section, the licensee shall respond to inquiries by the sender with the reason for not forwarding the money unless providing a response would violate a state or federal law, rule, or regulation.

To qualify for a license under the Nebraska Money Transmitters Act, an applicant, at the time of filing for a license, and a licensee at all times after a license is issued, shall satisfy the following requirements:

(1) Each applicant or licensee must have a net worth of not less than fifty thousand dollars, calculated in accordance with generally accepted accounting principles;

(2) The financial condition and responsibility, financial and business experience, and character and general fitness of the applicant or licensee must reasonably warrant the belief that the applicant's or licensee's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community. In determining whether this requirement is met and for purposes of investigating compliance with the act, the director may review and consider the relevant business records and capital adequacy of the applicant or licensee;

(3) Each corporate applicant or licensee must be organized under the laws of any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands, and must be in good standing in the place of its incorporation;

(4) Each applicant or licensee must be registered or qualified to do business in the State of Nebraska; and

(5) Each applicant or licensee must maintain an office in the United States.

**Sec. 32.** Section 8-2727, Reissue Revised Statutes of Nebraska, is amended to read:

8-2727 (1) This section does not apply to:

(a) Money received for transmission subject to the federal remittance rule; or

(b) Money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

(2) Every licensee shall refund to the sender within ten days after receipt of the sender's written request for a refund of any and all money received for transmission unless any of the following occurs:

(a) The money has been forwarded within ten days after the date on which the money was received for transmission;

(b) Instructions have been given committing an equivalent amount of money to the person designated by the sender within ten days after the date on which the money was received for transmission;

(c) The agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond ten days after the date on which the money was received for transmission. If funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in accordance with the other provisions of this section;

(d) The refund is requested for a transaction that the licensee has not completed based on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur; or

(e) The refund request does not enable the licensee to:

(i) Identify the sender's name and address or telephone number; or

(ii) Identify the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

(1)(a) Except as provided in subsection (2) of this section, an applicant shall submit, with the application, a surety bond issued by a bonding company or insurance company authorized to do business in this state and acceptable to the director in the principal sum of one hundred thousand dollars. The director may increase the amount of the bond to a maximum of two hundred fifty thousand dollars for good cause.

(b) The bond shall be in a form satisfactory to the director and shall run

~~to the state for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money in connection with money transmission. In the case of a bond, the aggregate liability of the surety shall not exceed the principal sum of the bond. Any claimant against the licensee may bring suit directly on the bond or the director may bring suit on behalf of any claimant, either in one action or in successive actions.~~

~~(2) Upon filing of the report required by section 8-2734 and the information required by subdivision (2)(b) of such section, a licensee shall maintain or increase its surety bond to reflect the total dollar amount of money transmitter transactions by the licensee in this state in the most recent four calendar quarters for which data is available before the date of the filing of the renewal application in accordance with the following table. A licensee may decrease its surety bond in accordance with the following table if the surety bond required is less than the amount of the surety bond on file with the department:~~

<del>Dollar Amount of Money Transmitter Transactions</del>	<del>Surety Bond Required</del>
<del>\$0.00 to \$2,000,000.00</del>	<del>\$100,000.00</del>
<del>\$2,000,000.01 to \$4,000,000.00</del>	<del>\$150,000.00</del>
<del>\$4,000,000.01 to \$6,000,000.00</del>	<del>\$200,000.00</del>
<del>Over \$6,000,000.00</del>	<del>\$250,000.00</del>

~~(3) If the department determines that a licensee does not maintain a surety bond in the amount required by subsection (2) of this section, the department shall give written notification to the licensee requiring it to increase the surety bond within thirty days to the amount required by such subsection.~~

~~(4) The director may at any time require the filing of a new or supplemental bond in the form as provided in subsection (1) 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 a licensee or an applicant for a license or violations of the Nebraska Money Transmitters Act, any rule and regulation or order thereunder, or any state or federal law applicable to a licensee or an applicant for a license. The new or supplemental bond shall not exceed five hundred thousand dollars.~~

~~(5)(a) In lieu of the corporate surety bond or bonds required by this section or of any portion of the principal thereof, the applicant or licensee may deposit, with the director or with such banks or trust companies located in this state or with any federal reserve bank as the applicant or licensee may designate and the director may approve, interest-bearing stocks and bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, village, school district, or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. The securities shall be deposited and held to secure the same obligations as would the surety bond.~~

~~(b) The licensee shall have the right, with the approval of the director, to substitute other securities for those deposited and shall be required to do so on written order of the director made for good cause shown. The licensee shall pay the fees prescribed in section 8-602 for pledging and substitution of securities. So long as the licensee so depositing shall continue solvent and is not in violation of the Nebraska Money Transmitters Act, such licensee shall be permitted to receive the interest or dividends on such deposit.~~

~~(c) The safekeeping of such securities and all other expenses incidental to the pledging of such securities shall be paid by the licensee. All such securities shall be subject to sale and transfer and to the disposal of the proceeds by the director only on the order of a court of competent jurisdiction.~~

~~(6) The surety bond shall remain in effect until cancellation, which may occur only after thirty days' written notice to the director. Cancellation shall not affect any liability incurred or accrued during the period the surety bond was in effect.~~

~~(7) The surety bond shall remain in place for at least five years after the licensee ceases money transmission in this state, except that the director may permit the surety bond to be reduced or eliminated before that time to the extent that the amount of the licensee's payment instruments outstanding in this state are reduced. The director may also permit a licensee to substitute a letter of credit or such other form of security acceptable to the director for the surety bond in place at the time the licensee ceases money transmission in the state.~~

~~Sec. 33. Section 8-2728, Reissue Revised Statutes of Nebraska, is amended to read:~~

~~8-2728 (1) This section does not apply to:  
(a) Money received for transmission subject to the federal remittance rule; or~~

(b) Money received for transmission that is not primarily for personal, family, or household purposes;

(c) Money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or

(d) Payroll processing services.

(2)(a) Every licensee or authorized delegate shall provide the sender a receipt for money received for transmission.

(b) The receipt shall contain the following information, as applicable:

(i) The name of the sender;

(ii) The name of the designated recipient;

(iii) The date of the transaction;

(iv) The unique transaction or identification number;

(v) The name of the licensee, the Nationwide Mortgage Licensing System and Registry unique identification, the licensee's business address, and the licensee's customer service telephone number;

(vi) If not available on the licensee's website or mobile application, the name and telephone number of the department and a statement that the licensee's customers can contact the department with questions or complaints about the licensee's money transmission services;

(vii) The amount of the transaction in United States dollars;

(viii) Any fee charged by the licensee to the sender for the transaction;  
and

(ix) Any tax collected by the licensee from the sender for the transaction.

(c) For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by telephone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

(d) The receipt required by this subsection shall be in English and in the language principally used by the licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in writing, for a transaction conducted in person, electronically, or by telephone, if other than English.

~~(1) Each licensee shall at all times possess permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments and stored value issued or sold by the licensee in the United States. This requirement may be waived by the director if the dollar volume of a licensee's outstanding payment instruments and stored value does not exceed the bond or other security posted by the licensee pursuant to section 8-2727.~~

~~(2) Permissible investments, even if commingled with other assets of the licensee, are deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of the bankruptcy of the licensee.~~

**Sec. 34.** Section 8-2729, Revised Statutes Cumulative Supplement, 2024, is amended to read:

8-2729 (1) A licensee that provides payroll processing services shall:

(a) Issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

(b) Make available employee paystubs or an equivalent statement to employees.

(2) This section does not apply to a licensee providing payroll processing services where the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures required by subdivision (1)(b) of this section.

~~Each application for a license under the Nebraska Money Transmitters Act shall be made in writing and in a form prescribed by the director. Each application shall state or contain:~~

~~(1) For all applicants:~~

~~(a) The exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of its business, and the location of the applicant's business records;~~

~~(b) The history of the applicant's criminal convictions and material litigation for the five-year period before the date of the application;~~

~~(c) A description of the activities conducted by the applicant and a history of operations;~~

~~(d) A description of the business activities in which the applicant seeks to be engaged in this state;~~

~~(e) A list identifying the applicant's proposed authorized delegates in this state, if any, at the time of the filing of the application;~~

~~(f) A sample authorized delegate contract, if applicable;~~

~~(g) A sample form of payment instrument, if applicable;~~

~~(h) The locations at which the applicant and its authorized delegates, if any, propose to conduct money transmission in this state; and~~

~~(i) The name, address, and account information of each clearing bank or banks, which shall be covered by federal deposit insurance, on which the applicant's payment instruments and funds received for transmission or otherwise will be drawn or through which the payment instruments or other funds will be payable;~~

~~(2) If the applicant is a corporation, the applicant shall also provide:~~

~~(a) The date of the applicant's incorporation and state of incorporation;~~

~~(b) A certificate of good standing from the state in which the applicant was incorporated;~~

~~(c) A certificate of authority from the Secretary of State to conduct business in this state;~~

~~(d) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and a disclosure of whether any parent or subsidiary is publicly traded on any stock exchange;~~

~~(e) The name, business and residence addresses, and employment history for the five-year period immediately before the date of the application of the applicant's executive officers and the officers or managers who will be in charge of the applicant's activities to be licensed under the act;~~

~~(f) The name, business and residence addresses, and employment history for the five-year period immediately before the date of the application and the most recent personal financial statement of any key shareholder of the applicant;~~

~~(g) The history of material litigation for the five-year period immediately before the date of the application of every executive officer or key shareholder of the applicant;~~

~~(h) Background checks as provided in section 8-2730;~~

~~(i) A copy of the applicant's most recent audited financial statement including balance sheet, statement of income or loss, statement of changes in shareholder equity, and statement of changes in financial position and, if available, the applicant's audited financial statements for the immediately preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's Form 10-K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this subdivision; and~~

~~(j) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application; and~~

~~(3) If the applicant is not a corporation, the applicant shall also provide:~~

~~(a) The name, business and residence addresses, personal financial statement, and employment history, for the five-year period immediately before the date of the application, of each principal of the applicant and the name, business and residence addresses, and employment history for the five-year period immediately before the date of the application of any other person or persons who will be in charge of the applicant's money transmission activities;~~

~~(b) A copy of the applicant's registration or qualification to do business in this state;~~

~~(c) The history of material litigation for the five-year period immediately before the date of the application for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility with respect to the applicant's activities;~~

~~(d) Background checks as provided in section 8-2730; and~~

~~(e) Copies of the applicant's audited financial statements including balance sheet, statement of income or loss, and statement of changes in financial position for the current year and, if available, for the immediately preceding two-year period.~~

**Sec. 35.** Section 8-2730, Revised Statutes Cumulative Supplement, 2024, is amended to read:

8-2730 (1) A licensee shall maintain at all times a net worth of the greater of one hundred thousand dollars or three percent of the licensee's total assets for the first one hundred million dollars, two percent of additional assets for over one hundred million dollars to one billion dollars, and one-half percent of additional assets for over one billion dollars.

(2) Net worth shall be demonstrated at initial application by the applicant's most recent audited or, if allowed by the director, unaudited financial statements provided pursuant to subdivision (2)(f) of section 8-2711.

(3) Notwithstanding subsections (1) and (2) of this section, the director shall have the authority, for good cause shown, to exempt any applicant or licensee, in part or in whole, from the requirements of subsections (1) and (2) of this section.

~~(1) Effective July 1, 2014, the department shall require licensees under the Nebraska Money Transmitters Act 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, by adopting and promulgating rules and regulations or by order, requirements as necessary. The requirements may include, but are not limited to:~~

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

~~(i) Fingerprints of every executive officer, director, partner, member, sole proprietor, or shareholder 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, 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, director, partner, member, sole proprietor, or shareholder directly to the Nationwide Mortgage Licensing System and Registry and the Federal Bureau of Investigation will accept such fingerprints for a criminal background 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 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 establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to the act. The department may allow such system to collect licensing fees on behalf of the department and 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 subject to the provisions contained in section 8-2731.~~

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

~~(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 breach of security of the system provisions.~~

~~(6) The department shall upon written request 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 (1) of this section.~~

**Sec. 36.** Section 8-2731, Reissue Revised Statutes of Nebraska, is amended to read:

8-2731 (1) An applicant for a money transmission license shall provide, and a licensee at all times shall maintain, security consisting of a surety bond in a form satisfactory to the director.

(2) The amount of the surety bond required by subsection (1) of this section shall be the greater of one hundred thousand dollars or an amount equal to one hundred percent of the licensee's average daily money transmission liability in this state calculated for the most recently completed three-month period, up to a maximum of five hundred thousand dollars. A licensee that maintains a bond in the maximum amount provided for in this subsection shall not be required to calculate its average daily money transmission liability in this state for purposes of this subsection.

(3) The surety bond required by subsection (1) of this section shall remain in effect until cancellation, which may occur only after thirty days' written notice to the director. Cancellation shall not affect any liability incurred or accrued during the period the surety bond was in effect.

(4) Any claimant against the licensee may file a claim or bring suit directly on the surety bond required by subsection (1) of this section. The director may also file a claim or bring suit on behalf of any claimant, either in one action or in successive actions.

~~(1) In order to promote more effective regulation and reduce the regulatory burden through supervisory information sharing:~~

~~(a) Except as otherwise provided in this section, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. Such information and material may be shared with all federal and state regulatory officials with money transmitter industry~~

~~oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law;~~

~~(b) Information or material that is subject to privilege or confidentiality under subdivision (a) of this subsection shall not be subject to:~~

~~(i) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or~~

~~(ii) Subpoena or discovery or admission into evidence in any private civil action or administrative process unless, with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege;~~

~~(c) Any state statute relating to the disclosure of confidential supervisory information or any information or material described in subdivision (a) of this subsection that is inconsistent with such subdivision shall be superseded by the requirements of this section; and~~

~~(d) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, applicants and licensees that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.~~

~~(2) For these purposes, the director is authorized to enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, the Money Transmitter Regulators Association, or other associations representing governmental agencies as established by adopting and promulgating rules and regulations or an order of the director.~~

**Sec. 37.** Section 8-2732, Reissue Revised Statutes of Nebraska, is amended to read:

8-2732 (1) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligations.

(2) Except for permissible investments described in subsection (1) of section 8-2733, the director, with respect to any licensee, may, by order, limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers, not reflected in the market value of the investment.

(3) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations in the event of insolvency, the filing of a petition by or against the licensee under the United States Bankruptcy Code for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for dissolution or reorganization, or in the event of an action by a creditor against the licensee who is not a beneficiary of this statutory trust.

(4) No permissible investments held in trust pursuant to subsection (3) of this section shall be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

(5) Funds drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis for permissible investments required to be held in this state, and other states, as applicable. Any statutory trust established under this subsection shall be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(6) The director, by rule or order, may allow any other type of investment, that the director determines is of sufficient liquidity and quality, to be a permissible investment. The director is authorized to participate in efforts with other state regulators to determine whether other types of investments are of sufficient liquidity and quality to be a permissible investment.

~~Each applicant shall submit, with the application, an application fee of one thousand dollars, and any processing fee allowed under subsection (2) of section 8-2730 which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof.~~

**Sec. 38.** Section 8-2733, Reissue Revised Statutes of Nebraska, is amended to read:

8-2733 (1) The following investments are permissible investments for the purposes of section 8-2732:

(a) Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers in a federally insured depository financial institution;

(b) Cash equivalents, including automated clearinghouse items in transit to the licensee, automated clearinghouse items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash

in licensee-owned locations, debit card-funded or credit card-funded transmission receivables owed by any financial institution, or money market mutual funds rated AAA by Standard and Poor's Corporation or the equivalent from any other eligible rating service;

(c) Certificates of deposit or senior debt obligations of an insured depository institution as defined in the Federal Deposit Insurance Act or an insured credit union as defined in the Federal Credit Union Act;

(d) An obligation of the United States or a commission, agency, or instrumentality thereof;

(e) An obligation that is guaranteed fully as to principal and interest by the United States;

(f) An obligation of a state or a governmental subdivision, agency, or instrumentality thereof; and

(g)(i) The full drawable amount of an irrevocable standby letter of credit, for which the stated beneficiary is the director, that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days after presentation of the items required by this subdivision.

(ii) The letter of credit shall:

(A) Be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank that is authorized under state law to maintain a branch in a state and such bank bears an eligible rating or whose parent company bears an eligible rating and is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies;

(B) Be irrevocable and unconditional and indicate that such letter of credit is not subject to any condition or qualifications outside of the letter of credit;

(C) Not contain reference to any other agreements, documents, or entities, or otherwise provide for any security interest in the licensee; and

(D) Contain an issue date and expiration date and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the present or each future expiration date, unless the issuer of the letter of credit notifies the director in writing, by certified or registered mail or courier mail or other receipted means, at least sixty days prior to any expiration date that the irrevocable letter of credit will not be extended.

(iii) In the event of any notice of expiration or nonextension of a letter of credit, the licensee shall be required to demonstrate to the satisfaction of the director, fifteen days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with subsection (1) of section 8-2732 upon the expiration of the letter of credit. If the licensee is not able to do so, the director may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with subsection (1) of section 8-2732. Any such draw shall be offset against the licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by the director or the director's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

(iv) The letter of credit shall provide that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:

(A) The original letter of credit, including any amendments; and

(B) A written statement from the beneficiary stating that any of the following events have occurred:

(I) The filing of a petition by or against the licensee under the United States Bankruptcy Code for bankruptcy or reorganization;

(II) The filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for dissolution or reorganization;

(III) The seizure of assets of a licensee by a director pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation, or condition that has caused or is likely to cause the insolvency of the licensee; or

(IV) The beneficiary has received notice of expiration or nonextension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with subsection (1) of section 8-2732 upon the expiration or nonextension of the letter of credit.

(v) The director may designate an agent to serve on the director's behalf as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established by the director. The director's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of this section are assigned to the director.

(vi) The director is authorized to participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including, but not limited to, services provided by the Nationwide Mortgage Licensing System and Registry and State Regulatory Registry LLC.



(2) Unless permitted by the director, by rule or order, to exceed the limit as set forth in this section, the following investments are permissible investments for the purposes of section 8-2732 to the extent specified:

(a) Receivables that are payable to a licensee from authorized delegates in the ordinary course of business, received by the authorized delegates less than seven days old, and combined not exceeding fifty percent of the aggregate value of the licensee's total permissible investments, and receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business, received by the authorized delegate less than seven days before, and combined not exceeding ten percent of the aggregate value of the licensee's total permissible investments;

(b) The following investment categories are permissible up to twenty percent of the aggregate value of the licensee's total permissible investments for each investment category and up to fifty percent of the aggregate value of the licensee's total permissible investments for all of the investment categories combined:

(i) A short-term, up to six months, investment bearing an eligible rating;

(ii) Commercial paper bearing an eligible rating;

(iii) A bill, note, bond, or debenture bearing an eligible rating;

(iv) A United States tri-party repurchase agreement collateralized at one hundred percent or more with United States Government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(v) A money market mutual fund rated less than AAA and equal to or higher than A- by Standard and Poor's Corporation, or the equivalent from any other eligible rating service; and

(vi) A mutual fund or other investment fund composed solely and exclusively of one or more permissible investments described in subdivisions (1)(a) through (c) of this section; and

(c) Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to ten percent of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in the licensee's most recent examination and the foreign depository institution:

(i) Has an eligible rating;

(ii) Is registered under the Foreign Account Tax Compliance Act;

(iii) Is not located in any country subject to sanctions from the Office of Foreign Assets Control; and

(iv) Is not located in a high-risk or noncooperative jurisdiction as designated by the Financial Action Task Force.

~~(1) Upon the filing of a complete application under the Nebraska Money Transmitters Act, the director shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant. The director may conduct an onsite investigation of the applicant, the reasonable cost of which shall be borne by the applicant. If the director finds that the applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community and that the applicant has fulfilled the requirements imposed by the act and has paid the required application or license fee, the director shall issue a license to the applicant authorizing the applicant to engage in money transmission in this state. If these requirements have not been met, the director shall deny the application in writing, setting forth the reasons for the denial.~~

~~(2) The director shall approve or deny every application for an original license within one hundred twenty days after the date a complete application is submitted, which period may be extended by the written consent of the applicant. The director shall notify the applicant of the date when the application is deemed complete.~~

~~(3) Any applicant aggrieved by a denial issued by the director under the act may, at any time within fifteen business days after the date of the denial, request a hearing before the director. The hearing shall be held in accordance with the Administrative Procedure Act and rules and regulations of the department.~~

~~(4) If an applicant for a license under the Nebraska Money Transmitters Act does not complete the license application and fails to respond to a notice or notices from the department to correct the deficiency or deficiencies for a period of one hundred twenty days or more after the date the department sends the initial notice to correct the deficiency or deficiencies, the department may deem the application as abandoned and may issue a notice of abandonment of the application to the applicant in lieu of proceedings to deny the application.~~

**Sec. 39.** Section 8-2734, Reissue Revised Statutes of Nebraska, is amended to read:

8-2734 (1) The director may, following a hearing in accordance with the Administrative Procedure Act, suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:

(a) The licensee violates the Nebraska Money Transmitters Act or a rule or regulation adopted and promulgated or an order issued under the act;

(b) The licensee does not cooperate with an examination or investigation by the director;

(c) The licensee willfully failed to make any report required by the act;

(d) The licensee engages in fraud, intentional misrepresentation, or gross negligence;

(e) An authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or violates a rule or regulation adopted and promulgated or an order issued under the act, as a result of the licensee's willful misconduct or willful blindness;

(f) The competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, key individual, or responsible person of the authorized delegate indicates that it is not in the public interest to permit the person to provide money transmission;

(g) The licensee engages in an unsafe or unsound practice;

(h) The licensee is insolvent, suspends payment of the licensee's obligations, or makes a general assignment for the benefit of its creditors; or

(i) The licensee does not remove an authorized delegate after the director issues and serves upon the licensee a final order including a finding that the authorized delegate has violated the Nebraska Money Transmitters Act.

(2) In determining whether a licensee is engaging in an unsafe or unsound practice, the director may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of the Nebraska Money Transmitters Act, and the previous conduct of the person involved.

(3) A licensee may voluntarily surrender a license by delivering to the director written notice of the surrender.

(4) If a licensee fails to maintain a surety bond as required by section 8-2731, the department may issue a notice of cancellation of the license in lieu of revocation proceedings.

(5) Suspension, revocation, cancellation, surrender, or expiration of a license shall not impair or affect the obligation of a preexisting lawful contract between the licensee and any person.

(6) Suspension, revocation, cancellation, surrender, or expiration of a license shall not affect civil or criminal liability for acts committed before the suspension, revocation, cancellation, surrender, or expiration or liability for any fines which may be levied against the licensee or any of its key individuals, executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee for acts committed before the suspension, revocation, cancellation, surrender, or expiration.

~~(1) Initial licenses shall remain in full force and effect until the next succeeding December 31. Each licensee shall, annually on or before December 31 of each year, file a license renewal application and pay to the director a license fee of two hundred fifty dollars and any processing fee allowed under subsection (2) of section 8-2730, both of which shall not be subject to refund.~~

~~(2) The renewal application and license fee shall be accompanied by a report, in a form prescribed by the director, which shall include:~~

~~(a) A copy of the licensee's most recent audited consolidated annual financial statement including balance sheet, statement of income or loss, statement of changes in shareholders' equity, and statement of changes in financial position, or, if a licensee is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited annual financial statement;~~

~~(b) The number of payment instruments sold by the licensee in the state, the dollar amount of those instruments, and the dollar amount of payment instruments currently outstanding, for the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty days before the renewal date;~~

~~(c) Any material changes to any of the information submitted by the licensee on its original application which have not previously been reported to the director on any other report required to be filed under the Nebraska Money Transmitters Act; and~~

~~(d) A list of the licensee's permissible investments.~~

**Sec. 40.** Section 8-2735, Revised Statutes Cumulative Supplement, 2024, is amended to read:

8-2735 (1) The director may issue an order suspending or revoking the designation of an authorized delegate if the director finds that:

(a) The authorized delegate violated the Nebraska Money Transmitters Act or a rule or regulation adopted and promulgated or an order issued under the act;

(b) The authorized delegate did not cooperate with an examination or investigation by the director;

(c) The authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;

(d) The authorized delegate is convicted of a violation of a state or federal anti-money-laundering statute;

(e) The competence, experience, character, or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money transmission; or

(f) The authorized delegate is engaging in an unsafe or unsound practice.

(2) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the director may consider the size and condition of the authorized delegate's provision of money transmission, the magnitude of the loss, the gravity of the violation of the Nebraska Money Transmitters Act or a rule or regulation adopted and promulgated or order issued under the act, and the previous conduct of the authorized delegate.

(3) An authorized delegate may apply for relief from a suspension or

revocation of designation as an authorized delegate according to procedures prescribed by the director.

~~(1) A licensee shall file notice with the director within thirty calendar days after any material change in information provided in a licensee's application as prescribed by the director.~~

~~(2) A licensee shall file a report with the director within five business days after the licensee has reason to know of the occurrence of any of the following events:~~

~~(a) The filing of a petition by or against the licensee under any bankruptcy law of the United States for liquidation or reorganization;~~

~~(b) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;~~

~~(c) The filing of an action to revoke or suspend the licensee's license in a state or country in which the licensee engages in business or is licensed;~~

~~(d) The cancellation or other impairment of the licensee's bond or other security;~~

~~(e) A charge or conviction of the licensee or of an executive officer, manager, or director of, or controlling person of, the licensee, for a felony; or~~

~~(f) A charge or conviction of an authorized delegate for a felony.~~

~~(3)(a) Except as provided in subdivisions (b) and (c) of this subsection, a licensee shall notify the director in writing or through the Nationwide Mortgage Licensing System and Registry within three business days from the time that the licensee becomes aware of any breach of security of the system of computerized data owned or licensed by the licensee, which contains personal information about a Nebraska resident, or the unauthorized access to or use of such information about a Nebraska resident as a result of the breach.~~

~~(b) If a licensee would be required under Nebraska law to provide notification to a Nebraska resident regarding such incident, then the licensee shall provide a copy of such notification to the department prior to or simultaneously with the licensee's notification to the Nebraska resident.~~

~~(c) Notice required by this subsection may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice shall be made in good faith, without unreasonable delay, and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.~~

~~(d) For purposes of this subsection, the terms breach of the security of the system and personal information have the same meaning as in section 87-802.~~

**Sec. 41.** Section 8-2736, Reissue Revised Statutes of Nebraska, is amended to read:

8-2736 (1) If the director determines that a violation of the Nebraska Money Transmitters Act or of a rule or regulation adopted and promulgated or an order issued under the act by a licensee or authorized delegate is likely to cause immediate and irreparable harm to the licensee, the licensee's customers, or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the licensee, the director may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of the order upon the licensee or authorized delegate.

(2) The director may issue an order against a licensee to cease and desist from providing money transmission through an authorized delegate that is the subject of a separate order by the director.

(3) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to the Administrative Procedure Act.

(4) A licensee or an authorized delegate that is served with an order to cease and desist may petition the district court of Lancaster County for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding pursuant to the Administrative Procedure Act.

(5) Upon entry of an order to cease and desist, the director shall promptly notify the affected person that such order has been entered and provide opportunity for hearing in accordance with the Administrative Procedure Act.

(1) No person acting personally or as an authorized delegate shall acquire control of any licensee under the Nebraska Money Transmitters Act without first giving thirty days' notice to the director on forms prescribed by the director of such proposed acquisition.

(2) The director, upon receipt of such notice, shall act upon the proposed acquisition within thirty days, and unless he or she disapproves the proposed acquisition within that period of time, the acquisition shall become effective on the thirty-first day after receipt without the director's approval, except that the director may extend the thirty-day period an additional thirty days if, in his or her judgment, any material information submitted is substantially inaccurate or the acquiring person has not furnished all the information required by the director.

(3) An acquisition may be made prior to the expiration of the disapproval period if the director issues written notice of his or her intent not to disapprove the action.

(4)(a) The director may disapprove any proposed acquisition if:

(i) The financial condition of any acquiring person is such as might

jeopardize the financial stability of the acquired licensee;

(ii) The business experience, character, and general fitness of any acquiring person or of any of the proposed management personnel of the acquiring person indicate that the acquired licensee would not be operated honestly, carefully, or efficiently; or

(iii) Any acquiring person neglects, fails, or refuses to furnish all information required by the director.

(b) The director may require that any acquiring person comply with the application requirements of section 8-2729.

(c) The director shall notify the acquiring person in writing of disapproval of the acquisition. The notice shall provide a statement of the basis for the disapproval.

(d) Within fifteen business days after receipt of written notice of disapproval, the acquiring person may request a hearing on the proposed acquisition. The hearing shall be in accordance with the Administrative Procedure Act and rules and regulations of the department. Following such hearing, the director shall, by order, approve or disapprove the proposed acquisition on the basis of the record made at the hearing.

**Sec. 42.** Section 8-2737, Reissue Revised Statutes of Nebraska, is amended to read:

8-2737 The director may enter into a consent order at any time with a person to resolve a matter arising under the Nebraska Money Transmitters Act or a rule or regulation adopted and promulgated or order issued under the act. A consent order shall be signed by the person to whom the order is issued or by the person's authorized representative, and shall indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that the act or a rule or regulation adopted and promulgated or an order issued under the act has been violated. (1) The director may conduct an examination of a licensee upon reasonable written notice to the licensee. The director may examine a licensee without prior notice if the director has a reasonable basis to believe that the licensee is in noncompliance with the Nebraska Money Transmitters Act.

(2) An examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states or departments or agencies of the United States. The director, in lieu of an examination, may accept the examination report of an agency of another state or a department or an agency of the United States or a report prepared by an independent accounting firm. Reports so accepted are considered for all purposes as an official report of the department.

(3) The director may make investigations regarding complaints of alleged violations of the Nebraska Money Transmitters Act, any rule and regulation or order under the act, or any state or federal law applicable to a licensee, an authorized delegate, or an applicant for a license, as the director deems necessary, and to the extent necessary for this purpose, the director may examine such licensee, authorized delegate, or any other person, interview officers, principals, employees, and customers of the licensee, authorized delegate, or applicant, and compel the production of all relevant books, records, accounts, and documents.

(4) The director may request financial data from a licensee in addition to that required under section 8-2734.

(5) The director may conduct an examination of any authorized delegate of a licensee within this state upon reasonable written notice to the licensee and the authorized delegate. The director may conduct an examination of any authorized delegate without prior notice to the authorized delegate or licensee only if the director has a reasonable basis to believe that the licensee or authorized delegate is in noncompliance with the Nebraska Money Transmitters Act.

(6) Upon receipt by a licensee, an authorized delegate, or any other person of a notice of investigation or inquiry request for information from the department, the licensee, authorized delegate, or other person shall respond within twenty-one calendar days. Failure to respond is a violation of the Nebraska Money Transmitters Act. Each day a licensee, authorized delegate, or other person fails to respond as required by this subsection shall constitute a separate violation.

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

(8) If a person fails to pay an administrative fine and the costs of investigation ordered pursuant to subsection (7) 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 Nebraska Money Transmitters Act.

(9) For purposes of any investigation, examination, or proceeding under

~~the Nebraska Money Transmitters Act, the director or any officer designated by the director may administer oaths and affirmations, subpoena witnesses, compel 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 inquiry. If any person refuses to comply with a subpoena issued under this subsection or to testify with respect to any matter relevant to the proceeding, the district court of Lancaster County may, on application of the director, issue an order requiring the person to comply with the subpoena and to testify. Failure to obey an order of the court to comply with the subpoena may be punished by the court as civil contempt.~~

~~(10) The total charge for an examination under this section shall be paid by the licensee or authorized delegate as set forth in sections 8-605 and 8-606.~~

**Sec. 43.** Section 8-2738, Reissue Revised Statutes of Nebraska, is amended to read:

8-2738 (1) Except as provided in subsections (2) and (3) of this section, any person violating the Nebraska Money Transmitters Act or any rule, regulation, or order of the director adopted, promulgated, or issued pursuant to the act or who engages in any act, practice, or transaction declared by the act to be unlawful is guilty of a Class III misdemeanor.

(2) A person who intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under the Nebraska Money Transmitters Act or who intentionally makes a false entry or omits a material entry in such a record is guilty of a Class I misdemeanor.

(3) An individual who knowingly engages in money transmission for which a license is required under the Nebraska Money Transmitters Act without being licensed under the act is guilty of a Class I misdemeanor.

~~(1) Each licensee shall make, keep, and preserve the following books, accounts, and other records for a period of three years which shall be open to inspection by the director:~~

- ~~(a) A record of each payment instrument and stored value sold;~~
- ~~(b) A general ledger containing all assets, liability, capital, income, and expense accounts, which general ledger shall be posted at least monthly;~~
- ~~(c) Settlement sheets received from authorized delegates;~~
- ~~(d) Bank statements and bank reconciliation records;~~
- ~~(e) Records of outstanding payment instruments and stored value;~~
- ~~(f) Records of each payment instrument and stored value paid;~~
- ~~(g) A list of the names and addresses of all of the licensee's authorized delegates; and~~

~~(h) Any other records the director reasonably requires by rule or regulation or order.~~

~~(2) Maintenance of such documents as are required by this section in a photographic, electronic, or other similar form constitutes compliance with this section.~~

~~(3) Records may be maintained at a location other than within this state so long as the records are made accessible to the director on seven business days' written notice.~~

**Sec. 44.** Section 8-2739, Reissue Revised Statutes of Nebraska, is amended to read:

8-2739 The director may assess a fine against a person that violates the Nebraska Money Transmitters Act or a rule or regulation adopted and promulgated or an order issued under the act in an amount not to exceed five thousand dollars per violation per day for each day the violation is outstanding, plus the department's and the State of Nebraska's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees. A licensee desiring to conduct money transmission through an authorized delegate shall authorize each authorized delegate to operate pursuant to an express written contract which, for contracts entered into on or after January 1, 2014, shall provide the following:

(1) That the licensee appoints the person as its authorized delegate with authority to engage in the sale and issue of payment instruments or engage in the business of money transmission on behalf of the licensee;

(2) That neither a licensee nor an authorized delegate may authorize subdelegates without the written consent of the director; and

(3) That the licensee is subject to supervision and regulation by the director.

**Sec. 45.** Section 8-2740, Reissue Revised Statutes of Nebraska, is amended to read:

8-2740 (1) If the director has reason to believe that a person has violated or is violating section 8-2709, the director may issue an order to cease and desist requiring that the person cease and desist from the violation of section 8-2709.

(2) In an emergency, the director may petition the district court of Lancaster County for the issuance of a temporary restraining order ex parte pursuant to the rules of civil procedure.

(3) An order to cease and desist becomes effective when issued by the director.

(4) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to the Administrative Procedure Act.

(5) A person that is served with an order to cease and desist for violating section 8-2709 may petition the district court of Lancaster County

for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding pursuant to the Administrative Procedure Act.

(6) Upon entry of an order to cease and desist, the director shall promptly notify the affected person that such order has been entered and provide opportunity for hearing in accordance with the Administrative Procedure Act.

(1) An authorized delegate shall not make any fraudulent or false statement or misrepresentation to a licensee or to the director.

(2) An authorized delegate shall conduct all money transmission strictly in accordance with the licensee's written procedures provided to the authorized delegate.

(3) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

(4) An authorized delegate is deemed to consent to the director's inspection with or without prior notice to the licensee or authorized delegate.

(5) An authorized delegate is under a duty to act only as authorized under the contract with the licensee and the Nebraska Money Transmitters Act. An authorized delegate who exceeds its authority is subject to cancellation of its contract and further disciplinary action by the director.

(6) All funds, less fees, received by an authorized delegate of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized delegate for transmission shall, from the time such funds are received by such authorized delegate until such time when the funds or an equivalent amount are remitted by the authorized delegate to the licensee, constitute trust funds owned by and belonging to the licensee. If an authorized delegate commingles any such funds with any other funds or property owned or controlled by the authorized delegate, all commingled proceeds and other property is impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

**Sec. 46.** Section 8-2741, Reissue Revised Statutes of Nebraska, is amended to read:

8-2741 (1) The department shall remit all fees, charges, and costs collected by the department pursuant to the Nebraska Money Transmitters Act to the State Treasurer for credit to the Financial Institution Assessment Cash Fund.

(2) The department shall remit fines collected under the act to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(1) The director may, following a hearing in accordance with the Administrative Procedure Act, suspend or revoke any license issued pursuant to the Nebraska Money Transmitters Act if he or she finds:

(a) Any fact or condition exists that, if it had existed at the time when the licensee applied for its original or renewal license, would have been grounds for denying such application;

(b) The licensee's net worth has become inadequate and the licensee, after ten days' written notice from the director, failed to take such steps as the director deems necessary to remedy such deficiency;

(c) The licensee knowingly violated any material provision of the act or any rule or order validly adopted and promulgated under the act;

(d) The licensee conducted money transmission in an unsafe or unsound manner;

(e) The licensee is insolvent;

(f) The licensee has suspended payment of its obligations, made an assignment for the benefit of its creditors, or admitted in writing its inability to pay its debts as they became due;

(g) The licensee filed for liquidation or reorganization under any bankruptcy law;

(h) The licensee refused to permit the director to make any examination authorized by the act; or

(i) The licensee willfully failed to make any report required by the act.

(2) In determining whether a licensee is engaging in an unsafe or unsound practice, the director may consider the size and condition of the licensee's money transmission, the magnitude of the loss, if any, the gravity of the violation of the act, and the previous conduct of the licensee.

(3) A licensee may voluntarily surrender a license by delivering to the director written notice of the surrender, but a surrender shall not affect civil or criminal liability for acts committed before the surrender or liability for any fines which may be levied against the licensee or any of its officers, directors, key shareholders, partners, or members for acts committed before the surrender.

(4)(a) If a licensee fails to renew its license as required by section 8-2734 and does not voluntarily surrender the license pursuant to this section, 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 8-2727, the department may issue a notice of cancellation of the license in lieu of revocation proceedings.

(5) Revocation, suspension, surrender, cancellation, or expiration of a license shall not impair or affect the obligation of a preexisting lawful contract between the licensee and any person.

(6) 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 any fines which may be levied against the licensee or any of its officers, directors, key shareholders, partners, or members for acts committed before the revocation, suspension, cancellation, or expiration.~~

**Sec. 47.** Section 8-2742, Reissue Revised Statutes of Nebraska, is amended to read:

8-2742 For purposes of the Nebraska Money Transmitters Act:

(1) 31 C.F.R. 1010.100 means 31 C.F.R. 1010.100, as such regulation existed on January 1, 2025;

(2) Bank Secrecy Act means the Bank Secrecy Act, 31 U.S.C. 5311 et seq., and the implementing regulations of such act, as such act and regulations existed on January 1, 2025;

(3) Bank Service Company Act means the Bank Service Company Act, 12 U.S.C. 1861 et seq., as such act existed on January 1, 2025;

(4) Commodity Exchange Act means the Commodity Exchange Act, 7 U.S.C. 1 et seq., as such act existed on January 1, 2025;

(5) Edge Act means the Edge Act, 12 U.S.C. 611 et seq., as such act existed on January 1, 2025;

(6) Federal Credit Union Act means the Federal Credit Union Act, 12 U.S.C. 1751 et seq., as such act existed on January 1, 2025;

(7) Federal Deposit Insurance Act means the Federal Deposit Insurance Act, 12 U.S.C. 1811 et seq., as such act existed on January 1, 2025;

(8) Federal remittance rule means 12 C.F.R. part 1005, subpart B, as such regulation existed on January 1, 2025;

(9) Foreign Account Tax Compliance Act means the Foreign Account Tax Compliance Act, 26 U.S.C. 1471 et seq., as such act existed on January 1, 2025;

(10) International Banking Act of 1978 means the International Banking Act of 1978, 12 U.S.C. 3101 et seq., as such act existed on January 1, 2025;

(11) Securities Exchange Act of 1934 means the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq., as such act existed on January 1, 2025;

(12) United States Bankruptcy Code means 11 U.S.C. 101 et seq., as such sections existed on January 1, 2025; and

(13) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as such act existed on January 1, 2025.

~~(1) The director may, following a hearing in accordance with the Administrative Procedure Act, issue an order suspending or revoking the designation of an authorized delegate if the director finds that:~~

~~(a) The authorized delegate violated the Nebraska Money Transmitters Act or a rule or regulation adopted and promulgated or an order issued under the act;~~

~~(b) The authorized delegate did not cooperate with an examination or investigation by the director;~~

~~(c) The authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;~~

~~(d) The authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;~~

~~(e) The competence, experience, character, or general fitness of the authorized delegate or a controlling person of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to engage in money transmission services; or~~

~~(f) The authorized delegate is engaged in an unsafe or unsound practice.~~

~~(2) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the director may consider the size and condition of the authorized delegate's money transmission, the magnitude of the loss, if any, the gravity of the violation of the act, and the previous conduct of the authorized delegate.~~

~~(3) Any authorized delegate to whom a final order is issued under this section may apply to the director to modify or rescind the order. The director shall not grant the application unless the director finds that (a) it is in the public interest to do so and (b) it is reasonable to believe that the person will comply with the act and any rule, regulation, or order issued under the act if and when that person is permitted to resume being an authorized delegate of a licensee.~~

**Sec. 48.** Section 8-3025, Revised Statutes Cumulative Supplement, 2024, is amended to read:

8-3025 The director may suspend or revoke the charter of a digital asset depository if, after notice and opportunity for a hearing, the director determines that:

(1) The digital asset depository has failed or refused to comply with an order issued under section 8-1,136, 8-2504, or ~~8-2740~~ 8-2743;

(2) The application for a charter contained a materially false statement, misrepresentation, or omission; or

(3) An officer, a director, or an agent of the digital asset depository, in connection with an application for a charter, an examination, a report, or other document filed with the director, knowingly made a materially false statement, misrepresentation, or omission to the department, the director, or the duly authorized agent of the department or director.

**Sec. 49.** Section 8-3027, Reissue Revised Statutes of Nebraska, is amended to read:

8-3027 (1) If the director finds that a digital asset depository has failed, is operating in an unsafe or unsound condition, or is endangering the interests of customers, and the failure, unsafe or unsound condition, or endangerment has not been remedied within the time prescribed under section 8-1,117 or as directed by order of the director issued pursuant to section 8-1,136, 8-2504, or 8-2740 8-2743, the director shall conduct a liquidation or appoint a receiver as provided by sections 8-198, 8-1,100, and 8-1,102.

(2) For purposes of this section:

(a) Failed or failure means, consistent with an order or rules and regulations of the director, a circumstance when a digital asset depository has not:

(i) Complied with the requirements of section 8-3009;  
(ii) Maintained capital and surplus as required by section 8-3013; or  
(iii) Paid, in the manner commonly accepted by business practices, its legal obligations to customers on demand or to discharge any promissory notes, or other indebtedness when due; and

(b) Unsafe or unsound condition means, consistent with an order or rules and regulations of the director, a circumstance relating to a digital asset depository which is likely to:

(i) Cause the failure of the digital asset depository;  
(ii) Cause a substantial dissipation of assets or earnings;  
(iii) Substantially disrupt the services provided by the digital asset depository to customers; or  
(iv) Otherwise substantially prejudice the interests of customers of the digital asset depository.

**Sec. 50.** Section 44-502, Reissue Revised Statutes of Nebraska, is amended to read:

44-502 No policy of life or endowment insurance, except policies of industrial insurance, shall be issued or delivered in this state unless it contains in substance the following provisions:

(1) A provision that all premiums shall be payable in advance either at the home office of the company or to any agent of the company upon delivery of a receipt signed by one or more of the officers who shall be named in the policy.

(2) A provision that the insured is entitled to a grace of one month within which the payment of any premium, after the first year, may be made, subject, at the option of the company, to an interest charge not in excess of six percent per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in force; but in case the policy becomes a claim during the said period of grace before the overdue premium or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, with interest on any overdue premium, may be deducted from any amount payable under the policy in settlement.

(3) A provision that the policy shall constitute the entire contract between the parties; but if the company desires to make the application a part of the contract, it may do so; Provided, a copy of such application shall be endorsed upon or attached to the policy when issued, and in such case, the policy shall contain a provision that the policy and the application therefor shall constitute the entire contract between the parties.

(4) A provision that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application, and a copy of such application shall be endorsed upon or attached to the policy when issued.

(5) A provision that the policy shall be incontestable after it shall have been in force during the lifetime of the insured for two years from its date, except for nonpayment of premiums and except with respect to limitations of liability which may be contained in the policy relating to (a) death resulting from war or acts of war, declared or undeclared, where such limitations shall have been found by the Director of Insurance to be in keeping with the interests of the policyholders of the company and to be not unfairly discriminatory, and (b) aeronautics other than as a fare-paying passenger of a commercial airline, and flying on a regularly scheduled route between definitely established airports; and in any such cases the liability of the company may be limited by the terms of the policy to a sum not less than the reserve on the face of the policy and the reserve on any paid-up additions thereto and any dividends standing to the credit of the policy, less any indebtedness to the company on the policy; and, at the option of the company, provisions relative to benefits in the event of total and permanent disability, and provisions which grant additional insurance specifically against death by accident may be excepted from the incontestable clause; Provided, limitations with reference to aeronautics shall not be included in any policy where an extra premium is charged to cover the aeronautic risk, nor shall any such limitations extending beyond the contestable period be included in or attached to any policy where the applicant for insurance has not elected in writing to accept a policy with such limitations, and by such election has agreed to a reduced coverage for the aviation risk.

(6) A provision that if the age of the insured has been misstated, the amount payable under the policy shall be such as the premium paid would have purchased at the correct age.

(7) A provision that the policy shall participate in the surplus of the company, and that, beginning not later than the end of the third policy year,



the company shall annually ascertain and apportion the amount of divisible surplus to which all such policies, as a separate class, are entitled, which amount shall be carried as a distinct and separate liability in favor of such policies. The insured, under any annual dividend policy, shall have the right each year to have the dividend arising from such participation paid in cash, and if the policy shall provide other dividend options, it shall further provide that, if the insured shall not elect any such other options, one of such dividend options provided shall become effective as provided in the policy; but such participation and its distribution may, by contract, be deferred to a fixed or specified time, not exceeding twenty years. Upon written request of the insured the company shall furnish him or her with a statement of the amount of the surplus provisionally ascertained or set aside on such policy and held awaiting distribution at the expiration of the deferred dividend period.

(8) A provision that after three full years' premiums have been paid, the company at any time, while the policy is in force, will advance, on proper assignment or pledge of the policy, and on the sole security thereof, at a specified rate of interest determined pursuant to section 44-502.03 a sum equal to, or, at the option of the owner of the policy, less than the amount required by section 44-405, under the conditions specified thereby, and that the company will deduct from such loan value any existing indebtedness on the policy, which has not otherwise entered into the computation of such loan value, together with any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Interest if payable annually in advance shall not exceed an effective rate equivalent to the specified rate of interest determined pursuant to section 44-502.03. It shall be further stipulated in the policy that failure to repay any such advance, or to pay interest, shall not avoid the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure, nor until one month after notice shall have been mailed by the company to the last-known address of the insured and of the assignee, if any. No condition other than as provided herein, or in section 44-405, shall be exacted as prerequisite to any such advance.

(9) A provision for nonforfeiture benefits and cash surrender values in accordance with the requirements of sections 44-406 to 44-407.09.

(10) A table showing in figures the loan values, if any, and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy.

(11) A provision that if, in the event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest and the payment or reinstatement of any other indebtedness to the company upon such policy.

(12) A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof.

(13) In case the proceeds of a policy are payable in installments, or as an annuity, a table showing the amounts of the installments or annuity payments.

(14) A title on the face of the policy correctly describing the same. Any of the foregoing provisions or portions of this section not applicable by reason of the plan of insurance may, to the extent of inapplicability, be omitted from the policy. Any such policy may be issued or delivered in this state which in the opinion of the Department of Insurance contains provisions on any one or more of the several foregoing requirements more favorable to the policyholder than hereinbefore required.

(15)(a) For policies issued or delivered in this state on or after January 1, 2026, a provision that, at least fifteen days prior to termination or lapse by reason of default in payment of any premium due on such policy, a notice will be sent electronically or mailed to the last-known address of the owner and any assignee on record with the company.

(b) For policies issued or delivered in this state on or after January 1, 2026, an assignee shall have the same legal standing as the owner with respect to subdivision (15)(a) of this section.

**Sec. 51.** Section 44-1703, Reissue Revised Statutes of Nebraska, is amended to read:

44-1703 All life insurance and all accident and health insurance sold in connection with loans or other credit transactions shall be subject to sections 44-1701 to 44-1713 except such insurance sold in connection with a loan or other credit transaction of more than ten years duration or fifteen years duration when made by licensees under the Nebraska Installment Loan and Sales Act. No insurance shall be subject to sections 44-1701 to 44-1713 when the issuance of such insurance is an isolated transaction on the part of the insurer and not related to an agreement or a plan for insuring debtors of the creditor.

**Sec. 52.** Section 44-4109.01, Reissue Revised Statutes of Nebraska, is amended to read:

44-4109.01 Policies or contracts authorized by sections 44-4109 and 44-4110 are subject to the following requirements:

(1) A prospective insured shall be provided information about the terms and conditions of the insurance arrangement to enable him or her to make an

informed decision about accepting a system of health care delivery. If the insurance arrangement is described orally to a prospective insured, the description shall use easily understood, truthful, and objective terms. All written descriptions shall be in a readable and understandable format. Specific items that shall be included are:

(a) Coverage provisions, benefits, and any exclusions by category of service, provider, or physician and, if applicable, by specific service;

(b) Any prior authorization or other review requirements, including preauthorization review, concurrent review, postservice review, and postpayment review, the manner in which an insured may obtain review of a denial of coverage, and the nature of any liability an insured may incur if the insured does not comply with the authorization requirements of the policy, contract, certificate, or other materials; and

(c) Information on the insured's financial responsibility for payment for deductibles, coinsurance, or other noncovered services;

(2) If an insurer conducts customer satisfaction surveys concerning an insurance arrangement, the results of such surveys shall be made available upon request to existing and prospective participants in insurance arrangements;

(3) The policy, contract, certificate, or other materials shall establish a mechanism by which a committee of preferred providers will be involved in reviewing and advising the insurance arrangement about medical policy, including coverage of new technology and procedures, quality and credentialing criteria, and medical management procedures;

(4) All policies or contracts shall have a system for credentialing participating preferred providers and shall allow all providers within the insurance arrangement's geographic service area to apply for such credentials periodically and not less than annually. The credentialing process:

(a) Shall begin upon application of a provider for inclusion in the policy or contract; and

(b) Shall be based solely on quality, accessibility, or economic considerations and shall be applied in accordance with reasonable business judgment.

Credentialing standards or criteria shall be made available, upon request, to providers and insureds;

(5) If the policy or contract is with an organized delivery system formed by insurers, hospitals, physicians, or allied health professionals, or a combination of such entities, participation by a provider may be limited to a participant in the organized delivery system or to providers having staff privileges at a particular health care facility;

(6) If an insurer or a participant in an insurance arrangement refuses to contract with a provider, the provider shall be permitted to appeal the adverse decision. A person conducting the provider-appeal procedure may be employed by the insurer or participant in an insurance arrangement if the person does not initially participate in the decision to take adverse action against the provider. The provider-appeal procedure shall include, but not be limited to, notice of the date and time of the hearing, a statement of the criteria or standards on which the decision was based, an opportunity for the provider to review information upon which the adverse decision was based, an opportunity for the provider to appear personally at the hearing and present any additional information, and a timely decision on the appeal;

(7) If the insurer or participant in an insurance arrangement excludes or fails to retain a provider previously contracted with to provide health care services, the provider shall be permitted to appeal the adverse decision in the same manner as set forth in subdivision (6) of this section. If the provider disagrees with the decision, the provider shall be permitted to appeal to an appeals committee consisting of one person selected by each party to the appeal and one person mutually agreeable to both parties. The parties to the appeal shall pay to the appeal committee any costs associated with the person they select and shall share the costs of the person mutually agreeable to both parties, which costs shall not be recoverable by the other party;

(8) Prior to initiation of a proceeding to terminate a provider's participation, the provider shall be given an opportunity to enter into and complete a corrective action plan, except in cases of fraud or imminent harm to patient health or when the provider's ability to provide services has been restricted by an action, including probation or any compliance agreements, by the Department of Health and Human Services or other governmental agency; and

(9) Policies and contracts shall not exclude a provider (a) providers with a practice practices containing a substantial number of patients having severe or expensive medical conditions or (b) who holds a visiting faculty permit as described in section 38-2045. An insurance arrangement shall not be prohibited, ~~except that this section shall not prohibit plans from excluding a provider providers who fails fail to meet the insurance arrangement's criteria for quality, accessibility, or economic considerations.~~

**Sec. 53.** Section 45-101.04, Reissue Revised Statutes of Nebraska, is amended to read:

45-101.04 The limitation on the rate of interest provided in section 45-101.03 shall not apply to:

(1) Other rates of interest authorized for loans made by any licensee or permittee operating under a license or permit duly issued by the Department of Banking and Finance pursuant to the Credit Union Act, the Nebraska Installment Loan and Sales Act, subsection (4) of section 8-319, or sections 8-815 to 8-829;

(2) Loans made to any corporation, partnership, limited liability company,

or trust;

(3) The guarantor or surety of any loan to a corporation, partnership, limited liability company, or trust;

(4) Loans made when the aggregate principal amount of the indebtedness is twenty-five thousand dollars or more of the borrower to any one financial institution, licensee, or permittee;

(5) Loans insured, guaranteed, sponsored, or participated in, either in whole or part, by any agency, department, or program of the United States or state government;

(6) Loans or advances of money, repayable on demand, which are made solely upon securities, as defined in subdivision (15) of section 8-1101, pledged as collateral for such repayment and in which such loans or advances are used by the borrower only for the purchase of securities as so defined. It shall be lawful to contract for and receive any rate of interest on such transaction as the parties thereto may expressly agree;

(7) Interest charges made on open credit accounts by a person who sells goods or services on credit when the interest charges do not exceed one and one-third percent per month for any charges which remain unpaid for more than thirty days following rendition of the statement of account;

(8) A minimum charge of ten dollars per loan which may be charged by the lender in lieu of all interest charges;

(9) Loans described in subsection (4) of section 8-319 made by a state or federal savings and loan association at a rate not to exceed nineteen percent per annum;

(10) Loans made primarily for business or agricultural purposes or secured by real property when such loans are made (a) by a licensee, registrant, or permittee operating under a license, registration, or permit duly issued by the Department of Banking and Finance except for licensees operating under the Nebraska Installment Loan and Sales Act, (b) by any financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or (c) by any insurance company organized under the laws of this state and subject to regulation by the Department of Insurance;

(11) Loans secured solely by real property when such loans are (a) made by licensees operating under the Nebraska Installment Loan and Sales Act and (b) made to finance or refinance the purchase of the property or construction on or improvements to the property, if the Department of Banking and Finance has the authority to examine such loans for compliance with sections 45-101.02 and 45-101.03. A licensee making a loan pursuant to this subdivision may obtain an interest in any fixtures attached to such real property and any insurance proceeds payable in connection with such real property or the loan;

(12) Loans secured by a reverse mortgage pursuant to section 45-702.01;

(13) Interest charges made on any goods or services sold under an installment contract pursuant to the Nebraska Installment Loan and Sales Act. Subject to section 86 of this act 45-338, it shall be lawful to contract for and receive any rate of interest on such contract as the parties may expressly agree to in writing; or

(14) Fees which may be charged by a licensee for services pursuant to the Delayed Deposit Services Licensing Act.

**Sec. 54.** Section 45-1,110, Reissue Revised Statutes of Nebraska, is amended to read:

45-1,110 Sections 45-1,105 to 45-1,110 shall not apply to any licensee operating under the Nebraska Installment Loan and Sales Act.

**Sec. 55.** Section 45-334, Reissue Revised Statutes of Nebraska, is amended to read:

45-334 Sections 45-334 to 45-356 and sections 70 and 78 to 101 of this act shall be known and may be cited as the Nebraska Installment Loan and Sales Act.

**Sec. 56.** Section 45-335, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Applicant means a person applying for a license under the Nebraska Installment Loan and Sales Act;

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

(3) Branch office means any location, other than the main office location, at which the business of a licensee is to be conducted, including:

(a) Any offices physically located in Nebraska; and

(b) Any offices that, while not physically located in this state, intend to transact business with Nebraska residents;

(4) Breach of security of the system means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of

information;

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

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

(7) Consumer means an individual who is a resident of Nebraska and who seeks to obtain, obtains, or has obtained financial products or services that are to be used primarily for personal, family, or household purposes;

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

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

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

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

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

(12) Director means the Director of Banking and Finance;

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

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

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

(16) Installment sale means any transaction, whether or not involving the creation or retention of a security interest, in which a buyer acquires goods or services from a seller pursuant to an agreement which provides for a time-price differential and under which the buyer agrees to pay all or part of the time-sale price in one or more installments and within one hundred forty-five months, except that the purchase of mobile homes may exceed such one-hundred-forty-five-month limitation. Installment sale does not include a consumer rental purchase agreement defined in and regulated by the Consumer Rental Purchase Agreement Act;

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

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

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

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

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

~~(5) Installment sale means any transaction, whether or not involving the creation or retention of a security interest, in which a buyer acquires goods or services from a seller pursuant to an agreement which provides for a time-price differential and under which the buyer agrees to pay all or part of the time-sale price in one or more installments and within one hundred forty-five months, except that installment contracts for the purchase of mobile homes may exceed such one-hundred-forty-five-month limitation. Installment sale does not include a consumer rental purchase agreement defined in and regulated by the~~

Consumer Rental Purchase Agreement Act;

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

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

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

~~(9) Time-price differential, however denominated or expressed, means the amount, as limited in the Nebraska Installment Sales Act, to be added to the basic time price;~~

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

~~(11) Sales finance company means a person purchasing one or more installment contracts from one or more sellers or acquiring any rights of ownership, servicing, or other forms of participation in or otherwise engaging with a consumer on behalf of the purchaser of one or more installment sales contracts from one or more sellers. Sales finance company includes, but is not limited to, a financial institution or installment loan licensee, if so engaged;~~

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

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

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

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

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

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

~~(18) Licensee means any person who obtains a license under the Nebraska Installment Loan and Sales Act;~~

~~(19) Loan or installment loan means a loan or any extension of credit to a consumer originated or made with an interest rate greater than the maximum interest rate allowed under section 45-101.03, a minimum loan term of six months, and a principal balance of less than twenty-five thousand dollars;~~

~~(20) Mortgage loan originator has the same meaning as in section 45-702;~~

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

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

~~(21) Nationwide Mortgage Licensing System and Registry means a licensing system, also known as the Nationwide Multistate Licensing System and Registry, 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;

(22) Person means individual, partnership, limited liability company, association, financial institution, trust, corporation, or any other legal entity;

(23) Real property means an owner-occupied single-family, two-family, three-family, or four-family dwelling which is located in this state, which is occupied, used, or intended to be occupied or used for residential purposes, and which is, or is intended to be, permanently affixed to the land;

(24) Sales finance company means a person purchasing one or more installment sales contracts from one or more sellers or acquiring any rights of ownership, servicing, or other forms of participation in or otherwise engaging with a consumer on behalf of the purchaser of one or more installment sales contracts from one or more sellers. Sales finance company includes, but is not limited to, a financial institution or installment loan licensee, if so engaged;

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

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

(27) Time-price differential, however denominated or expressed, means the amount, as limited in the Nebraska Installment Loan and Sales Act, to be added to the basic time price; and

(28) Time-sale price means the total of the basic time price of the goods or services, the amount of the buyer's downpayment in money or goods or both, and the time-price differential.

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

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

~~(23) Branch office means any location, other than the main office location, at which the business of a licensee is to be conducted, including (a) any offices physically located in Nebraska, and (b) any offices that, while not physically located in this state, intend to transact business with Nebraska residents.~~

**Sec. 57.** Section 45-336, Reissue Revised Statutes of Nebraska, is amended to read:

45-336 (1) An installment loan license shall be required for:

(a) Any person engaging in the business of making loans;

(b) Any person that holds or acquires any rights of ownership, servicing, or other forms of participation in a loan or that engages with, or conducts loan activity with, an installment loan borrower in connection with a loan; or

(c) Any person that is not a financial institution who, at or after the time a loan is made by a financial institution, markets, owns in whole or in part, holds, acquires, services, or otherwise participates in a loan.

(2) Any person may, after procuring an installment loan license from the department, engage or continue in the business of making loans of money and charge, contract for, and receive the maximum for interest and other charges in accordance with the authorization and requirements of the Nebraska Installment Loan and Sales Act.

(3) An installment loan license shall not be required for:

(a)(i) A financial institution.

(ii) While no financial institution is eligible for an installment loan license or to make loans under the Nebraska Installment Loan and Sales Act, an installment loan license shall be required for any person that is not a financial institution who, at or after the time a loan is made by a financial institution, markets, owns in whole or in part, holds, acquires, services, or otherwise participates in such loan;

(b)(i) An affiliate of an installment loan licensee if the activities of the affiliate in this state are limited solely to the securitization of loans made by the licensee and the servicing rights to the loans are retained by the licensee or assigned or otherwise transferred to a financial institution, licensee, or permittee.

(ii) For purposes of subdivision (b) of this subsection:

(A) Affiliate means an entity that controls, is controlled by, or is under common control with another entity;

(B) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of an entity or to control in any manner the election of the majority of directors of any entity; and

(C) Securitization means the placing of individual installment loans made by licensees into a commingled or pooled security that is subsequently sold or otherwise transferred to another entity.

(iii) Nothing in this subsection shall be construed to exempt a licensee or affiliate from the Securities Act of Nebraska; and

(c) Any person, who is not an installment loan licensee, that only makes

loans that do not exceed the maximum rate of interest permitted by section 45-101.03.

(4) An installment sales license shall be required for any person who acts as a sales finance company in this state, whether or not such person maintains an office, place of doing business, or agent in this state.

(5) An installment sales license shall not be required for:

(a) A financial institution or an installment loan licensee;

(b) A seller who does not otherwise act as a sales finance company, but such seller shall comply with all of the other provisions of the Nebraska Installment Loan and Sales Act in order to charge the time-price differential allowed by section 86 of this act; or

(c) Persons that negotiate and enter into installment sales contracts by United States mail without personal solicitation by salespersons or other representatives of the seller and based upon the catalog of the seller or other printed solicitation of business, which is distributed and made available generally to the public, if such catalog or other printed solicitation clearly sets forth the cash and time-sale prices and other terms of sales to be made through such medium. All provisions of the Nebraska Installment Loan and Sales Act shall apply to such sales, except that the seller shall not be required to deliver a copy of the contract to the buyer pursuant to section 85 of this act and if the contract when received by the seller contains any blank spaces, the seller may insert in the appropriate blank space the amounts of money and other terms which are set forth in the seller's catalog or other printed solicitation which is then in effect. In lieu of sending the buyer a copy of the contract pursuant to section 85 of this act, the seller shall furnish to the buyer a written statement of any items inserted in the blank spaces in the contract received from the buyer.

(6) Loans made by financial institutions that are serviced by or purchased by a licensee shall not be subject to the interest rate limitations of the Nebraska Installment Loan and Sales Act.

~~(1) Each retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall contain the following items and a copy thereof shall be delivered to the buyer at the time the instrument is signed, except for contracts made in conformance with section 45-340: (a) The cash sale price; (b) the amount of the buyer's downpayment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of any goods traded in; (c) the difference between subdivisions (a) and (b) of this subsection; (d) the amount included for insurance if a separate charge is made therefor, specifying the types of coverages; (e) the amount included for a debt cancellation contract or a debt suspension contract if the debt cancellation contract or debt suspension contract is a contract of a financial institution or licensee, such contract is sold directly by such financial institution or licensee or by an unaffiliated, nonexclusive agent of such financial institution or licensee in accordance with 12 C.F.R. part 37, as such part existed on January 1, 2011, and the financial institution or licensee is responsible for the unaffiliated, nonexclusive agent's compliance with such part, and a separate charge is made therefor; (f) the amount included for electronic title and lien services other than fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying any security related to the credit transaction; (g) the basic time price, which is the sum of subdivisions (c), (d), (e), and (f) of this subsection; (h) the time-price differential; (i) the amount of the time-price balance, which is the sum of subdivisions (g) and (h) of this subsection, payable in installments by the buyer to the seller; (j) the number, amount, and due date or period of each installment; (k) the time-sales price; and (l) the amount included for a guaranteed asset protection waiver.~~

~~(2) The contract shall contain substantially the following notice: NOTICE TO THE BUYER. DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN.~~

~~(3) The items listed in subsection (1) of this section need not be stated in the sequence or order set forth in such subsection. Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. No installment contract shall be signed by the buyer or proffered by seller when it contains blank spaces to be filled in after execution, except that if delivery of the goods or services is not made at the time of the execution of the contract, the identifying numbers or marks of the goods, or similar information, and the due date of the first installment may be inserted in the contract after its execution.~~

~~(4) If a seller proffers an installment contract as part of a transaction which delays or cancels, or promises to delay or cancel, the payment of the time-price differential on the contract if the buyer pays the basic time price, cash price, or cash sale price within a certain period of time, the seller shall, in clear and conspicuous writing, either within the installment contract or in a separate document, inform the buyer of the exact date by which the buyer must pay the basic time price, cash price, or cash sale price in order to delay or cancel the payment of the time-price differential. The seller or any subsequent purchaser of the installment contract, including a sales finance company, shall not be allowed to change such date.~~

~~(5) Upon written request from the buyer, the holder of an installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.~~

~~(6) After payment of all sums for which the buyer is obligated under a contract, the holder shall deliver or mail to the buyer at his or her last-known address one or more good and sufficient instruments or copies thereof to acknowledge payment in full and shall release all security in the goods and mark canceled and return to the buyer the original agreement or copy thereof or instruments or copies thereof signed by the buyer. For purposes of this section, a copy shall meet the requirements of section 25-12,112.~~

**Sec. 58.** Section 45-337, Reissue Revised Statutes of Nebraska, is amended to read:

45-337 (1) An application for either an installment loan license or an installment sales license shall be on a form prescribed and furnished by the director and shall include, but not be limited to:

(a) The applicant's name and any trade name or doing business as designation which the applicant intends to use in this state;

(b) The applicant's main office address;

(c) All branch office addresses of the applicant at which business is to be conducted;

(d) The names and titles of each director and principal officer of the applicant;

(e) The names of all shareholders, partners, or members of the applicant;

(f) A description of the activities of the applicant in such detail as the department may require;

(g) If the applicant is an individual, such individual's social security number;

(h) Audited financial statements of the applicant showing a minimum net worth of one hundred thousand dollars;

(i) Background checks of the applicant as provided in section 94 of this act; and

(j) A surety bond as provided in section 45-338.

(2) All applications for licenses must be accompanied by any processing fee allowed for by section 94 of this act, any application and processing fees for associated branch applications pursuant to section 45-339, and a filing fee of:

(a) One hundred fifty dollars for an installment sales license; and

(b) Five hundred dollars for an installment loan license.

(3) The director shall, after an application has been filed for a license under the Nebraska Installment Loan and Sales Act, investigate the applicant to determine whether all requirements for licensure have been met and to determine if a finding can be made that the experience, character, and general fitness of the applicant, of the members thereof if the applicant is a corporation or association, and of the officers and directors thereof if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of the Nebraska Installment Loan and Sales Act.

(4) The director may, within the director's discretion, make an examination and inspection concerning the propriety of the issuance of a license to any applicant. The cost of such examination and inspection shall be borne by the applicant.

(5) If all requirements to obtain a license under the Nebraska Installment Loan and Sales Act are met and a finding can be made that the experience, character, and general fitness of the applicant, of the members thereof if the applicant is a corporation or association, and of the officers and directors thereof if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of the Nebraska Installment Loan and Sales Act, the director shall issue and deliver a license to the applicant to do business in accordance with the license and the Nebraska Installment Loan and Sales Act. The director shall have the power to deny for cause any application for a license.

(6) The department shall approve or deny every application for a license under the Nebraska Installment Loan and Sales Act within ninety days after the filing of an application, if the application is substantially complete and is accompanied by the required fees and the approved bond.

(7) A license issued under the Nebraska Installment Loan and Sales Act is nontransferable and nonassignable.

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

(9) If an applicant for a license under the Nebraska Installment Loan and Sales Act does not complete the license application and fails to respond to a notice or notices from the department to correct the deficiency or deficiencies for a period of one hundred twenty days or more after the date the department sends the initial notice to correct the deficiency or deficiencies, the department may deem the application as abandoned and may issue a notice of abandonment of the application to the applicant in lieu of proceedings to deny the application.

(10) Obtaining a license constitutes sufficient contact with this state for the exercise of personal jurisdiction over the licensee in any action arising out of the licensee's activity in this state.

~~(1) The amount, if any, included for insurance, which may be purchased by the holder of the contract, shall not exceed the applicable premium rates chargeable in accordance with filings, if any, with the Department of Insurance. If dual interest insurance on the goods is purchased by the holder it shall, within thirty days after execution of the installment contract, send~~



~~or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages, and all the terms and conditions of the contract or contracts of insurance.~~

~~(2) If any insurance is canceled or the premium adjusted during the term of the installment contract, any refund of the insurance premium plus the unearned time-price differential thereon received by the holder shall be credited by the holder to the last maturing installment of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.~~

~~(3) If any insurance is canceled due to the payment of all sums for which the buyer is liable under an installment contract, the holder of the installment contract shall, upon receipt of payment of all sums due, send notice to the buyer within fifteen business days of the name, address, and telephone number of the insurance company which issued the insurance contract or the party responsible for any refund, and notice that the buyer may be eligible for a refund. A copy of such notice shall be retained by the holder of the installment contract. This subsection does not apply if the holder of the loan contract previously credited the refund of the insurance premium to the loan contract or otherwise refunded the insurance premium to the buyer.~~

~~(4) The holder may also purchase nonfiling insurance and charge a reasonable fee. The fee shall not exceed the amount of fees and charges prescribed by law which would have been paid to public officials for filing, perfecting, releasing, and satisfying any lien or security interest in the goods or services.~~

**Sec. 59.** Section 45-338, Reissue Revised Statutes of Nebraska, is amended to read:

45-338 (1) An applicant for a license to be issued pursuant to the Nebraska Installment Loan and Sales Act shall file with the department a surety bond in the amount of fifty thousand dollars, furnished by a surety company authorized to do business in this state. Such bond shall be increased by an additional fifty thousand dollars for each branch location of the applicant that is licensed under the Nebraska Installment Loan and Sales Act. The bond shall be for the use of the State of Nebraska and any Nebraska resident who may have claims or causes of action against the applicant. The surety may cancel the bond only upon thirty days' prior written notice to the director.

(2)(a) Except as provided in subsection (3) of this section, an installment loan licensee who employs or enters into an independent agent agreement with an individual required to obtain a mortgage loan originator license pursuant to the Residential Mortgage Licensing Act shall maintain the surety bond required by subsection (1) of this section and a supplemental surety bond. The supplemental surety bond posted by such installment loan licensee shall cover all mortgage loan originators who are employees or independent agents of such licensee. The supplemental surety bond shall be for the use of the State of Nebraska and any Nebraska resident who may have claims or causes of action against such licensee arising from a transaction involving a residential mortgage loan, as defined in section 45-702, or against an individual who is a mortgage loan originator employed by, or in an independent agent relationship with, the licensee. The initial amount of the supplemental surety bond shall be one hundred thousand dollars.

(b) Upon filing of the mortgage report of condition required by section 45-345, a licensee shall maintain or increase its supplemental surety bond to reflect the total dollar amount of the closed residential mortgage loans originated or serviced in this state in the preceding year in accordance with the table in this subsection. A licensee may decrease its supplemental surety bond in accordance with the table in this subsection if the supplemental surety bond required is less than the amount of the supplemental surety bond on file with the department.

<u>Dollar Amount of Closed or Serviced</u>	<u>Surety Bond Required</u>
<u>Residential Mortgage Loans</u>	
<u>\$0.00 through \$5,000,000.00</u>	<u>\$100,000</u>
<u>\$5,000,000.01 through \$10,000,000.00</u>	<u>\$125,000</u>
<u>\$10,000,000.01 through \$25,000,000.00</u>	<u>\$150,000</u>
<u>\$25,000,000.01 and over</u>	<u>\$200,000</u>

(3)(a) A person who employs or enters into an independent agent agreement with an individual required to obtain a mortgage loan originator license pursuant to the Residential Mortgage Licensing Act shall maintain a surety bond for each license that he, she, or it holds as required in subsection (1) of this section and shall also post one supplemental surety bond which shall cover all licenses held by such person. The supplemental surety bond posted by such person shall cover all mortgage loan originators who are employees or independent agents of such person. The supplemental surety bond shall be for the use of the State of Nebraska and any Nebraska resident who may have claims or causes of action against such person arising from a transaction involving a residential mortgage loan or against an individual who is a mortgage loan

originator employed by, or in an independent agent relationship with, the person. The amount of such supplemental surety bond shall be as follows:

(i) The initial supplemental surety bond shall be in the amount of one hundred thousand dollars; and

(ii) Upon filing of the mortgage report of condition required by section 45-345, the person's supplemental surety bond shall be maintained in accordance with subdivision (2)(b) of this section. For purposes of calculating the amount of the bond that is required, the total dollar amount of the closed loans shall include all residential mortgage loans in this state closed by the person.

(b) A person who holds one or more installment loan licenses pursuant to the Nebraska Installment Loan and Sales Act and a mortgage banker license pursuant to the Residential Mortgage Licensing Act shall not be required to post and maintain a supplemental surety bond if such person meets the following conditions:

(i) The person maintains a surety bond as provided in subsection (1) of this section for each installment loan license the person holds;

(ii) The person maintains a mortgage banker surety bond as provided in section 45-724; and

(iii) The mortgage banker surety bond covers all transactions involving residential mortgage loans, including such transactions done pursuant to the person's installment loan license or licenses.

(4) Should the department determine that an installment loan licensee does not maintain a supplemental surety bond in the amount required by subsection (2) or (3) of this section, the department shall give written notification to the licensee requiring the licensee to increase the surety bond within thirty days to the amount required by subsection (2) or (3) of this section.

(5) The bond or a substitute bond required by subsection (1) of this section, applicable to all licensees under the Nebraska Installment Loan and Sales Act, shall remain in effect or the licensee shall immediately cease conducting licensable activity. If a licensee fails to maintain a surety bond as required under this section, the department may issue a notice of cancellation of the license in lieu of revocation proceedings.

~~(1)(a) Notwithstanding the provisions of any other law, the time-price differential for any goods or services sold under an installment contract shall be stated as a fixed or variable annual percentage rate and shall be at a rate agreed to in writing, not to exceed eighteen percent per annum, except that a minimum time-price differential of ten dollars may be charged on any installment contract.~~

~~(b)(i) A buyer may be required, upon the execution of the installment contract, to pay an origination fee of not to exceed ten dollars, except that if the installment contract is for an installment sale of agricultural machinery or equipment for use in commercial agriculture or if the installment contract is for an installment sale of industrial machinery or equipment the buyer may be required to pay (A) an origination fee of not to exceed one hundred dollars if the cash sale price is less than twenty-five thousand dollars or (B) an origination fee of not to exceed two hundred fifty dollars if the cash sale price is twenty-five thousand dollars or more.~~

~~(ii) The origination fee shall be refundable if the installment contract is canceled during the first thirty days. The origination fee may be collected from the buyer or included in the principal balance of the installment contract at the time the contract is made and shall not be considered interest or a time-price differential.~~

~~(c) Nothing in the Nebraska Installment Sales Act prohibits a seller or holder of an installment contract from contracting for, computing, and charging a time-price differential based upon the application of the rate charged to the unpaid principal balance for the number of days actually elapsed. The charges so computed shall be used for the purpose of calculating the time-price differential, the time-price balance, the amount of each installment, and the time-sale price.~~

~~(d) When the installment contract is payable in substantially equal and consecutive monthly installments, the time-price differential shall be computed on the basic time price of each contract, as determined under the provisions of section 45-336, from the date of the contract until the due date of the final installment, notwithstanding that the time-price balance is required to be paid in installments.~~

~~(2) When an installment contract provides for payment other than in substantially equal and consecutive monthly installments, the time-price differential may be at a rate which will provide the same return as is permitted on substantially equal monthly payment contracts under subdivision (1)(d) of this section, having due regard for the schedule of payments.~~

~~(3) Every contract payable in two or more installments shall provide for payment of such installments by stating the date and amount of each installment or the method by which any variable rate or installment shall be determined.~~

**Sec. 60.** Section 45-339, Reissue Revised Statutes of Nebraska, is amended to read:

45-339 (1) Licensees under the Nebraska Installment Loan and Sales Act may apply to establish branch offices, whether in this state, or in another state or United States territory, at which the licensable business activities of the licensee may be conducted.

(2) Such application shall be on a form prescribed and furnished by the director and shall be accompanied by a branch application fee, along with any processing fee allowed for by section 94 of this act. Such branch application fees shall be:

- (a) Two hundred fifty dollars for an installment loan branch license; and
- (b) One hundred dollars for an installment sales branch license.

~~Where a buyer makes any subsequent purchases of goods or services from a seller from whom he has previously purchased goods or services under one or more installment contracts and the amounts under such contract or contracts to the extent of cash sale price thereof have not been fully paid the subsequent purchases may be included in and consolidated with one or more of the prior contract or contracts. A memorandum of such additional purchases shall be prepared by the seller and inserted in or attached to the seller's counterpart of the contract and shall set forth:~~

- ~~(1) The names of the seller and the buyer and a description of the additional goods or services sold and all the information with respect to the additional purchase required by section 45-336 to be included in an installment contract;~~
- ~~(2) The consolidated time-price balance to be paid by the buyer; and~~
- ~~(3) The revised payments.~~

~~A copy of such memorandum shall be delivered to the buyer as provided in and subject to the provisions of section 45-336. When such subsequent purchases are made, the entire amount of all payments made prior to such subsequent purchases shall be deemed to have been applied on previous purchases.~~

~~Each payment thereafter made on a consolidated installment contract shall be deemed to be allocated to all of the various purchases in the same ratio or proportion as the original cash sale prices of the various purchases bear to one another. Where the amount of each deferred payment is increased in connection with such subsequent purchase, the subsequent payments, at the seller's option, may be deemed to be allocated as follows: An amount equal to the original installment payment to the previous purchase, the balance to the subsequent purchase. The amount of any initial payment or downpayment on the subsequent purchase shall be allocated in its entirety to such subsequent purchase. The provisions of this section shall not apply to cases involving equipment, parts, or to other merchandise attached or affixed to goods previously purchased, or to repairs or services in connection therewith rendered by the seller at the buyer's request.~~

**Sec. 61.** Section 45-340, Reissue Revised Statutes of Nebraska, is amended to read:

45-340 (1) For the annual renewal of an original license under the Nebraska Installment Loan and Sales Act, the licensee shall file a renewal application 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, along with a renewal fee and any processing fee allowed for by section 94 of this act.

(2) The renewal fee shall be:

(a) Two hundred fifty dollars for an installment loan license;

(b) One hundred twenty-five dollars for an installment loan branch license;

(c) One hundred fifty dollars for an installment sales license; and

(d) One hundred dollars for an installment sales branch license.

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

(4) Renewal of a license originally granted under the Nebraska Installment Loan and Sales Act may be denied by the director on the following grounds:

(a) Material misstatement in the application for a license;

(b) Willful failure to comply with any provision of the Nebraska Installment Loan and Sales Act relating to installment sales contracts or installment loans;

(c) Failure to continue to meet the conditions under which the original license was granted;

(d) Defrauding any buyer to the buyer's damage; or

(e) Fraudulent misrepresentation, circumvention, or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to a consumer.

(5) Any person, licensee, or applicant potentially aggrieved by an order of the director entered under this section may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

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

**Sec. 62.** Section 45-341, Reissue Revised Statutes of Nebraska, is amended

to read:

45-341 (1) A licensee may voluntarily surrender a license at any time by delivering to the director written notice of the surrender. The department shall cancel the license following such surrender.

(2) The director may, following a hearing under the Administrative Procedure Act and the rules and regulations adopted and promulgated by the department under the Nebraska Installment Loan and Sales Act, suspend or revoke any license issued pursuant to the Nebraska Installment Loan and Sales Act. The director may also impose an administrative fine on the licensee for each separate violation of the Nebraska Installment Loan and Sales Act. The department shall remit fines collected under this subsection to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. The director may suspend or revoke a license or fine a licensee under this subsection if the director finds:

(a) The licensee has materially violated or demonstrated a continuing pattern of violating the Nebraska Installment Loan and Sales Act, rules and regulations adopted and promulgated under the Nebraska Installment Loan and Sales Act, any order issued under the Nebraska Installment Loan and Sales Act, or any other state or federal law applicable to the conduct of the licensee's business;

(b) A fact or condition exists which if such fact or condition had existed at the time of the original application for the license, would have warranted the director to deny the license application of the licensee;

(c) The licensee has violated a voluntary consent or compliance agreement which had been entered into with the director;

(d) The licensee has knowingly provided or caused to be provided to the director any false or fraudulent representation of a material fact or any false or fraudulent financial statement or suppressed or withheld from the director any information which, if submitted by the licensee, would have resulted in denial of the license application of the licensee;

(e) The licensee has refused to permit an examination of the licensee by the director or failed to comply with a notice of investigation or inquiry pursuant to section 45-346 or failed to make any report required under section 45-345. Each day the licensee continues in violation of this subdivision constitutes a separate violation;

(f) The licensee has failed to maintain records as required by the director following written notice. Each day the licensee continues in violation of this subdivision constitutes a separate violation;

(g) The licensee knowingly has employed any individual or knowingly has maintained a contractual relationship with any individual acting as an agent, if such individual has been convicted of, pleaded guilty to, or was found guilty after a plea of nolo contendere to:

(i) A misdemeanor under any state or federal law which involves dishonesty or fraud or which involves any aspect of the installment sales business, installment loan business, mortgage banking business, or financial institution business; or

(ii) Any felony under state or federal law;

(h) The licensee has violated the written restrictions or conditions under which the license was issued;

(i) The licensee or, if the licensee is a business entity, one of the officers, directors, members, partners, or controlling shareholders was found guilty after a plea of nolo contendere to:

(i) A misdemeanor under any state or federal law which involves dishonesty or fraud or which involves any aspect of the installment sales business, installment loan business, mortgage banking business, or financial institution business; or

(ii) Any felony under state or federal law; or

(j) The licensee knowingly has employed any individual or knowingly has maintained a contractual relationship with any individual acting as an agent, if such individual is conducting activities requiring a mortgage loan originator license in this state without first obtaining such license.

(3) If a licensee is a partnership, limited liability company, association, or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership or limited liability company has so acted or failed to act as would be cause for suspending or revoking a license to such party as an individual.

(4) No license shall be denied, suspended, or revoked except after hearing in accordance with the Administrative Procedure Act. The director shall give a licensee at least ten days' written notice, in the form of an order to show cause, of the time and place of such hearing by either registered or certified mail addressed to the principal place of business in this state of such licensee. Such notice shall contain the grounds of complaint against the licensee. Any order suspending or revoking such license shall recite the grounds upon which the order is based. The order shall be entered upon the records of the director and shall not be effective until after thirty days' written notice thereof given after such entry forwarded by either registered or certified mail to the licensee at the principal place of business in this state of such licensee.

(5) Revocation, suspension, cancellation, expiration, or surrender of any license shall not impair or affect the obligation of any lawful contract entered into or acquired previously thereto by the licensee.

(6) Revocation, suspension, cancellation, expiration, or surrender of any

license shall not affect civil or criminal liability for acts committed before the revocation, suspension, cancellation, expiration, or surrender or affect liability for any fines which may be levied against the licensee or any of the licensee's officers, directors, shareholders, partners, or members pursuant to the Nebraska Installment Loan and Sales Act for acts committed before the revocation, suspension, cancellation, expiration, or surrender of the license.

(7) Whenever, for any cause, a license is revoked, the department shall not issue another license to the licensee unless the department is otherwise ordered by a court of competent jurisdiction to do so.

(8) At the request of the licensee or any other aggrieved person, the department shall prepare a written record which includes a transcript of the evidence, the findings with respect to the evidence, the order, and the reasons supporting the suspension, revocation, or denial of a license, and shall, after being paid for the cost of the written record, deliver to the licensee or other aggrieved person a copy of the written record in person or by certified or registered mail.

(9) Any person, licensee, or applicant potentially aggrieved by an order of the director entered under this section may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

~~An installment contract may provide and the holder thereof may collect, in addition to any time-price differential, a delinquency charge on each installment in default for a period of not less than fifteen days, if provided for in the contract, not in excess of five percent of each installment or twenty-five dollars, whichever is less, or, in lieu thereof, interest after maturity on each such installment not exceeding the highest permissible contract rate. If the time-price differential is computed by application of the rate charged to the unpaid principal balance for the number of days actually elapsed, such delinquency charge may not exceed five percent of each installment or twenty-five dollars, whichever is less. If any installment payment is made by a check, draft, or similar signed order which is not honored because of insufficient funds, no account, or any other reason except an error of a third party to the contract, the holder may charge and collect a fee of not more than fifteen dollars. The delinquency charge and such fee may be collected when due or at any time thereafter.~~

~~When an installment contract is for a commercial or business purpose (1) a delinquency charge not to exceed five percent of each unpaid installment may be contracted for and received and (2) the holder of any check or draft or similar order which is not honored for any reason, except for error of a third party, may charge and collect a fee as stated in the contract. As used in this section, commercial or business purpose means primarily for a purpose other than a personal, family, or household purpose.~~

**Sec. 63.** Section 45-342, Reissue Revised Statutes of Nebraska, is amended to read:

45-342 Any person who, by any device, subterfuge, or pretense whatsoever, engages in or continues any of the kinds of business or enterprise permitted to licensees by the Nebraska Installment Loan and Sales Act without having obtained the license required by the act, with intent to evade the provisions of the act, is guilty of a Class I misdemeanor.

(1) Notwithstanding the provisions of any contract to the contrary, any buyer may prepay in full at any time before maturity the obligation of any contract.

(2) If such obligation is prepaid in full by cash, a new loan, or otherwise after the first installment due date, the borrower shall receive a rebate of an amount which shall be not less than the amount obtained by applying to the unpaid principal balances as originally scheduled or, if deferred, as deferred, for the period following prepayment, according to the actuarial method, the rate of the time-price differential previously stated to the borrower. The licensee may round the rate of the time-price differential to the nearest one-half of one percent if such procedure is not consistently used to obtain a greater yield than would otherwise be permitted. Any default and deferment charges which are due and unpaid may be deducted from any rebate. No rebate shall be required for any partial prepayment. No rebate of less than one dollar need be made. Acceleration of the maturity of the contract shall not in itself require a rebate. If judgment is obtained before the final installment date, the contract balance shall be reduced by the rebate which would be required for prepayment in full as of the date judgment is obtained.

**Sec. 64.** Section 45-343, Reissue Revised Statutes of Nebraska, is amended to read:

45-343 A licensee may move its main office or may relocate a branch office from one location to another without obtaining a new license if the licensee gives notice thereof to the director through the Nationwide Mortgage Licensing System and Registry at least thirty days prior to such move and pays a filing fee of one hundred fifty dollars. The director may, at the director's discretion, hold a hearing on the relocation request, in accordance with the Administrative Procedure Act. The expense of any such hearing shall be paid by the licensee.

~~Any person who violates any provision of the Nebraska Installment Sales Act or acts as a sales finance company in this state without a license therefor as provided in the Nebraska Installment Sales Act shall be guilty of a Class II misdemeanor.~~

**Sec. 65.** Section 45-344, Reissue Revised Statutes of Nebraska, is amended to read:

45-344 (1) No person acting personally or as an agent shall acquire

control of any licensee under the Nebraska Installment Loan and Sales Act without first (a) giving thirty days' notice to the department on a form prescribed by the department of such proposed acquisition and (b) paying a filing fee of one hundred fifty dollars and any processing fee allowed under subsection (2) of section 94 of this act.

(2) The director, upon receipt of such notice, shall approve or deny the acquisition within thirty days.

(3) If the director does not deny the acquisition within such thirty-day time period, the acquisition shall become effective on the thirty-first day after the receipt of the notice, except that the director may extend the thirty-day period an additional thirty days if, in the director's judgment, any material information submitted is substantially inaccurate or the acquiring party has not furnished all the information required by the department.

(4) An acquisition may become effective prior to the expiration of the thirty-day period if the director issues written notice of the director's approval of such acquisition or the director's intent not to deny the acquisition.

(5)(a) The director may deny any proposed acquisition if:

(i) The financial condition of any acquiring person is such as might jeopardize the financial stability of the acquired licensee;

(ii) The character and general fitness of any acquiring person or of any of the proposed management personnel indicate that the acquired installment sales licensee or installment loan licensee would not be operated honestly, fairly, or efficiently within the purposes of the Nebraska Installment Loan and Sales Act; or

(iii) Any acquiring person neglects, fails, or refuses to furnish all information required by the department.

(b) The director shall notify the acquiring party in writing of denial of the acquisition. The notice shall provide a statement of the basis for the denial.

(c) Within fifteen business days after receipt of written notice of denial, the acquiring party may make a written request for a hearing on the proposed acquisition in accordance with the Administrative Procedure Act and rules and regulations adopted and promulgated by the department under the Nebraska Installment Loan and Sales Act. The director shall, by order, approve or deny the proposed acquisition on the basis of the record made at the hearing.

If any seller or sales finance company, in the making or collection of an installment contract, shall, directly or indirectly, contract for, take, or receive charges in excess of those authorized by the Nebraska Installment Sales Act except as a result of an accidental and bona fide error such contract shall be void and uncollectible as to (1) all of the excessive portion of the time-price differential, (2) the first one thousand dollars of the time-price differential authorized by section 45-338, and (3) the first four thousand dollars of the principal of the contract. If any seller or sales finance company violates any provision of the act, other than the violations described above, except as a result of an accidental and bona fide error, such installment contract shall be void and uncollectible as to the first five hundred dollars of the time-price differential and the first one thousand dollars of the principal of such contract. If any of such money has been paid by the buyer, such buyer or his or her assignee may recover under the act in a civil suit brought within one year after the due date, or any extension thereof, of the last installment of the contract.

Sec. 66. Section 45-345, Reissue Revised Statutes of Nebraska, is amended to read:

45-345 (1) A licensee shall notify the director through the Nationwide Mortgage Licensing System and Registry at least thirty days prior to the occurrence of any change of the licensee's name, trade name, or doing business as designation.

(2)(a) Except as provided in subdivisions (b) and (c) of this subsection, a licensee shall notify the director in writing or through the Nationwide Mortgage Licensing System and Registry within three business days from the time that the licensee becomes aware of any breach of the security of the system of computerized data owned or licensed by the licensee, which contains personal information about a Nebraska resident, or the unauthorized access to or use of such information about a Nebraska resident as a result of the breach.

(b) If a licensee would be required under Nebraska law to provide notification to a Nebraska resident regarding such incident, then the licensee shall provide a copy of such notification to the department prior to or simultaneously with the licensee's notification to the Nebraska resident.

(c) Notice required by this subsection may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice shall be made in good faith, without unreasonable delay, and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.

(d) For purposes of this subsection, the terms breach of the security of the system and personal information have the same meaning as in section 87-802.

(3) A licensee shall maintain the minimum net worth required by section 45-337 while a license issued to the licensee under the Nebraska Installment Loan and Sales Act is in effect. The minimum net worth shall be proven by an annual audit conducted by a certified public accountant. A licensee shall submit a copy of the annual audit to the director as required by section 45-337 or upon written request of the director. If a licensee fails to maintain the

required minimum net worth, the department may issue a notice of cancellation of the license in lieu of revocation proceedings.

(4)(a) Every licensee shall, at the time any loan is made, give to the borrower, or if there are two or more borrowers, to one of the borrowers, a statement in the English language disclosing in clear and distinct terms the information required to be disclosed under the federal Consumer Credit Protection Act.

(b) The licensee shall also give to the borrower a copy of any writing evidencing a loan if the writing requires or provides for the signature of the borrower. The writing evidencing the borrower's obligation to pay a loan shall contain a clear and conspicuous notice in form and content substantially as follows:

NOTICE TO CONSUMER: 1. Do not sign this paper before you read it. 2. You are entitled to a copy of this paper. 3. You may prepay the unpaid balance at any time without penalty and may be entitled to receive a refund of unearned charges in accordance with law.

(5) All licensees under the Nebraska Installment Loan and Sales Act shall, on or before March 1 of each year, file with the department a report of the licensee's earnings and operations for the preceding calendar year, the licensee's assets at the end of the year, and any other relevant information as the department may reasonably require. The report shall be made under oath and shall be in the form and manner prescribed by the department.

(6) All installment loan licensees shall submit a mortgage report of condition as required by section 45-726 on or before a date or dates established by rule, regulation, or order of the director.

(7) Upon written request of a borrower, the licensee shall provide a written statement of the dates and amounts of payments made and the amounts of any default and deferment charges assessed preceding the month in which the request is received and the total amount unpaid as of the end of the period covered by the statement and a copy of the loan agreement and security agreement, and a facsimile of any insurance certificate issued as part of the transaction, if applicable. The licensee may charge a reasonable fee for such copies, not to exceed fifty cents per page.

(8) A licensee shall answer in writing, within ten business days after receipt, any written request for payoff information from a borrower or a borrower's representative. This service shall be provided without charge to the borrower, except that when such information is provided upon request within sixty days after the fulfillment of a previous request, a processing fee of up to ten dollars may be charged for the subsequent request.

~~(1) No person shall act as a sales finance company in this state without obtaining a license therefor from the department as provided in the Nebraska Installment Sales Act whether or not such person maintains an office, place of doing business, or agent in this state, unless such person meets the requirements of section 45-340.~~

~~(2) No financial institution or installment loan licensee authorized to do business in this state shall be required to obtain a license under the act but shall comply with all of the other provisions of the act.~~

~~(3) A seller who does not otherwise act as a sales finance company shall not be required to obtain a license under the act but shall comply with all of the other provisions of the act in order to charge the time-price differential allowed by section 45-338.~~

**Sec. 67.** Section 45-346, Revised Statutes Cumulative Supplement, 2024, is amended to read:

45-346 (1) The department shall be charged with the duty of inspecting the business, records, and accounts of all persons who engage in business activities requiring a license under the Nebraska Installment Loan and Sales Act. The department may examine or investigate complaints about or reports of alleged violations by a licensee made to the department. The director shall have the power to appoint examiners who shall, under the director's direction, investigate the installment sales contracts, installment loans, and business and examine the books and records of licensees when the director shall so determine. Such examinations shall be conducted as often as determined by the director.

(2) The director or the director's duly authorized representative shall have the power to make such investigations as the director or authorized representative shall deem necessary, and to the extent necessary for this purpose, the director or authorized representative may examine a licensee or any other person and shall have the power to compel the production of all relevant books, records, accounts, and documents.

(3) The expenses of the director incurred in the examination of the books and records of licensees shall be charged to the licensees as set forth in sections 8-605 and 8-606. The director may charge the costs of an investigation of a nonlicensed person to such person, and such costs shall be paid within thirty days after receipt of billing.

(4) 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.

(5) If the director finds, after notice and opportunity for hearing in accordance with the Administrative Procedure Act, that any person has willfully and intentionally violated any provision of the Nebraska Installment Loan and Sales Act, any rule or regulation adopted and promulgated under the Nebraska Installment Loan and Sales Act, or any order issued by the director under the

Nebraska Installment Loan and Sales Act, 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. The department shall remit fines collected under this subsection to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(6) If a person fails to pay an administrative fine and the costs of investigation ordered pursuant to subsection (5) 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 Nebraska Installment Loan and Sales Act.

~~(1) A license issued under the Nebraska Installment Sales Act is nontransferable and nonassignable. The same person may obtain additional licenses for each place of business operating as a sales finance company in this state upon compliance with the act as to each license, except that on or after January 1, 2020, a person is no longer required to obtain a new license for each place of business and may maintain a branch office or offices upon compliance with the act.~~

~~(2) Application for a license shall be on a form prescribed and furnished by the director and shall include, but not be limited to, (a) the applicant's name and any trade name or doing business as designation which the applicant intends to use in this state, (b) the applicant's main office address, (c) all branch office addresses at which business is to be conducted, (d) the names and titles of each director and principal officer of the applicant, (e) the names of all shareholders, partners, or members of the applicant, (f) a description of the activities of the applicant in such detail as the department may require, (g) if the applicant is an individual, his or her social security number, (h) audited financial statements showing a minimum net worth of one hundred thousand dollars, and (i) background checks as provided in section 45-354.~~

~~(3) An applicant for a license shall file with the department a surety bond in the amount of fifty thousand dollars, furnished by a surety company authorized to do business in this state. Such bond shall be increased by an additional fifty thousand dollars for each branch location of the applicant that is licensed under the Nebraska Installment Sales Act. The bond shall be for the use of the State of Nebraska and any Nebraska resident who may have claims or causes of action against the applicant. The surety may cancel the bond only upon thirty days' written notice to the director.~~

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

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

~~(6) The director shall, after an application has been filed for a license under the act, investigate the facts, and if he or she finds that the experience, character, and general fitness of the applicant, of the members thereof if the applicant is a corporation or association, and of the officers and directors thereof if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of the act, the director shall issue and deliver a license to the applicant to do business as a sales finance company in accordance with the license and the act. The director shall have the power to reject for cause any application for a license.~~

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

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

**Sec. 68.** Section 45-347, Reissue Revised Statutes of Nebraska, is amended to read:

45-347 The payment in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for, the payment of wages, salary, commission, or other compensation for services, whether earned or to be earned, shall, for purposes of regulation under the Nebraska Installment Loan and Sales Act, be deemed a loan secured by such assignment, and the amount by which the assigned compensation exceeds the amount of the consideration actually paid, shall, for the purposes of regulation under the act, be deemed interest or charges upon the loan from the date of payment to the date the compensation is payable. Such transaction shall be governed by and



be subject to the act.

~~All money collected under the authority of the Nebraska Installment Sales Act shall be remitted to the State Treasurer for credit to the Financial Institution Assessment Cash Fund.~~

**Sec. 69.** Section 45-348, Reissue Revised Statutes of Nebraska, is amended to read:

45-348 Every installment loan licensee shall permit payment to be made in advance in any amount equal to one or more full installments on any loan contract at any time during regular business hours, but the licensee may apply such payment first to all accrued charges in full up to the date of such payment.

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

~~(2) A licensee may voluntarily surrender a license at any time by delivering to the director written notice of the surrender. The department shall cancel the license following such surrender.~~

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

**Sec. 70.** (1) Except as provided in section 45-350 and subsection (6) of this section, every installment loan licensee may make loans and may contract for and receive on such loans charges at a rate not exceeding twenty-four percent per annum on that part of the unpaid principal balance on any loan not in excess of one thousand dollars, and twenty-one percent per annum on any remainder of such unpaid principal balance. Except for loans secured by mobile homes, an installment loan licensee may not make loans for a period in excess of one hundred forty-five months if the amount of the loan is greater than three thousand dollars but less than twenty-five thousand dollars. Unless otherwise allowed for by law, charges on loans made under the Nebraska Installment Loan and Sales Act shall not be paid, deducted, or received in advance. The contracting for, charging of, or receiving of charges as provided for in subsection (2) of this section shall not be deemed to be the payment, deduction, or receipt of such charges in advance.

(2) When the loan contract requires repayment in substantially equal and consecutive monthly installments of principal and charges combined, the installment loan licensee may, at the time the loan is made, precompute the charges at the agreed rate on scheduled unpaid principal balances according to the terms of the contract and add such charges to the principal of the loan. Every payment may be applied to the combined total of principal and precomputed charges until the contract is fully paid. All payments made on account of any loan except for default and deferment charges shall be deemed to be applied to the unpaid installments in the order in which the unpaid installments are due. The portion of the precomputed charges applicable to any particular month of the contract, as originally scheduled or following a deferment, shall be that proportion of such precomputed charges, excluding any adjustment made for a first installment period of more than one month and any adjustment made for deferment, which the balance of the contract scheduled to be outstanding during such month bears to the sum of all monthly balances originally scheduled to be outstanding by the contract. This section shall not limit or restrict the manner of calculating charges, whether by way of add-on, single annual rate, or otherwise, if the rate of charges does not exceed what is permitted by this section. Charges may be contracted for and earned at a single annual rate, except that the total charges from such rate shall not be greater than the total charges from the several rates otherwise applicable to the different portions of the unpaid balance according to subsection (1) of this section. All loan contracts made pursuant to this subsection are subject to the following adjustments:

(a) Notwithstanding the requirement for substantially equal and consecutive monthly installments, the first installment period may not exceed one month by more than twenty-one days and may not fall short of one month by more than eleven days. The charges for each day exceeding one month shall be one-thirtieth of the charges which would be applicable to a first installment period of one month. The charge for extra days in the first installment period may be added to the first installment and such charges for such extra days shall be excluded in computing any rebate;

(b) If prepayment in full by cash, a new loan, or otherwise occurs before the first installment due date, the charges shall be recomputed at the rate of charges contracted for in accordance with this section upon the actual unpaid principal balance of the loan for the actual time outstanding by applying the payment, or payments, first to charges at the agreed rate and the remainder to the principal. The amount of charges so computed shall be retained in lieu of all precomputed charges;

(c) If a contract is prepaid in full by cash, a new loan, or otherwise after the first installment due date, the borrower shall receive a rebate of an amount which is not less than the amount obtained by applying to the unpaid principal balances as originally scheduled or, if deferred, as deferred, for the period following prepayment, according to the actuarial method, the rate of

charge contracted for in accordance with this section. The licensee may round the rate of charge to the nearest one-half of one percent if such procedure is not consistently used to obtain a greater yield than would otherwise be permitted. Any default and deferment charges which are due and unpaid may be deducted from any rebate. No rebate shall be required for any partial prepayment. No rebate of less than one dollar need be made. Acceleration of the maturity of the contract shall not in itself require a rebate. If judgment is obtained before the final installment date, the contract balance shall be reduced by the rebate which would be required for prepayment in full as of the date judgment is obtained;

(d) If any installment on a precomputed or interest-bearing loan is unpaid in full for ten or more consecutive days, Sundays and holidays included, after it is due, the licensee may charge and collect a default charge not exceeding an amount equal to five percent of such installment. If any installment payment is made by a check, draft, or similar signed order which is not honored because of insufficient funds, no account, or any other reason except an error of a third party to the loan contract, the licensee may charge and collect a fifteen-dollar bad check charge. Such default or bad check charges may be collected when due or at any time thereafter;

(e) If, as of an installment due date, the payment date of all wholly unpaid installments is deferred one or more full months and the maturity of the contract is extended for a corresponding period, the licensee may charge and collect a deferment charge not exceeding the charge applicable to the first of the installments deferred, multiplied by the number of months in the deferment period. The deferment period is that period during which no payment is made or required by reason of such deferment. The deferment charge may be collected at the time of deferment or at any time thereafter. The portion of the precomputed charges applicable to each deferred balance and installment period following the deferment period shall remain the same as that applicable to such balance and periods under the original loan contract. No installment on which a default charge has been collected, or on account of which any partial payment has been made, shall be deferred or included in the computation of the deferment charge unless such default charge or partial payment is refunded to the borrower or credited to the deferment charge. Any payment received at the time of deferment may be applied first to the deferment charge and the remainder, if any, applied to the unpaid balance of the contract, except that if such payment is sufficient to pay, in addition to the appropriate deferment charge, any installment which is in default and the applicable default charge, it shall be first so applied and any such installment shall not be deferred or subject to the deferment charge. If a loan is prepaid in full during the deferment period, the borrower shall receive, in addition to the required rebate, a rebate of that portion of the deferment charge applicable to any unexpired full month or months of such deferment period; and

(f) If two or more full installments are in default for one full month or more at any installment date and if the contract so provides, the installment loan licensee may reduce the contract balance by the rebate which would be required for prepayment in full as of such installment date and the amount remaining unpaid shall be deemed to be the unpaid principal balance and thereafter in lieu of charging, collecting, receiving, and applying charges as provided in this subsection, charges may be charged, collected, received, and applied at the agreed rate as otherwise provided by this section until the loan is fully paid.

(3) The charges, as referred to in subsection (1) of this section, shall not be compounded. The charging, collecting, and receiving of charges as provided in subsection (2) of this section shall not be deemed compounding. If part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under such loan contract may include any unpaid charges on the prior loan which have accrued within sixty days before the making of such loan contract and may include the balance remaining after giving the rebate required by subsection (2) of this section. Except as provided in subsection (2) of this section, charges shall (a) be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof and (b) be computed on the basis of the number of days actually elapsed. For purposes of computing charges, whether at the maximum rate or less, a month shall be that period of time from any date in a month to the corresponding date in the next month but if there is no such corresponding date then to the last day of the next month, and a day shall be considered one-thirtieth of a month when computation is made for a fraction of a month.

(4) Except as provided in subsections (5) and (6) of this section, in addition to that provided for under the Nebraska Installment Loan and Sales Act, no further or other amount whatsoever shall be directly or indirectly charged, contracted for, or received. If any amount, in excess of the charges permitted, is charged, contracted for, or received, the loan contract shall not on that account be void, but the installment loan licensee shall have no right to collect or receive any interest or other charges whatsoever. If such interest or other charges have been collected or contracted for, the licensee shall refund to the borrower all interest and other charges collected and shall not collect any interest or other charges contracted for and thereafter due on the loan involved, as liquidated damages, and the installment loan licensee or its assignee, if found liable, shall pay the costs of any action relating thereto, including reasonable attorney's fees. No installment loan licensee shall be found liable under this subsection if it shows by a preponderance of

the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

(5) A borrower may be required to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of loans. Such expenses may include abstracting, recording, releasing, and registration fees; premiums paid for nonfiling insurance; premiums paid on insurance policies covering tangible personal property securing the loan; amounts charged for a debt cancellation contract or a debt suspension contract, as agreed upon by the parties, if the debt cancellation contract or debt suspension contract is a contract of a financial institution or installment loan licensee and such contract is sold directly by such financial institution or licensee or by an unaffiliated, nonexclusive agent of such financial institution or licensee in accordance with 12 C.F.R. part 37, as such part existed on January 1, 2025, and the financial institution or installment loan licensee is responsible for the unaffiliated, nonexclusive agent's compliance with such part; title examinations; credit reports; survey; taxes or charges imposed upon or in connection with the making and recording or releasing of any mortgage; amounts charged for a guaranteed asset protection waiver; and fees and expenses charged for electronic title and lien services. Except as provided in subsection (6) of this section, a borrower may also be required to pay a nonrefundable loan origination fee not to exceed the lesser of five hundred dollars or an amount equal to seven percent of that part of the original principal balance of any loan not in excess of two thousand dollars and five percent on that part of the original principal balance in excess of two thousand dollars, if the installment loan licensee has not made another loan to the borrower within the previous twelve months. If the licensee has made another loan to the borrower within the previous twelve months, a nonrefundable loan origination fee may only be charged on new funds advanced on each successive loan. Such reasonable initial charges may be collected from the borrower or included in the principal balance of the loan at the time the loan is made and shall not be considered interest or a charge for the use of the money loaned.

(6)(a) Loans secured solely by real property that are not made pursuant to subdivision (11) of section 45-101.04 on real property shall not be subject to the limitations on the rate of interest provided in subsection (1) of this section or the limitations on the nonrefundable loan origination fee under subsection (5) of this section if (i) the principal amount of the loan is seven thousand five hundred dollars or more and (ii) the sum of the principal amount of the loan and the balances of all other liens against the property do not exceed one hundred percent of the appraised value of the property. Acceptable methods of determining appraised value shall be made by the department pursuant to rule, regulation, or order.

(b) An origination fee on such loan shall be computed only on the principal amount of the loan reduced by any portion of the principal that consists of the amount required to pay off another loan made under this subsection by the same licensee.

(c) A prepayment penalty on such loan shall be permitted only if (i) the maximum amount of the penalty to be assessed is stated in writing at the time the loan is made, (ii) the loan is prepaid in full within two years from the date of the loan, and (iii) the loan is prepaid with money other than the proceeds of another loan made by the same licensee. Such prepayment penalty shall not exceed six months' interest on eighty percent of the original principal balance computed at the agreed rate of interest on the loan.

(d) An installment loan licensee making a loan pursuant to this subsection may obtain an interest in any fixtures attached to such real property and any insurance proceeds payable in connection with such real property or the loan.

(e) For purposes of this subsection, principal amount of the loan means the total sum owed by the borrower including, but not limited to, insurance premiums, loan origination fees, or any other amount that is financed, except that for purposes of subdivision (6)(b) of this section, loan origination fees shall not be included in calculating the principal amount of the loan.

**Sec. 71.** Section 45-350, Reissue Revised Statutes of Nebraska, is amended to read:

45-350 (1) Installment loan licensees may charge, contract for, or receive any amount or rate of interest permitted by section 45-101.03 or 45-101.04 or section 70 of this act upon any loan or upon any part or all of any aggregate indebtedness of the same person. Except as provided in subsection (2) of this section, the charging, contracting for, or receiving of a rate of interest permitted by section 45-101.04 does not exempt the licensee from compliance with the Nebraska Installment Loan and Sales Act.

(2)(a) Loans made by an installment loan licensee pursuant to subdivision (4) of section 45-101.04 are not subject to the Nebraska Installment Loan and Sales Act if such loans are not made on real property.

(b) Loans made by an installment loan licensee pursuant to subdivision (11) of section 45-101.04 on real property are not subject to the Nebraska Installment Loan and Sales Act. An installment loan licensee making such loans shall comply with and be subject to the Residential Mortgage Licensing Act with respect to such loans, except that the installment loan licensee shall not be required to obtain a mortgage banker license under the Residential Mortgage Licensing Act.

(c) Any mortgage loan originator who works as an employee or independent agent of an installment loan licensee shall be required to obtain a mortgage

loan originator license and shall be subject to the Residential Mortgage Licensing Act.

(3) Except as provided in subdivision (2)(a) of section 70 of this act, no installment loan licensee shall enter into any loan contract under the Nebraska Installment Loan and Sales Act under which the borrower agrees to make any payment of principal more than thirty-six calendar months from the date of making such contract when the principal balance is not more than three thousand dollars. Every loan contract precomputed pursuant to subsection (2) of section 70 of this act shall provide for repayment of principal and charges in installments which shall be payable at approximately equal periodic intervals of time and so arranged that no installment is substantially greater in amount than any preceding installment. When necessary in order to facilitate payment in accordance with the borrower's principal source of income or when the loan contract is not precomputed pursuant to subsection (2) of section 70 of this act, the payment schedule may reduce or omit installment payments. Any loan contract made in violation of this section, either knowingly or without the exercise of due care to prevent the violation, shall not on that account be void, but the licensee has no right to collect or receive any interest or charges on such loan. If any interest or other charges have been collected or contracted for, the installment loan licensee shall refund to the borrower all interest and other charges collected and shall not collect thereafter any interest or other charges contracted for and thereafter due on the loan involved, as liquidated damages, and the installment loan licensee or its assignee, if found liable, shall pay the costs of any action relating thereto, including reasonable attorney's fees. No installment loan licensee shall be found liable under this subsection if it shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

(1) Renewal of a license originally granted under the Nebraska Installment Sales Act may be denied or a license may be suspended or revoked by the director on the following grounds: (a) Material misstatement in the application for license; (b) willful failure to comply with any provision of the Nebraska Installment Sales Act relating to installment contracts; (c) defrauding any buyer to the buyer's damage; or (d) fraudulent misrepresentation, circumvention, or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the buyer under the Nebraska Installment Sales Act.

(2) If a licensee is a partnership, limited liability company, association, or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership or limited liability company has so acted or failed to act as would be cause for suspending or revoking a license to such party as an individual.

(3) No license shall be denied, suspended, or revoked except after hearing in accordance with the Administrative Procedure Act. The director shall give the licensee at least ten days' written notice, in the form of an order to show cause, of the time and place of such hearing by either registered or certified mail addressed to the principal place of business in this state of such licensee. Such notice shall contain the grounds of complaint against the licensee. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the director and shall not be effective until after thirty days' written notice thereof given after such entry forwarded by either registered or certified mail to the licensee at such principal place of business.

(4) Revocation, suspension, cancellation, expiration, or surrender of any license shall not impair or affect the obligation of any lawful installment contract acquired previously thereto by the licensee.

(5) Revocation, suspension, cancellation, expiration, or surrender of any license shall not affect civil or criminal liability for acts committed before the revocation, suspension, cancellation, expiration, or surrender or affect liability for any fines which may be levied against the licensee or any of its officers, directors, shareholders, partners, or members pursuant to the Nebraska Installment Sales Act for acts committed before the revocation, suspension, cancellation, expiration, or surrender.

(6) Any person, licensee, or applicant considering himself or herself aggrieved by an order of the director entered under the provisions of this section may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

**Sec. 72.** Section 45-351, Reissue Revised Statutes of Nebraska, is amended to read:

45-351 (1) Except as otherwise provided by the Nebraska Installment Loan and Sales Act or other law, an installment loan licensee shall not contact any individual who is not living, residing, or present in the household of the borrower regarding the borrower's obligation to pay a debt, other than the borrower's spouse, the borrower's attorney, another creditor, or a credit reporting agency.

(2) The borrower may waive the benefits of this section at any time by giving consent if such consent is given at a time subsequent to the date the debt arises.

(1) The department shall be charged with the duty of inspecting the business, records, and accounts of all persons who engage in the business of a sales finance company subject to the Nebraska Installment Sales Act. The

~~director shall have the power to appoint examiners who shall, under his or her direction, investigate the installment contracts and business and examine the books and records of licensees when the director shall so determine. Such examinations shall not be conducted more often than annually except as provided in subsection (2) of this section.~~

~~(2) The director or his or her duly authorized representative shall have the power to make such investigations as he or she shall deem necessary, and to the extent necessary for this purpose, he or she may examine such licensee or any other person and shall have the power to compel the production of all relevant books, records, accounts, and documents.~~

~~(3) The expenses of the director incurred in the examination of the books and records of licensees shall be charged to the licensees as set forth in sections 8-605 and 8-606. The director may charge the costs of an investigation of a nonlicensed person to such person, and such costs shall be paid within thirty days after receipt of billing.~~

~~(4) 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.~~

~~(5) If the director finds, after notice and opportunity for hearing in accordance with the Administrative Procedure Act, that any person has willfully and intentionally violated any provision of the Nebraska Installment Sales Act, any rule or regulation adopted and promulgated under the act, or any order issued by the director under the act, 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. The department shall remit fines collected under this subsection to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.~~

~~(6) If a person fails to pay an administrative fine and the costs of investigation ordered pursuant to subsection (5) 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 Nebraska Installment Sales Act.~~

**Sec. 73.** Section 45-352, Reissue Revised Statutes of Nebraska, is amended to read:

45-352 (1) Section 45-351 shall not prohibit the licensee from:

(a) Contacting any person in order to discover property belonging to the borrower that may be seized to satisfy a debt that has been reduced to judgment;

(b) Making amicable demand and filing suit on the debt; or

(c) Contacting persons related to the borrower if permission is specifically given in writing at the time the debt arises or at any time after such debt arises.

(2) An installment loan licensee may contact any person without the borrower's consent:

(a) To ascertain information relating to a borrower's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the borrower's eligibility for credit or insurance if such contacts are not designed to collect a delinquent debt; or

(b) To locate the borrower when the licensee has reason to believe the borrower has changed his or her employment or has moved from his or her last-known address.

~~The director shall have the power to make such general rules and regulations and specific rulings, demands, and findings as may be necessary for the proper conduct of the business licensed under the Nebraska Installment Sales Act, and the enforcement of the act, in addition thereto and not inconsistent therewith.~~

**Sec. 74.** Section 45-353, Reissue Revised Statutes of Nebraska, is amended to read:

45-353 (1) An agreement of the parties to a loan, with respect to default on the part of the borrower, is enforceable only to the extent that:

(a) The borrower fails to make a payment on the loan or other charges required by the agreement; or

(b) The prospect of payment, performance, or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the installment loan licensee.

(2) If the borrower has defaulted on his or her promise to pay and if he or she has given specific notice in writing, by registered or certified mail, instructing the licensee to cease further contacts with the borrower in regard to the indebtedness, the installment loan licensee shall, after such notice, except as provided in section 45-352, limit contacts to one notice per month by mail. No notice shall be designed to threaten action not otherwise permitted by law.

(3) With respect to a loan, after a borrower has been in default for ten

days for failure to make a required payment, an installment loan licensee may give the borrower the notice described in this section. An installment loan licensee gives notice to the borrower under this section when it delivers the notice to the borrower or delivers or mails the notice to the last-known address of the borrower's residence.

(4) The notice shall be in writing and shall conspicuously state:

(a) The name, address, and telephone number of the installment loan licensee to which payment is to be made;

(b) A brief identification of the loan;

(c) The borrower's right to cure the default;

(d) The amount of payment and date by which payment must be made to cure the default; and

(e) That any credit insurance issued in connection with the loan contract may be canceled unless the borrower cures the default.

(5) With respect to a loan, after a default consisting only of the borrower's failure to make a required payment, an installment loan licensee may neither accelerate maturity of the unpaid balance of the obligation nor take possession of collateral, except voluntarily surrendered collateral, because of such default until twenty days after a notice of the borrower's right to cure is given. The borrower shall have twenty days after the notice is given to cure any default consisting of a failure to make the required payment by tendering the amount of all unpaid sums due at the time of the tender, without acceleration, plus any unpaid charges. Cure restores the borrower to his or her rights under the agreement as though the default had not occurred.

(6) With respect to defaults on the same obligation after an installment loan licensee has once given a notice of the borrower's right to cure, the borrower shall have no further right to cure and the installment loan licensee has no obligation to proceed against the borrower or the collateral.

(7) Upon default by a borrower with respect to a loan, unless the borrower voluntarily surrenders possession of the collateral to the licensee, the licensee may take possession of the collateral without judicial process only if possession can be taken without entry into a dwelling or a locked, unoccupied motor vehicle, and without the use of force or other breach of the peace.

(1) Whenever the director has reasonable cause to believe that any person is violating or is threatening to or intends to violate any of the provisions of the Nebraska Installment Sales Act, he or she may, in addition to all actions provided for in the act and without prejudice thereto, enter an order requiring such person to desist or to refrain from such violation. An action may also be brought, on the relation of the Attorney General or the director, to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance thereof.

(2) In any such action an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court, in which such action is brought, shall have power and jurisdiction to impound and appoint a receiver for the property and business of the defendant, including books, papers, documents, and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent violations of the Nebraska Installment Sales Act through or by means of the use of such property and business. Such receiver, when so appointed and qualified, shall have such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as shall, from time to time, be conferred upon him or her by the court.

**Sec. 75.** Section 45-354, Revised Statutes Cumulative Supplement, 2024, is amended to read:

45-354 (1) A borrower is not liable for a deficiency unless the licensee has disposed of the collateral in good faith and in a commercially reasonable manner.

(2) If the installment loan licensee takes possession or voluntarily accepts surrender of goods in which the licensee has a security interest to secure a loan and at the time thereof the unpaid balance due on the loan is three thousand dollars or less, the borrower is not personally liable to the installment loan licensee for the unpaid balance of the debt arising from the loan and the licensee's duty to dispose of the collateral is governed by the provisions on disposition of collateral, article 9, Uniform Commercial Code.

(3) The borrower may be liable in damages to the installment loan licensee if the borrower has wrongfully damaged the collateral or if, after default, failure to cure, and demand, the borrower has wrongfully failed to make the collateral available to the installment loan licensee.

(4) If the installment loan licensee elects to bring an action against the borrower for a debt arising from a loan, when under this section the installment loan licensee would not be entitled to a deficiency judgment if the installment loan licensee took possession of the collateral, and obtains judgment, (a) the installment loan licensee may not take possession of the collateral and (b) the collateral is not subject to levy or sale on execution or similar proceedings pursuant to the judgment.

(1) Effective January 1, 2013, or within one hundred eighty days after the Nationwide Mortgage Licensing System and Registry is capable of accepting licenses issued under the Nebraska Installment Sales Act, whichever is later, the department shall require such licensees under the act 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, by adopting and promulgating rules and regulations or by order, requirements as necessary. The requirements may include, but not be limited to:~~

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

~~(i) Fingerprints of every executive officer, director, partner, member, sole proprietor, or shareholder 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) Civil or administrative records;~~

~~(iii) 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) Compliance with prelicensure education and testing and continuing education;~~

~~(d) The setting or resetting, as necessary, of renewal processing or reporting dates; 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 Nebraska Installment Sales Act, the department is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to the act. The department may allow such system to collect licensing fees on behalf of the department and 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 subject to the provisions contained in section 45-355.~~

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

~~(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 breach of security of the system provisions.~~

~~(6) The department shall upon written request 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 (1) of this section.~~

**Sec. 76.** Section 45-355, Reissue Revised Statutes of Nebraska, is amended to read:

45-355 (1) No individual, other than the spouse of the borrower, is obligated as a cosigner, comaker, guarantor, endorser, surety, or similar party with respect to a loan unless, before or contemporaneously with signing any separate agreement of loan or any writing setting forth the terms of the borrower's agreement, the individual receives a separate written notice that contains a completed identification of the loan the individual may have to pay and reasonably informs the individual of the obligation with respect to it.

(2) Such notice shall be in the form prescribed by the department.

(3) An individual entitled to notice under this section shall also be given a copy of any writing setting forth the terms of the borrower's agreement and of any separate agreement of obligation signed by the individual entitled to the notice.

~~(1) In order to promote more effective regulation and reduce the regulatory burden through supervisory information sharing:~~

~~(a) Except as otherwise provided in this section, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. Such information and material may be shared with all federal and state regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law;~~

~~(b) Information or material that is subject to privilege or confidentiality under subdivision (a) of this subsection shall not be subject to:~~

~~(i) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or~~

~~(ii) Subpoena or discovery or admission into evidence in any private civil action or administrative process unless, with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege;~~

~~(c) Any state statute relating to the disclosure of confidential supervisory information or any information or material described in subdivision (a) of this subsection that is inconsistent with such subdivision shall be superseded by the requirements of this section; and~~

~~(d) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, applicants and licensees that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.~~

~~(2) For these purposes, the director is authorized to enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by adopting and promulgating rules and regulations or an order of the director.~~

**Sec. 77.** Section 45-356, Reissue Revised Statutes of Nebraska, is amended to read:

45-356 (1) No licensee shall receive any security agreement or assignment of salary or wages signed in blank. All blank spaces shall be filled in with ink or typewritten or printed with the proper names and amounts showing the name of the person by whom the individual making the conveyance or assignment is employed. No assignment or order for wages is valid if it contains an amount in excess of the sum borrowed together with the interest and charges as provided in the Nebraska Installment Loan and Sales Act.

(2) No assignment of or order for wages to secure a loan or advancement is valid when made by a married man or woman unless the written consent of the wife or husband to the making of such loan is attached thereto.

(3) No licensee shall take a power of attorney, or any instrument signed by an attorney in fact and not personally, or any instrument signed in which blanks are left to be filled after execution.

(1) No person acting personally or as an agent shall acquire control of any licensee under the Nebraska Installment Sales Act without first (a) giving thirty days' notice to the department on a form prescribed by the department of such proposed acquisition and (b) paying a filing fee of one hundred fifty dollars and any processing fee allowed under subsection (2) of section 45-354.

(2) The director, upon receipt of such notice, shall act upon the acquisition within thirty days, and unless he or she disapproves of the proposed acquisition within such period of time, the acquisition shall become effective on the thirty-first day after receipt without the director's approval, except that the director may extend the thirty-day period an additional thirty days if, in his or her judgment, any material information submitted is substantially inaccurate or the acquiring party has not furnished all the information required by the department.

(3) An acquisition may become effective prior to the expiration of the disapproval period if the director issues written notice of his or her intent not to disapprove the action.

(4)(a) The director may disapprove any proposed acquisition if:

(i) The financial condition of any acquiring person is such as might jeopardize the financial stability of the acquired licensee;

(ii) The character and general fitness of any acquiring person or of any of the proposed management personnel indicate that the acquired installment sales licensee would not be operated honestly, fairly, or efficiently within the purpose of the Nebraska Installment Sales Act; or

(iii) Any acquiring person neglects, fails, or refuses to furnish all information required by the department.

(b) The director shall notify the acquiring party in writing of disapproval of the acquisition. The notice shall provide a statement of the basis for the disapproval.

(c) Within fifteen business days after receipt of written notice of disapproval, the acquiring party may make a written request for a hearing on the proposed acquisition in accordance with the Administrative Procedure Act and rules and regulations adopted and promulgated by the department under the Administrative Procedure Act. The director shall, by order, approve or disapprove the proposed acquisition on the basis of the record made at the hearing.

**Sec. 78.** Within thirty days after repayment of the loan in full, the licensee shall mark plainly every obligation or copy of the obligation and security or copy of the security signed by any obligor with the word Paid or Canceled and shall release any mortgage, trust deed, or lien, restore any pledge, and cancel and return any note or copy of the note and any assignment or copy of the assignment given to the licensee. For purposes of this section, a copy shall meet the requirements of section 25-12,112.

**Sec. 79.** Nothing in sections 45-351 and 45-353 shall limit a borrower's right to bring an action for damages. When the licensee has filed suit and



obtained judgment, the licensee shall be permitted to resume contacts with the borrower against whom judgment has been obtained.

Sec. 80. (1) The following types of insurance or one or more of the following types of insurance may be written in connection with loans made by installment loan licensees under the Nebraska Installment Loan and Sales Act:

(a) Fire, theft, windstorm, or comprehensive, including fire, theft, and windstorm, fifty dollars or more deductible collision, and bodily injury liability and property damage liability upon motor vehicles;

(b) Fire and extended-coverage insurance upon real property;

(c) Fire and extended-coverage insurance upon tangible personal property, limited to the principal amount of the loan;

(d) Involuntary unemployment or job protection insurance. In the event of a renewal of a loan contract, this type of insurance shall be canceled and a refund of the unearned premium credited or made before new insurance of this type may be rewritten. Such insurance shall not be required as a condition precedent to the making of such loan; and

(e) Life, health, and accident insurance or any of them, except that the amount of such insurance shall not exceed the total amount to be repaid under the loan contract and the term shall not extend beyond the final maturity date of the loan contract. In the event of a renewal of a loan contract, this type of insurance shall be canceled and a refund of the unearned premium credited or made before new insurance of this type may be written in connection with such loan. Such insurance shall not be required as a condition precedent to the making of such loan.

(2) In addition to the types of insurance written under subsection (1) of this section by licensees under the act, any other type of insurance or motor club service as defined in section 44-3707 may be provided for the benefit of a licensee's borrower or the borrower's immediate family whether or not in connection with a loan, except that such insurance or motor club service shall not be required as a condition precedent to the making of any loan. Nothing in this subsection alters or eliminates any insurance licensing requirements or certificate of authority requirements under the Motor Club Services Act.

(3) Notwithstanding section 70 of this act and section 45-350, any gain or advantage, in the form of commission or otherwise, to the licensee or to any employee, affiliate, or associate of the licensee from such insurance or motor club service or the sale thereof shall not be deemed to be an additional or further charge in connection with the loan contract. The insurance premium or motor club service contract fee may be collected from the borrower or financed through the loan contract at the time the loan is made.

(4)(a) Insurance permitted under this section shall be obtained through a duly licensed insurance agent, agency, or broker. Premiums shall not exceed those fixed by law or current applicable manual rates. Insurance written, as authorized by this section, may contain a mortgage clause or other appropriate provision to protect the insurable interest of the licensee.

(b) Motor club services permitted under this section shall be obtained through a motor club which holds a certificate of authority under the Motor Club Services Act.

(5) In the event of a renewal of a loan contract, any insurance or motor club service sold pursuant to this section shall be canceled and (a) a refund of the unearned premium or motor club service contract fee credited or made before new insurance or motor club service of the same type as that being canceled may be rewritten or (b) the holder of the loan contract shall send notice to the buyer within fifteen business days after cancellation of the name, address, and telephone number of the insurance company or motor club which issued the insurance contract or motor club service contract or the party responsible for any refund and notice that the buyer may be eligible for a refund. A copy of such notice shall be retained by the holder of the loan contract.

(6) If any insurance or motor club service sold pursuant to this section is canceled or the premium or motor club service contract fee adjusted during the term of the loan contract, any refund of the insurance premium or motor club service contract fee plus the unearned interest thereon received by the holder shall be credited by the holder to the loan contract or otherwise refunded, except to the extent applied toward payment for similar insurance or motor club service protecting the interests of the buyer and the holder or either of them.

(7) If any insurance or motor club service sold pursuant to this section is canceled due to the payment of all sums for which the buyer is liable under a loan contract, the holder of the loan contract shall, upon receipt of payment of all sums due, send notice to the buyer within fifteen business days after payment of the sums due of the name, address, and telephone number of the insurance company or motor club which issued the insurance contract or motor club service contract or the party responsible for any refund and notice that the buyer may be eligible for a refund. A copy of such notice shall be retained by the holder of the loan contract. This subsection does not apply if the holder of the loan contract previously credited the refund of the insurance premium or motor club service contract fee to the loan contract or otherwise refunded the insurance premium or motor club service contract fee to the buyer.

(8) The licensee shall, at the time the loan is made, give to the borrower, or if more than one, to one of them, a statement concerning any insurance procured by or through the licensee, which includes the amount of any premium which the borrower has paid or is obligated to pay, the expiration date of the policy, and a concise description of the risks insured. If a borrower

procures insurance by or through a licensee, the licensee shall deliver to the borrower within fifteen days after the making of the loan an executed copy of the insurance policy or certificate of insurance.

**Sec. 81.** (1) Licensees holding an active installment loan license may make preauthorized loans. Preauthorized loan means a loan made by a licensee pursuant to an agreement between the licensee and the borrower whereby:

(a) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(b) The amount of each advance and permitted charge and cost is debited to the borrower's account and payments and other credits are credited to the same account;

(c) The charges are computed on the unpaid principal balance or balances of the account from time to time;

(d) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments or fixed or determinable amounts as provided in the agreement; and

(e) The loan agreement expressly states that it covers preauthorized loans. Preauthorized loan does not mean a transaction, resulting in either a credit or a debit to the borrower's account, which is initiated by the use or application of a plastic, metal, or other type of credit or transaction card.

(2) For purposes of computations relating to preauthorized loans made pursuant to the Nebraska Installment Loan and Sales Act, billing cycle means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from such date.

**Sec. 82.** (1) A licensee may make preauthorized loans and may contract for and receive charges on such loans as set forth in subsection (1) of section 70 of this act, subject to the following requirements:

(a) A licensee shall not compound charges by adding any unpaid charges authorized by section 70 of this act or this section to the unpaid principal balance of the borrower's account, except that the unpaid principal balance may include additional charges for credit life insurance or credit disability insurance provided in connection with the preauthorized loan, subject to the requirements and restrictions contained in section 83 of this act;

(b) Charges authorized by section 70 of this act or this section shall be deemed not to exceed the maximum charges permitted by such sections if such charges are computed in each billing cycle by any of the following methods:

(i) By converting each graduated monthly rate to a daily rate and multiplying such daily rate by the applicable portion of the daily unpaid principal balance of the account, in which case each daily rate is determined by multiplying the authorized monthly rate by twelve and dividing by three hundred sixty-five;

(ii) By multiplying each graduated monthly rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(iii) By converting each graduated monthly rate to a daily rate and multiplying such daily rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case each daily rate is determined by multiplying the authorized monthly rate by twelve and dividing by three hundred sixty-five, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; and

(c) For each method of computation set forth in this section, the billing cycle shall be monthly and the unpaid principal balance on any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day.

(2) The borrower under a preauthorized loan may at any time pay all or any part of the unpaid balance in his or her account, or, if the account is not in default, the borrower may pay the unpaid principal balance in monthly installments. Minimum monthly payment requirements shall be determined by the licensee and set forth in the preauthorized loan agreement, except that the minimum monthly payment shall not be less than one and one-half percent of the average daily unpaid principal balance of an account having an average daily balance of more than three thousand dollars nor less than two percent of the average daily unpaid principal balance of an account having an average daily balance of three thousand dollars or less.

(3) A licensee may retain any security interest, including a mortgage on real property, until the preauthorized account is terminated.

(4) Subsection (4) of section 45-345, subsection (3) of section 45-350, and section 78 of this act shall not apply to preauthorized loans.

(5) The department may approve record-keeping systems for licensees and may prescribe policies and procedures necessary to the administration of preauthorized loans made pursuant to the Nebraska Installment Loan and Sales Act.

**Sec. 83.** In addition to the charges permitted under section 82 of this act, a licensee may contract for and receive the fees, costs, and expenses permitted by the Nebraska Installment Loan and Sales Act on other loans, subject to all the conditions and restrictions set forth in the act with the following variations:

(1) If credit life or disability insurance is provided and if the insured dies or becomes disabled when there is an outstanding preauthorized loan indebtedness, the insurance shall be sufficient to pay the total balance of the loan due on the date of the borrower's death or the amount due as of the end of the previous billing cycle, whichever is less, in the case of credit life insurance, or all minimum payments which become due on the loan during the covered period of disability in the case of credit disability insurance. The additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as such rate may be determined by the Director of Insurance, to the unpaid balances in the borrower's account, using either of the methods specified in section 82 of this act for the calculation of loan charges;

(2) No credit life or disability insurance written in connection with a preauthorized loan shall be canceled by the licensee because of delinquency of the borrower in the making of the required minimum payments on the loan unless one or more of such payments is past due for a period of ninety days or more, and the licensee shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account;

(3) The department may, by rule and regulation or order, require a statement of insurance that will be appropriate for preauthorized loans in lieu of that required by section 80 of this act; and

(4) The amount, terms, and conditions of any insurance against loss or damage to property must be reasonable in relation to the character and value of the property insured and the maximum anticipated amount of credit to be extended.

**Sec. 84.** (1) For purposes of this section, reverse-mortgage loan means a loan made by a licensee which (a) is secured by residential real estate, (b) is nonrecourse to the borrower except in the event of fraud by the borrower or waste to the residential real estate given as security for the loan, (c) provides cash advances to the borrower based upon the equity in the borrower's owner-occupied principal residence, (d) requires no payment of principal or interest until the entire loan becomes due and payable, and (e) otherwise complies with the terms of this section.

(2) Reverse-mortgage loans shall be governed by the following rules without regard to the requirements set out elsewhere for other types of mortgage transactions: (a) Payment in whole or in part is permitted without penalty at any time during the period of the loan; (b) an advance and interest on the advance have priority over a lien filed after the closing of a reverse-mortgage loan; (c) an interest rate may be fixed or adjustable and may also provide for interest that is contingent on appreciation in the value of the residential real estate; and (d) the advance shall not be reduced in amount or number based on an adjustment in the interest rate when a reverse-mortgage loan provides for periodic advances to a borrower.

(3) Reverse-mortgage loans may be made or acquired without regard to the following provisions for other types of mortgage transactions: (a) Limitations on the purpose and use of future advances or any other mortgage proceeds; (b) limitations on future advances to a term of years or limitations on the term of credit line advances; (c) limitations on the term during which future advances take priority over intervening advances; (d) requirements that a maximum mortgage amount be stated in the mortgage; (e) limitations on loan-to-value ratios; (f) prohibitions on balloon payments; (g) prohibitions on compounded interest and interest on interest; and (h) requirements that a percentage of the loan proceeds must be advanced prior to loan assignment.

(4) A licensee may, in connection with a reverse-mortgage loan, charge to the borrower (a) a nonrefundable loan origination fee which does not exceed two percent of the appraised value of the owner-occupied principal residence at the time the loan is made, (b) a reasonable fee paid to third parties originating loans on behalf of the licensee, and (c) such other fees as are necessary and required, including fees for inspections, insurance, appraisals, and surveys.

(5) Licensees failing to make loan advances as required in the loan documents and failing to cure the default as required in the loan documents shall forfeit an amount equal to the greater of two hundred dollars or one percent of the amount of the loan advance the licensee failed to make.

**Sec. 85.** (1) Each retail installment sales contract shall be in writing, shall be signed by both the buyer and the seller, and shall contain the following items, and a copy thereof shall be delivered to the buyer at the time the instrument is signed, except for contracts made in conformance with subdivision (5)(c) of section 45-336:

(a) The cash sale price;

(b) The amount of the buyer's downpayment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of any goods traded in;

(c) The difference between subdivisions (a) and (b) of this subsection;

(d) The amount included for insurance if a separate charge is made therefor, specifying the types of coverages;

(e) The amount included for a debt cancellation contract or a debt suspension contract if the debt cancellation contract or debt suspension contract is a contract of a financial institution or licensee, such contract is sold directly by such financial institution or licensee or by an unaffiliated, nonexclusive agent of such financial institution or licensee in accordance with 12 C.F.R. part 37, as such part existed on January 1, 2025, and the financial

institution or licensee is responsible for the unaffiliated, nonexclusive agent's compliance with such part, and a separate charge is made therefor;

(f) The amount included for electronic title and lien services other than fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying any security related to the credit transaction;

(g) The basic time price, which is the sum of subdivisions (c), (d), (e), and (f) of this subsection;

(h) The time-price differential;

(i) The amount of the time-price balance, which is the sum of subdivisions (g) and (h) of this subsection, payable in installments by the buyer to the seller;

(j) The number, amount, and due date or period of each installment;

(k) The time-sales price; and

(1) The amount included for a guaranteed asset protection waiver.

(2) The contract shall contain substantially the following notice: NOTICE TO THE BUYER. DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN.

(3) The items listed in subsection (1) of this section need not be stated in the sequence or order set forth in such subsection. Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. No installment sales contract shall be signed by the buyer or proffered by the seller when it contains blank spaces to be filled in after execution, except that if delivery of the goods or services is not made at the time of the execution of the contract, the identifying numbers or marks of the goods, or similar information, and the due date of the first installment may be inserted in the contract after its execution.

(4) If a seller proffers an installment sales contract as part of a transaction which delays or cancels, or promises to delay or cancel, the payment of the time-price differential on the contract if the buyer pays the basic time price, cash price, or cash sale price within a certain period of time, the seller shall, in clear and conspicuous writing, either within the installment sales contract or in a separate document, inform the buyer of the exact date by which the buyer must pay the basic time price, cash price, or cash sale price in order to delay or cancel the payment of the time-price differential. The seller or any subsequent purchaser of the installment sales contract, including a sales finance company, shall not be allowed to change such date.

(5) Upon written request from the buyer, the holder of an installment sales contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.

(6) After payment of all sums for which the buyer is obligated under a contract, the holder shall deliver or mail to the buyer at his or her last-known address one or more good and sufficient instruments or copies thereof to acknowledge payment in full and shall release all security in the goods and mark canceled and return to the buyer the original agreement or copy thereof or instruments or copies thereof signed by the buyer. For purposes of this section, a copy shall meet the requirements of section 25-12,112.

**Sec. 86.** (1)(a) Notwithstanding the provisions of any other law, the time-price differential for any goods or services sold under an installment sales contract shall be stated as a fixed or variable annual percentage rate and shall be at a rate agreed to in writing, not to exceed eighteen percent per annum, except that a minimum time-price differential of ten dollars may be charged on any installment sales contract.

(b) Origination fees may be required to be made by the buyer, subject to the following requirements:

(i) A buyer may be required, upon the execution of the installment sales contract, to pay an origination fee in an amount not to exceed ten dollars, except that if the installment sales contract is for an installment sale of agricultural machinery or equipment for use in commercial agriculture or if the installment sales contract is for an installment sale of industrial machinery or equipment, the buyer may be required to pay (A) an origination fee of not to exceed one hundred dollars if the cash sale price is less than twenty-five thousand dollars or (B) an origination fee of not to exceed two hundred fifty dollars if the cash sale price is twenty-five thousand dollars or more; and

(ii) The origination fee shall be refundable if the installment sales contract is canceled during the first thirty days. The origination fee may be collected from the buyer or included in the principal balance of the installment sales contract at the time the contract is made and shall not be considered interest or a time-price differential.

(c) Nothing in the Nebraska Installment Loan and Sales Act prohibits a seller or holder of an installment sales contract from contracting for, computing, and charging a time-price differential based upon the application of the rate charged to the unpaid principal balance for the number of days actually elapsed. The charges so computed shall be used for the purpose of calculating the time-price differential, the time-price balance, the amount of each installment, and the time-sale price.

(d) When the installment sales contract is payable in substantially equal and consecutive monthly installments, the time-price differential shall be computed on the basic time price of each contract, as determined under section 85 of this act, from the date of the contract until the due date of the final installment, notwithstanding that the time-price balance is required to be paid

in installments.

(2) When an installment sales contract provides for payment other than in substantially equal and consecutive monthly installments, the time-price differential may be at a rate which will provide the same return as is permitted on substantially equal monthly payment contracts under subdivision (1)(d) of this section, having due regard for the schedule of payments.

(3) Every contract payable in two or more installments shall provide for payment of such installments by stating the date and amount of each installment or the method by which any variable rate or installment shall be determined.

**Sec. 87.** (1) The amount, if any, included for insurance, which may be purchased by the holder of the contract, shall not exceed the applicable premium rates chargeable in accordance with filings, if any, with the Department of Insurance. If dual interest insurance on the goods is purchased by the holder, it shall, within thirty days after execution of the installment sales contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages, and all the terms and conditions of the contract or contracts of insurance.

(2) If any insurance is canceled or the premium adjusted during the term of the installment sales contract, any refund of the insurance premium plus the unearned time-price differential thereon received by the holder shall be credited by the holder to the last maturing installment of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

(3) If any insurance is canceled due to the payment of all sums for which the buyer is liable under an installment sales contract, the holder of the installment sales contract shall, upon receipt of payment of all sums due, send notice to the buyer within fifteen business days of the name, address, and telephone number of the insurance company which issued the insurance contract or the party responsible for any refund, and notice that the buyer may be eligible for a refund. A copy of such notice shall be retained by the holder of the installment sales contract. This subsection does not apply if the holder of the loan contract previously credited the refund of the insurance premium to the loan contract or otherwise refunded the insurance premium to the buyer.

(4) The holder may also purchase nonfiling insurance and charge a reasonable fee. The fee shall not exceed the amount of fees and charges prescribed by law which would have been paid to public officials for filing, perfecting, releasing, and satisfying any lien or security interest in the goods or services.

**Sec. 88.** (1) Notwithstanding the provisions of any contract to the contrary, any buyer may prepay in full at any time before maturity the obligation of any contract.

(2) If such obligation is prepaid in full by cash, a new loan, or otherwise after the first installment due date, the borrower shall receive a rebate of an amount which shall be not less than the amount obtained by applying to the unpaid principal balances as originally scheduled or, if deferred, as deferred, for the period following prepayment, according to the actuarial method, the rate of the time-price differential previously stated to the borrower. The licensee may round the rate of the time-price differential to the nearest one-half of one percent if such procedure is not consistently used to obtain a greater yield than would otherwise be permitted. Any default and deferment charges which are due and unpaid may be deducted from any rebate. No rebate shall be required for any partial prepayment. No rebate of less than one dollar need be made. Acceleration of the maturity of the contract shall not in itself require a rebate. If judgment is obtained before the final installment date, the contract balance shall be reduced by the rebate which would be required for prepayment in full as of the date judgment is obtained.

**Sec. 89.** (1) Where a buyer makes any subsequent purchases of goods or services from a seller from whom such buyer has previously purchased goods or services under one or more installment sales contracts and the amounts under such contract or contracts to the extent of cash sale price thereof have not been fully paid, the subsequent purchases may be included in and consolidated with one or more of the prior contract or contracts. A memorandum of such additional purchases shall be prepared by the seller and inserted in or attached to the seller's counterpart of the contract and shall set forth:

(a) The names of the seller and the buyer and a description of the additional goods or services sold and all the information with respect to the additional purchase required by section 85 of this act to be included in an installment sales contract;

(b) The consolidated time-price balance to be paid by the buyer; and

(c) The revised payments.

(2) A copy of such memorandum shall be delivered to the buyer as provided in and subject to section 85 of this act. When such subsequent purchases are made, the entire amount of all payments made prior to such subsequent purchases shall be deemed to have been applied on previous purchases.

(3) Each payment thereafter made on a consolidated installment sales contract shall be deemed to be allocated to all of the various purchases in the same ratio or proportion as the original cash sale prices of the various purchases bear to one another. Where the amount of each deferred payment is increased in connection with such subsequent purchase, the subsequent payments, at the seller's option, may be deemed to be allocated as follows: An amount equal to the original installment payment to the previous purchase, the balance

to the subsequent purchase. The amount of any initial payment or downpayment on the subsequent purchase shall be allocated in its entirety to such subsequent purchase. This section shall not apply to cases involving equipment, parts, or other merchandise attached or affixed to goods previously purchased, or to repairs or services in connection therewith rendered by the seller at the buyer's request.

**Sec. 90.** (1) An installment sales contract may provide and the holder thereof may collect, in addition to any time-price differential, a delinquency charge on each installment in default for a period of not less than fifteen days, if provided for in the contract, not in excess of five percent of each installment or twenty-five dollars, whichever is less, or, in lieu thereof, interest after maturity on each such installment not exceeding the highest permissible contract rate. If the time-price differential is computed by application of the rate charged to the unpaid principal balance for the number of days actually elapsed, such delinquency charge may not exceed five percent of each installment or twenty-five dollars, whichever is less. If any installment payment is made by a check, draft, or similar signed order which is not honored because of insufficient funds, no account, or any other reason except an error of a third party to the contract, the holder may charge and collect a fee of not more than fifteen dollars. The delinquency charge and such fee may be collected when due or at any time thereafter.

(2) When an installment sales contract is for a commercial or business purpose (a) a delinquency charge not to exceed five percent of each unpaid installment may be contracted for and received and (b) the holder of any check or draft or similar order which is not honored for any reason, except for error of a third party, may charge and collect a fee as stated in the contract. As used in this section, commercial or business purpose means primarily for a purpose other than a personal, family, or household purpose.

**Sec. 91.** The holder of a retail installment sales contract may, upon agreement with the buyer:

(1) Extend the scheduled due date or defer the scheduled payment of any installment payment under the retail installment sales contract; and

(2) Charge and collect a reasonable flat service fee for such extension or deferment in addition to the time-price differential calculated for the period of such extension or deferment at the rate originally agreed upon in the retail installment sales contract on the outstanding balance.

**Sec. 92.** (1) If any seller or sales finance company, in the making or collection of an installment sales contract, shall, directly or indirectly, contract for, take, or receive charges in excess of those authorized by the Nebraska Installment Loan and Sales Act except as a result of an accidental and bona fide error, such contract shall be void and uncollectible as to (a) all of the excessive portion of the time-price differential, (b) the first one thousand dollars of the time-price differential authorized by section 86 of this act, and (c) the first four thousand dollars of the principal of the contract.

(2) If any seller or sales finance company violates any provision of the act, other than the violations described in subsection (1) of this section, except as a result of an accidental and bona fide error, such installment sales contract shall be void and uncollectible as to the first five hundred dollars of the time-price differential and the first one thousand dollars of the principal of such contract. If any of such money has been paid by the buyer, such buyer or his or her assignee may recover under the act in a civil suit brought within one year after the due date, or any extension thereof, of the last installment of the contract.

**Sec. 93.** (1) A licensee shall not refuse to enter into a loan or impose finance charges or other terms or conditions of credit more onerous than those regularly extended by that licensee to borrowers of similar economic backgrounds because of the age, color, creed, national origin, political affiliation, race, religion, sex, marital status, or disability of the borrower or because the borrower receives public assistance, social security benefits, pension benefits, or the like.

(2) No licensee shall conduct the business of making loans under the Nebraska Installment Loan and Sales Act within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other business, if the director finds that the other business is of such nature that the conducting of such other business tends to conceal evasion of the act or of the rules and regulations adopted and promulgated under the act. In such case, the director shall order such licensee in writing to cease and desist from such conduct.

(3) No licensee shall, directly or indirectly, require a borrower as a condition of granting a loan to such borrower to reaffirm or otherwise obligate the borrower to pay a former debt to the licensee which has been discharged in bankruptcy proceedings.

(4) Any person who makes a false statement to secure a loan is guilty of a Class III misdemeanor. The punishment shall not be exacted, however, when such a loan is made after the licensee is aware of the falsity of the statement.

(5) No licensee or other person subject to the Nebraska Installment Loan and Sales Act shall advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner whatsoever any false, misleading, or deceptive statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action. The director may order any licensee to cease and desist from any conduct which he

or she finds to be a violation of this section. The director may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as the director deems necessary to prevent misunderstanding by prospective borrowers.

(6) No loan, made outside this state, in the amount or of the value of three thousand dollars or less, for which a greater rate of interest, consideration, or charges than is permitted by section 45-350 has been charged, contracted for, or received, shall be enforced in this state. Every person participating in such loan in this state is subject to the Nebraska Installment Loan and Sales Act, except that the act shall not apply to loans legally made in any state under and in accordance with a regulatory small loan law similar in principle to such act.

(7) In connection with the collection of any loan, a licensee may not:

(a) Use or threaten to use violence;

(b) Use obscene or profane language;

(c) Cause a telephone to ring or engage a person in telephone conversation at times known to be inconvenient to the borrower;

(d) Falsely represent the character, amount, or legal status of any debt;

(e) Falsely represent that an individual is an attorney when he or she is not;

(f) Falsely represent that nonpayment of any debt will result in the arrest or imprisonment of the borrower or any member of the borrower's household;

(g) Threaten to take any action that the licensee knows cannot legally be taken at the time the threat is made;

(h) Falsely represent that the borrower committed any crime when the borrower did not;

(i) Communicate or threaten to communicate to any person credit information which is known to be false;

(j) Use or distribute any written communication which falsely represents that it is a document authorized, issued, or approved by any court, official, or agency of the United States or any state;

(k) Charge or collect any fees, charges, or expenses, incidental to the collection of any loan, unless such amount is expressly authorized by the loan agreement or permitted by law;

(l) Accept from any person a check or other payment instrument postdated by more than five days unless such person is notified in writing of the licensee's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit;

(m) Solicit any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution;

(n) Deposit or threaten to deposit any postdated check prior to the date on such check;

(o) Cause charges to be made to any person for communications by concealment of the true purpose of the communication, including, but not limited to, collect telephone calls and telegram fees;

(p) Communicate with a borrower regarding a debt by postcard; or

(q) Communicate with a borrower at the borrower's place of employment if the licensee has received actual notice that the borrower's employer prohibits the borrower from receiving such communication.

**Sec. 94.** (1) The department shall require licensees 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, by adopting and promulgating rules and regulations or by order, requirements as necessary. The requirements may include, but not be limited to:

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

(i) Fingerprints of every executive officer, director, partner, member, sole proprietor, or shareholder 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) Civil or administrative records;

(iii) 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) Compliance with prelicensure education and testing and continuing education;

(d) The setting or resetting, as necessary, of renewal processing or reporting dates; 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 Nebraska Installment Loan and Sales Act, the department is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to the act. The department may allow such

system to collect licensing fees on behalf of the department and 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 violations of the act pertaining to residential mortgage loans, as defined in section 45-702, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in this section.

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

(5) The department shall ensure that the Nationwide Mortgage Licensing System and Registry adopts a privacy, data security, and security breach 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 breach of security of the system provisions.

(6) The department shall upon written request 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 (1) of this section.

(8) In order to promote more effective regulation and reduce the regulatory burden through supervisory information sharing:

(a) Except as otherwise provided in this section, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. Such information and material may be shared with all federal and state regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law;

(b) Information or material that is subject to a privilege or confidentiality under subdivision (8)(a) of this section shall not be subject to:

(i) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(ii) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege;

(c) Any state statute relating to the disclosure of confidential supervisory information or any information or material described in subdivision (1)(a) of this section that is inconsistent with such subdivision shall be superseded by the requirements of this section; and

(d) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, applicants and licensees that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

(9) For these purposes, the director is authorized to enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by adopting and promulgating rules and regulations or an order of the director.

**Sec. 95.** The director may adopt and promulgate rules and regulations and issue orders, rulings, demands, and findings to carry out the purposes of the Nebraska Installment Loan and Sales Act.

**Sec. 96.** Any person violating subsection (4) of section 45-345, section 70 of this act, section 45-356, or section 80 of this act is guilty of a Class II misdemeanor. If, in the making of, or collection on, any loan contract, any act is done which constitutes a Class II misdemeanor under this section, that loan shall not be void, but the licensee shall have no right to collect or receive any interest or charges whatsoever. If any interest or other charges have been collected, the licensee shall forfeit and refund to the borrower all interest and other charges collected on the loan involved and shall not collect thereafter any interest or other charges contracted for and thereafter due on the loan involved, as liquidated damages, and the licensee or its assignee, if found liable, shall pay the costs of any action relating thereto, including reasonable attorney's fees. No licensee shall be found liable under this section if the licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error



notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

**Sec. 97.** Any violation of section 93 of this act, in connection with any loan transaction, however acquired, shall not render the indebtedness, any interest, or other charges void or uncollectible. In an action, other than a class action, the borrower may recover from the licensee violating section 93 of this act an award of liquidated damages in an amount determined by the court, but not less than five hundred dollars nor more than one thousand dollars. In any legal action brought pursuant to this section in which the licensee is found liable, the court shall award costs and reasonable attorney's fees to the borrower. A licensee is not liable under this section if the licensee notifies the borrower of an error before the licensee receives from the borrower written notice of the error or before the borrower has brought an action under this section and the licensee corrects the error within thirty days after notifying the borrower. A licensee may not be held liable in any action brought under this section if the licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error.

**Sec. 98.** Whenever the director has reasonable cause to believe that any person is violating or is threatening to or intends to violate the Nebraska Installment Loan and Sales Act, the director may, in addition to any action provided in the act and without prejudice thereto, enter an order requiring such person to cease and desist or to refrain from such violation. An action may also be brought, on the relation of the Attorney General and the director, to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court, in which such action is brought, has power and jurisdiction to impound and appoint a receiver for the property and business of the defendant, including books, papers, documents, and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent violations of the Nebraska Installment Loan and Sales Act through or by means of the use of such property and business. Such receiver, when so appointed and qualified, has such powers and duties as to custody, collection, administration, winding up, and liquidation of such property and business as shall, from time to time, be conferred upon the receiver by the court.

**Sec. 99.** (1) The department may order any person to cease and desist whenever the department determines that the person has violated any provision of the Nebraska Installment Loan and Sales Act. Upon entry of a cease and desist order, the director shall promptly notify the affected person that such order has been entered, of the reasons for such order, and that upon receipt, within fifteen business days after the date of the order, of written request from the affected person a hearing will be scheduled within thirty business days after the date of receipt of the written request unless the parties consent to a later date or the hearing officer sets a later date for good cause. If a hearing is not requested and none is ordered by the director, the order shall remain in effect until it is modified or vacated.

(2) 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.

(3) A person aggrieved by a cease and desist order of the director may obtain judicial review of the order in the manner prescribed in the Administrative Procedure Act and the rules and regulations adopted and promulgated by the department under the act. The director may obtain an order from the district court of Lancaster County for the enforcement of the cease and desist order.

(4) A person who violates a cease and desist order of the director may, after notice and hearing and upon further order of the director, be subject to a penalty of not more than five thousand dollars for each act in violation of the cease and desist order. The department shall remit fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**Sec. 100.** (1) The director may, following a hearing under the Administrative Procedure Act, impose an administrative fine against any officer, director, shareholder, partner, or member of a licensee, if the director finds the licensee or any such person participated in or had knowledge of any act prohibited by the Nebraska Installment Loan and Sales Act or otherwise violated the act. Such administrative fine shall be in addition to or separate from any fine imposed against a licensee pursuant to section 45-346.

(2) If the director finds, after notice and hearing in accordance with the Administrative Procedure Act, that any person has knowingly committed any act prohibited by section 93 of this act or otherwise violated the Nebraska Installment Loan and Sales Act or any rule and regulation or order adopted 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.

(3) If a person fails to pay an administrative fine and the costs of investigation ordered pursuant to 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 act.

(4) The department shall remit fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**Sec. 101.** All original license fees, annual renewal fees, investigation and examination fees, charges, and costs collected by or paid to the department pursuant to the Nebraska Installment Loan and Sales Act shall be remitted to the State Treasurer for credit to the Financial Institution Assessment Cash Fund and shall be available for the uses and purposes of the fund.

**Sec. 102.** Section 45-702, Reissue Revised Statutes of Nebraska, is amended to read:

45-702 For purposes of the Residential Mortgage Licensing Act:

(1) Borrower means the mortgagor or mortgagors under a real estate mortgage or the trustor or trustors under a trust deed;

(2) Branch office means any location at which the business of a mortgage banker or mortgage loan originator is to be conducted, including (a) any offices physically located in Nebraska, (b) any offices that, while not physically located in this state, intend to transact business with Nebraska residents, and (c) any third-party or home-based locations that mortgage loan originators, agents, and representatives intend to use to transact business with Nebraska residents;

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

(4) Clerical or support duties means tasks which occur subsequent to the receipt of a residential mortgage loan application including (a) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan or (b) communication with a consumer to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

(5) Control means the power, directly or indirectly, to direct the management or policies of a mortgage banking business, whether through ownership of securities, by contract, or otherwise. Any person who (a) is a director, a general partner, or an executive officer, including the president, chief executive officer, chief financial officer, chief operating officer, chief legal officer, chief compliance officer, and any individual with similar status and function, (b) directly or indirectly has the right to vote ten percent or more of a class of voting security or has the power to sell or direct the sale of ten percent or more of a class of voting securities, (c) in the case of a limited liability company, is a managing member, or (d) in the case of a partnership, has the right to receive, upon dissolution, or has contributed, ten percent or more of the capital, is presumed to control that mortgage banking business;

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

(7) Depository institution means any person (a) organized or chartered under the laws of this state, any other state, or the United States relating to banks, savings institutions, trust companies, savings and loan associations, credit unions, or industrial banks or similar depository institutions which the Board of Directors of the Federal Deposit Insurance Corporation finds to be operating substantially in the same manner as an industrial bank and (b) engaged in the business of receiving deposits other than funds held in a fiduciary capacity, including, but not limited to, funds held as trustee, executor, administrator, guardian, or agent;

(8) Director means the Director of Banking and Finance;

(9) Dwelling means a residential structure located or intended to be located in this state that contains one to four units, whether or not that structure is attached to real property, including an individual condominium unit, cooperative unit, mobile home, or trailer, if it is used as a residence;

(10) Federal banking agencies means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Consumer Financial Protection Bureau, the National Credit Union Administration, and the Federal Deposit Insurance Corporation;

(11) Immediate family member means a spouse, child, sibling, parent, grandparent, or grandchild, including stepparents, stepchildren, stepsiblings, and adoptive relationships;

(12) Installment loan company means any person that has been issued an installment loan license licensed pursuant to the Nebraska Installment Loan and Sales Act;

(13) Licensee means any person licensed under the Residential Mortgage Licensing Act as either a mortgage banker or mortgage loan originator;

(14) Loan processor or underwriter means an individual who (a) performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under the Residential Mortgage Licensing Act or Nebraska Installment Loan and Sales Act and (b) does not represent to the public, through advertising or

other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator;

(15) Mortgage banker or mortgage banking business means any person (a) other than (i) a person exempt under section 45-703, (ii) an individual who is a loan processor or underwriter, or (iii) an individual who is licensed in this state as a mortgage loan originator and (b) who, for compensation or gain or in the expectation of compensation or gain, directly or indirectly makes, originates, services, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for a residential mortgage loan;

(16)(a) Mortgage loan originator means an individual who for compensation or gain or in the expectation of compensation or gain (i) takes a residential mortgage loan application or (ii) offers or negotiates terms of a residential mortgage loan.

(b) Mortgage loan originator does not include (i) an individual engaged solely as a loan processor or underwriter except as otherwise provided in section 45-727, (ii) a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with Nebraska law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator, and (iii) a person solely involved in extensions of credit relating to time-share programs as defined in section 76-1702;

(17) 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;

(18) Nontraditional mortgage product means any residential mortgage loan product other than a thirty-year fixed rate residential mortgage loan;

(19) Offer means every attempt to provide, offer to provide, or solicitation to provide a residential mortgage loan or any form of mortgage banking business. Offer includes, but is not limited to, all general and public advertising, whether made in print, through electronic media, or by the Internet;

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

(21) Purchase-money mortgage means a mortgage issued to the borrower by the seller of the property as part of the purchase transaction;

(22) Real estate brokerage activity means any activity that involves offering or providing real estate brokerage services to the public, including (a) acting as a real estate salesperson or real estate broker for a buyer, seller, lessor, or lessee of real property, (b) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property, (c) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to any such transaction, (d) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate salesperson or real estate broker under any applicable law, and (e) offering to engage in any activity or act in any capacity described in subdivision (a), (b), (c), or (d) of this subdivision;

(23) Registered bank holding company means any bank holding company registered with the department pursuant to the Nebraska Bank Holding Company Act of 1995;

(24) Registered mortgage loan originator means any individual who (a) meets the definition of mortgage loan originator and is an employee of (i) a depository institution, (ii) a subsidiary that is (A) wholly owned and controlled by a depository institution and (B) regulated by a federal banking agency, or (iii) an institution regulated by the Farm Credit Administration and (b) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry;

(25) Registrant means a person registered pursuant to section 45-704;

(26) Residential mortgage loan means any loan or extension of credit, including a refinancing of a contract of sale or an assumption or refinancing of a prior loan or extension of credit, which is primarily for personal, family, or household use and is secured by a mortgage, trust deed, or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling;

(27) Residential real estate means any real property located in this state upon which is constructed or intended to be constructed a dwelling;

(28) Reverse-mortgage loan means a loan made by a licensee which (a) is secured by residential real estate, (b) is nonrecourse to the borrower except in the event of fraud by the borrower or waste to the residential real estate given as security for the loan, (c) provides cash advances to the borrower based upon the equity in the borrower's owner-occupied principal residence, (d) requires no payment of principal or interest until the entire loan becomes due and payable, and (e) otherwise complies with the terms of section 45-702.01;

(29) Service means accepting payments or maintenance of escrow accounts in the regular course of business in connection with a residential mortgage loan;

(30) State means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands; and

(31) Unique identifier means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

**Sec. 103.** Section 45-703, Reissue Revised Statutes of Nebraska, is amended to read:

45-703 (1) Except as provided in section 45-704, the following shall be exempt from the Residential Mortgage Licensing Act:

(a) Any depository institution or wholly owned subsidiary thereof;

(b) Any registered bank holding company;

(c) Any insurance company that is subject to regulation by the Department of Insurance and is either (i) organized or chartered under the laws of Nebraska or (ii) organized or chartered under the laws of any other state if such insurance company has a place of business in Nebraska;

(d) Any person licensed to practice law in this state in connection with activities that are (i) considered the practice of law by the Supreme Court, (ii) carried out within an attorney-client relationship, and (iii) accomplished by the attorney in compliance with all applicable laws, rules, ethics, and standards;

(e) Any person licensed in this state as a real estate broker or real estate salesperson pursuant to section 81-885.02 who is engaging in real estate brokerage activities unless such person is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator;

(f) Any registered mortgage loan originator when acting for an entity described in subdivision (24)(a)(i), (ii), or (iii) of section 45-702;

(g) Any sales finance company licensed pursuant to the Nebraska Installment Loan and Sales Act if such sales finance company does not engage in mortgage banking business in any capacity other than as a purchaser or servicer of an installment sales contract, as defined in section 45-335, which is secured by a mobile home or trailer;

(h) Any trust company chartered pursuant to the Nebraska Trust Company Act;

(i) Any wholly owned subsidiary of an organization listed in subdivisions (b) and (c) of this subsection if the listed organization maintains a place of business in Nebraska;

(j) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(k) Any individual who does not repetitively and habitually engage in the business of a mortgage banker, a mortgage loan originator, or a loan processor or underwriter, either inside or outside of this state, who (i) makes a residential mortgage loan with his or her own funds for his or her own investment, (ii) makes a purchase-money mortgage, or (iii) finances the sale of a dwelling or residential real estate owned by such individual without the intent to resell the residential mortgage loan;

(l) Any employee or independent agent of a mortgage banker licensed or registered pursuant to the Residential Mortgage Licensing Act or exempt from the act if such employee or independent agent does not conduct the activities of a mortgage loan originator or loan processor or underwriter;

(m) The United States of America; the State of Nebraska; any other state, district, territory, commonwealth, or possession of the United States of America; any city, county, or other political subdivision; and any agency or division of any of the foregoing;

(n) The Nebraska Investment Finance Authority;

(o) Any individual who is an employee of an entity described in subdivision (m) or (n) of this subsection and who acts as a mortgage loan originator or loan processor or underwriter only pursuant to his or her official duties as an employee of such entity;

(p) A bona fide nonprofit organization which has received a certificate of exemption pursuant to section 45-703.01; and

(q) Any employee of a bona fide nonprofit organization which has received a certificate of exemption pursuant to section 45-703.01 if such employee acts as a mortgage loan originator or mortgage loan processor or underwriter (i) only with respect to his or her work duties for the nonprofit organization and (ii) only with respect to residential mortgage loans with terms that are favorable to the borrower.

(2) It shall not be necessary to negate any of the exemptions provided in this section in any complaint, information, indictment, or other writ or proceedings brought under the Residential Mortgage Licensing Act, and the burden of establishing the right to any exemption shall be upon the person claiming the benefit of such exemption.

**Sec. 104.** Section 45-705, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Applicants for a license as a mortgage banker shall submit to the department an application on a form prescribed by the department. The application shall include, but not be limited to, (a) the applicant's corporate name and no more than one trade name or doing business as designation which the applicant intends to use in this state, if applicable, (b) the applicant's main office address, (c) all branch office addresses at which business is to be conducted, (d) the names and titles of each director and principal officer of the applicant, (e) the names of all shareholders, partners, or members of the applicant, (f) a description of the activities of the applicant in such detail as the department may require, (g) if the applicant is an individual, his or her social security number, and (h) fingerprints of any principal officer, director, partner, member, or sole proprietor for submission 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.

(3) The application for a license as a mortgage banker shall include or be accompanied by, in a manner as prescribed by the director, (a) the name and street address in this state of a registered agent appointed by the licensee for receipt of service of process and (b) the written consent of the registered agent to the appointment. A post office box number may be provided in addition to the street address.

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

(5) The application for a license as a mortgage banker shall include or be accompanied by, in a manner as prescribed by the director, a background investigation of each applicant by means of fingerprints and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nationwide Mortgage Licensing System and Registry. If the applicant is a partnership, association, corporation, or other form of business organization, the director shall require a criminal history record information check on each member, director, or principal officer of each applicant or any individual acting in the capacity of the manager of an office location. Fingerprints of any principal officer, director, partner, member, or sole proprietor shall be 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. The applicant shall be responsible for the direct costs associated with criminal history record information checks performed. The information obtained thereby may be used by the director to determine the applicant's eligibility for licensing under this section. Except as authorized pursuant to subsection (2) of section 45-748, receipt of criminal history record information by a private person or entity is prohibited.

(6) 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, 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.

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

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

**Sec. 105.** Section 45-729, Reissue Revised Statutes of Nebraska, is amended to read:

45-729 (1) The director shall not issue a mortgage loan originator license unless the director makes at a minimum the following findings:

(a) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation;

(b) The applicant has not been convicted of, or pleaded guilty or nolo contendere or its equivalent to, in a domestic, foreign, or military court:

(i) A misdemeanor under any state or federal law which involves dishonesty or fraud or which involves any aspect of the business of a mortgage banker, depository institution, or installment loan company unless such individual has received a pardon for such conviction or such conviction has been expunged, except that the director may consider the underlying crime, facts, and circumstances of a pardoned or expunged conviction in determining the applicant's eligibility for a license pursuant to subdivision (c) of this subsection; or

(ii) Any felony under state or federal law unless such individual has received a pardon for such conviction or such conviction has been expunged, except that the director may consider the underlying crime, facts, and circumstances of a pardoned or expunged conviction in determining the applicant's eligibility for a license pursuant to subdivision (c) of this subsection;

(c) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the Residential Mortgage Licensing Act. For purposes of this subsection, an individual has shown that he or she is not financially responsible when he or she has shown a

disregard in the management of his or her own financial condition. The director may consider the following factors in making a determination as to financial responsibility:

- (i) The applicant's current outstanding judgments except judgments solely as a result of medical expenses;
- (ii) The applicant's current outstanding tax liens or other government liens and filings;
- (iii) The applicant's foreclosures within the past three years; and
- (iv) A pattern of seriously delinquent accounts within the past three years by the applicant;
- (d) The applicant has completed the prelicensing education requirements described in section 45-730;
- (e) The applicant has passed a written test that meets the test requirement described in section 45-731; and
- (f) The applicant is covered by a surety bond as required pursuant to section 45-724 or a supplemental surety bond as required pursuant to section ~~45-338~~ ~~45-1007~~.

(2)(a) If the director determines that a mortgage loan originator license application should be denied, the director shall notify the applicant in writing of the denial and of the reasons for the denial.

(b) The director shall not deny an application for a mortgage loan originator license because of the failure to submit information required under the act or rules and regulations adopted and promulgated under the act without first giving the applicant an opportunity to correct the deficiency by supplying the missing information.

(c) If an applicant for a mortgage loan originator license does not complete his or her license application and fails to respond to a notice or notices from the department to correct the deficiency or deficiencies for a period of one hundred twenty days or more after the date the department sends the initial notice after initial filing of the application, the department may deem the application as abandoned and may issue a notice of abandonment of the application to the applicant in lieu of proceedings to deny the application.

(d) A decision of the director denying a mortgage loan originator license application pursuant to the Residential Mortgage Licensing Act may be appealed. The appeal shall be in accordance with the Administrative Procedure Act and rules and regulations adopted and promulgated by the department.

(3) A mortgage loan originator license shall not be assignable.

**Sec. 106.** Section 45-734, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(a) Upon receipt of a notice from either the licensed mortgage banker, registrant, installment loan company, or mortgage loan originator that the mortgage loan originator's relationship as an employee or independent agent of a licensed mortgage banker or installment loan company has been terminated;

(b) Upon the cancellation of the employing licensed mortgage banker's license pursuant to section 45-742 or upon the cancellation of the employing installment loan company's license pursuant to ~~subsection (5) subdivision (3)~~ ~~of section 45-338~~ ~~45-1033~~ for failure to maintain the required surety bond;

(c) Upon the voluntary surrender of the employing licensed mortgage banker's license pursuant to section 45-742 or upon the voluntary surrender of the employing installment loan company's license pursuant to section ~~45-341~~ ~~45-1032~~;

(d) Upon the expiration of the employing licensed mortgage banker's license pursuant to section 45-742 or upon the expiration of the employing installment loan company's license pursuant to ~~subsection (3) subdivision (3)~~ ~~of section 45-340~~ ~~45-1033~~ if such mortgage loan originator has renewed his or her license pursuant to section 45-732;

(e) Upon the revocation or suspension of the employing licensed mortgage banker's license pursuant to section 45-742 or upon the revocation or suspension of the employing installment loan company's license pursuant to ~~subsection (2) (1)~~ ~~of section 45-341~~ ~~45-1033~~; or

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

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

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

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

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

**Sec. 107.** Section 45-804, Reissue Revised Statutes of Nebraska, is amended to read:

45-804 A credit services organization, a salesperson, an agent, or a representative of a credit services organization, or an independent contractor who sells or attempts to sell the services of a credit services organization shall not:

(1) Charge a buyer or receive from a buyer money or other valuable consideration before completing performance of all services, other than those described in subdivision (2) of this section, which the credit services organization has agreed to perform for the buyer unless the credit services organization has obtained a surety bond or established and maintained a surety account as provided in section 45-805;

(2) Charge a buyer or receive from a buyer money or other valuable consideration for obtaining or attempting to obtain an extension of credit that the credit services organization has agreed to obtain for the buyer before the extension of credit is obtained;

(3) Charge a buyer or receive from a buyer money or other valuable consideration solely for referral of the buyer to a retail seller who will or may extend credit to the buyer if the credit that is or will be extended to the buyer is substantially the same as that available to the general public;

(4) Make or use a false or misleading representation in the offer or sale of the services of a credit services organization, including (a) guaranteeing to erase bad credit or words to that effect unless the representation clearly discloses that this can be done only if the credit history is inaccurate or obsolete and (b) guaranteeing an extension of credit regardless of the person's previous credit problem or credit history unless the representation clearly discloses the eligibility requirements for obtaining an extension of credit;

(5) Engage, directly or indirectly, in a fraudulent or deceptive act, practice, or course of business in connection with the offer or sale of the services of a credit services organization;

(6) Make or advise a buyer to make a statement with respect to a buyer's credit worthiness, credit standing, or credit capacity that is false or misleading or that should be known by the exercise of reasonable care to be false or misleading to a consumer reporting agency or to a person who has extended credit to a buyer or to whom a buyer is applying for an extension of credit;

(7) Advertise or cause to be advertised, in any manner whatsoever, the services of a credit services organization without filing a registration statement with the Secretary of State under section 45-806 unless otherwise provided by the Credit Services Organization Act; or

(8) Notwithstanding any other provision of law, charge any brokerage fees or any other fees or charges whatsoever in connection with a loan governed by the Nebraska Installment Loan and Sales Act.

**Sec. 108.** Section 69-2103, Revised Statutes Cumulative Supplement, 2024, is amended to read:

69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

(1) Advertisement means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer rental purchase agreement but does not include in-store merchandising aids such as window signs and ceiling banners;

(2) Cash price means the price at which the lessor would have sold the property to the consumer for cash on the date of the consumer rental purchase agreement for the property;

(3) Consumer means a natural person who rents property under a consumer rental purchase agreement;

(4) Consumer rental purchase agreement means an agreement which is for the use of property by a consumer primarily for personal, family, or household purposes, which is for an initial period of four months or less, whether or not there is any obligation beyond the initial period, which is automatically renewable with each payment, and which permits the consumer to become the owner of the property. A consumer rental purchase agreement in compliance with the act shall not be construed to be a lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 1026.2(a)(16), as such regulation existed on January 1, 2024, and 15 U.S.C. 1602(h), as such section existed on January 1, 2024, or a lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2, as such regulation existed on January 1, 2024. Consumer rental purchase agreement does not include:

(a) Any lease for agricultural, business, or commercial purposes;

(b) Any lease made to an organization;

(c) A lease or agreement which constitutes an installment sale or installment sales contract as defined in section 45-335;

(d) A security interest as defined in subdivision (35) of section 1-201, Uniform Commercial Code; and

(e) A home solicitation sale as defined in section 69-1601;

(5) Consummation means the occurrence of an event which causes a consumer to become contractually obligated on a consumer rental purchase agreement;

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

(7) Lease payment means a payment to be made by the consumer for the right of possession and use of the property for a specific lease period but does not include taxes imposed on such payment;

(8) Lease period means a week, month, or other specific period of time, during which the consumer has the right to possess and use the property after paying the lease payment and applicable taxes for such period;

(9) Lessor means a person who in the ordinary course of business operates a commercial outlet which regularly leases, offers to lease, or arranges for the leasing of property under a consumer rental purchase agreement;

(10) Property means any property that is not real property under the laws of this state when made available for a consumer rental purchase agreement; and

(11) Total of payments to acquire ownership means the total of all charges imposed by the lessor and payable by the consumer as a condition of acquiring ownership of the property. Total of payments to acquire ownership includes lease payments and any initial nonrefundable administrative fee or required delivery charge but does not include taxes, late charges, reinstatement fees, or charges for optional products or services.

**Sec. 109.** Section 76-2711, Reissue Revised Statutes of Nebraska, is amended to read:

76-2711 Homeowner means the owner of a residence in foreclosure, including a vendee under a contract for deed to real property as defined in section ~~45-335~~ ~~45-1002~~.

**Sec. 110.** Section 4, Legislative Bill 527, One Hundred Ninth Legislature, First Session, 2025, is amended to read:

Sec. 4. (1) No later than January 1, 2026, the Director of Insurance shall establish a schedule for the collection of a tax of not to exceed six percent of the gross amount of non-medicare direct writing premiums written under a health maintenance organization certificate of authority pursuant to section 44-32,115, to the extent not preempted by federal law, during the current year for business done in the state. The director shall remit the tax paid under this section to the State Treasurer. The State Treasurer shall annually credit the entirety of the tax remitted to the Medicaid Access and Quality Fund.

(2) No later than August 1, 2025, the Department of Health and Human Services shall amend the medicaid state plan or file other federal authorizing documents necessary to receive federal financial participation for the Medicaid Access and Quality Act.

(3) The tax established by this section shall be effective January 1, 2026, and applies to premiums received during the current calendar year and each year thereafter.

**Sec. 111.** Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 113, and 114 of this act become operative on October 1, 2025. The other sections of this act become operative on their effective date.

**Sec. 112.** Original sections 44-502 and 44-4109.01, Reissue Revised Statutes of Nebraska, and section 4, Legislative Bill 527, One Hundred Ninth Legislature, First Session, 2025, are repealed.

**Sec. 113.** Original sections 8-319, 8-330, 8-601, 8-820.01, 8-2701, 8-2702, 8-2703, 8-2704, 8-2705, 8-2706, 8-2707, 8-2708, 8-2709, 8-2710, 8-2711, 8-2712, 8-2713, 8-2714, 8-2715, 8-2716, 8-2717, 8-2718, 8-2719, 8-2720, 8-2721, 8-2722, 8-2723, 8-2725, 8-2726, 8-2727, 8-2728, 8-2731, 8-2732, 8-2733, 8-2734, 8-2736, 8-2737, 8-2738, 8-2739, 8-2740, 8-2741, 8-2742, 8-3027, 44-1703, 45-101.04, 45-1,110, 45-334, 45-335, 45-336, 45-337, 45-338, 45-339, 45-340, 45-341, 45-342, 45-343, 45-344, 45-345, 45-347, 45-348, 45-350, 45-351, 45-352, 45-353, 45-355, 45-356, 45-702, 45-703, 45-705, 45-729, 45-734, 45-804, and 76-2711, Reissue Revised Statutes of Nebraska, sections 8-602, 8-2729, 8-2730, 8-2735, 8-3025, 45-346, 45-354, and 69-2103, Revised Statutes Cumulative Supplement, 2024, and section 8-2724, Revised Statutes Cumulative Supplement, 2024, as amended by section 18, Legislative Bill 251, One Hundred Ninth Legislature, First Session, 2025, are repealed.

**Sec. 114.** The following sections are outright repealed: Sections 8-2743, 8-2744, 8-2745, 8-2746, 8-2747, 45-351.01, 45-1001, 45-1004, 45-1007, 45-1008, 45-1009, 45-1010, 45-1011, 45-1012, 45-1013, 45-1014, 45-1015, 45-1016, 45-1017, 45-1019, 45-1020, 45-1021, 45-1022, 45-1023, 45-1024, 45-1025, 45-1026, 45-1027, 45-1028, 45-1029, 45-1030, 45-1031, 45-1032, 45-1033, 45-1033.02, 45-1034, 45-1035, 45-1036, 45-1037, 45-1038, 45-1039, 45-1040, 45-1041, 45-1042, 45-1043, 45-1044, 45-1045, 45-1046, 45-1047, 45-1048, 45-1049, 45-1050, 45-1051, 45-1052, 45-1053, 45-1054, 45-1055, 45-1056, 45-1057, 45-1058, 45-1059, 45-1060, 45-1061, 45-1062, 45-1063, 45-1064, 45-1065, 45-1066, 45-1067, 45-1068, 45-1069, and 45-1070, Reissue Revised Statutes of Nebraska, and sections 45-346.01, 45-1002, 45-1003, 45-1005, 45-1006, 45-1018, and 45-1033.01, Revised Statutes Cumulative Supplement, 2024.