

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 510**

Introduced by Lindstrom, 18.

Read first time January 19, 2021

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Installment Loan Act; to amend
- 2 section 45-1014, Reissue Revised Statutes of Nebraska, and sections
- 3 45-1013 and 45-1024, Revised Statutes Cumulative Supplement, 2020;
- 4 to change installment loan license renewal fees and provide for
- 5 distribution; to change the rate of interest charged on installment
- 6 loans; to harmonize provisions; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 45-1013, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3 45-1013 (1) For the annual renewal of an original license under the  
4 Nebraska Installment Loan Act, the licensee shall file with the  
5 department a fee of five ~~two~~ hundred ~~fifty~~ dollars and a renewal  
6 application containing such information as the director may require to  
7 indicate any material change in the information contained in the original  
8 application or succeeding renewal applications.

9 (2) For the relocation of its place of business, a licensee shall  
10 file with the department a fee of one hundred fifty dollars and an  
11 application containing such information as the director may require to  
12 determine whether the relocation should be approved. Upon receipt of the  
13 fee and application, the director shall publish a notice of the filing of  
14 the application in a newspaper of general circulation in the county where  
15 the licensee proposes to relocate. If the director receives any  
16 substantive objection to the proposed relocation within fifteen days  
17 after publication of such notice, he or she shall hold a hearing on the  
18 application in accordance with the Administrative Procedure Act and the  
19 rules and regulations adopted and promulgated under the act. The expense  
20 of any publication required by this section shall be paid by the  
21 applicant licensee.

22 Sec. 2. Section 45-1014, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 45-1014 (1) All original license fees and annual renewal fees shall  
25 be collected by the department and remitted to the State Treasurer.  
26 Except as provided in subsection (2) of this section, the State Treasurer  
27 shall credit the fees, charges, and costs for ~~credit~~ to the Financial  
28 Institution Assessment Cash Fund. All investigation and examination fees,  
29 charges, and costs collected by or paid to the department shall likewise  
30 be remitted to the State Treasurer for credit to the Financial  
31 Institution Assessment Cash Fund and shall be available for the uses and

1 purposes of the fund.

2 (2) For fees collected pursuant to section 45-1013, the State  
3 Treasurer shall credit (a) one hundred fifty dollars of each annual  
4 renewal fee to the Financial Institution Assessment Cash Fund and (b)  
5 three hundred fifty dollars of each annual renewal fee to the Financial  
6 Literacy Cash Fund.

7 Sec. 3. Section 45-1024, Revised Statutes Cumulative Supplement,  
8 2020, is amended to read:

9 45-1024 (1) Except as provided in section 45-1025 and subsection (6)  
10 of this section, every licensee may make loans and may contract for and  
11 receive on such loans charges at a rate not exceeding ~~twenty-nine~~ ~~twenty-~~  
12 ~~four~~ percent per annum ~~on that part of the unpaid principal balance on~~  
13 ~~any loan not in excess of one thousand dollars, and twenty-one percent~~  
14 ~~per annum on any remainder of such unpaid principal balance.~~ Except for  
15 loans secured by mobile homes, a licensee may not make loans for a period  
16 in excess of one hundred forty-five months if the amount of the loan is  
17 greater than three thousand dollars but less than twenty-five thousand  
18 dollars. Charges on loans made under the Nebraska Installment Loan Act  
19 shall not be paid, deducted, or received in advance. The contracting for,  
20 charging of, or receiving of charges as provided for in subsection (2) of  
21 this section shall not be deemed to be the payment, deduction, or receipt  
22 of such charges in advance.

23 (2) When the loan contract requires repayment in substantially equal  
24 and consecutive monthly installments of principal and charges combined,  
25 the licensee may, at the time the loan is made, precompute the charges at  
26 the agreed rate on scheduled unpaid principal balances according to the  
27 terms of the contract and add such charges to the principal of the loan.  
28 Every payment may be applied to the combined total of principal and  
29 precomputed charges until the contract is fully paid. All payments made  
30 on account of any loan except for default and deferment charges shall be  
31 deemed to be applied to the unpaid installments in the order in which

1 they are due. The portion of the precomputed charges applicable to any  
2 particular month of the contract, as originally scheduled or following a  
3 deferment, shall be that proportion of such precomputed charges,  
4 excluding any adjustment made for a first installment period of more than  
5 one month and any adjustment made for deferment, which the balance of the  
6 contract scheduled to be outstanding during such month bears to the sum  
7 of all monthly balances originally scheduled to be outstanding by the  
8 contract. This section shall not limit or restrict the manner of  
9 calculating charges, whether by way of add-on, single annual rate, or  
10 otherwise, if the rate of charges does not exceed that permitted by this  
11 section. Charges may be contracted for and earned at a single annual  
12 rate, except that the total charges from such rate shall not be greater  
13 than the total charges from the rate provided for in several rates  
14 ~~otherwise applicable to the different portions of the unpaid balance~~  
15 ~~according to~~ subsection (1) of this section. All loan contracts made  
16 pursuant to this subsection are subject to the following adjustments:

17 (a) Notwithstanding the requirement for substantially equal and  
18 consecutive monthly installments, the first installment period may not  
19 exceed one month by more than twenty-one days and may not fall short of  
20 one month by more than eleven days. The charges for each day exceeding  
21 one month shall be one-thirtieth of the charges which would be applicable  
22 to a first installment period of one month. The charge for extra days in  
23 the first installment period may be added to the first installment and  
24 such charges for such extra days shall be excluded in computing any  
25 rebate;

26 (b) If prepayment in full by cash, a new loan, or otherwise occurs  
27 before the first installment due date, the charges shall be recomputed at  
28 the rate of charges contracted for in accordance with subsection (1) or  
29 (2) of this section upon the actual unpaid principal balances of the loan  
30 for the actual time outstanding by applying the payment, or payments,  
31 first to charges at the agreed rate and the remainder to the principal.

1 The amount of charges so computed shall be retained in lieu of all  
2 precomputed charges;

3 (c) If a contract is prepaid in full by cash, a new loan, or  
4 otherwise after the first installment due date, the borrower shall  
5 receive a rebate of an amount which is not less than the amount obtained  
6 by applying to the unpaid principal balances as originally scheduled or,  
7 if deferred, as deferred, for the period following prepayment, according  
8 to the actuarial method, the rate of charge contracted for in accordance  
9 with subsection (1) or (2) of this section. The licensee may round the  
10 rate of charge to the nearest one-half of one percent if such procedure  
11 is not consistently used to obtain a greater yield than would otherwise  
12 be permitted. Any default and deferment charges which are due and unpaid  
13 may be deducted from any rebate. No rebate shall be required for any  
14 partial prepayment. No rebate of less than one dollar need be made.  
15 Acceleration of the maturity of the contract shall not in itself require  
16 a rebate. If judgment is obtained before the final installment date, the  
17 contract balance shall be reduced by the rebate which would be required  
18 for prepayment in full as of the date judgment is obtained;

19 (d) If any installment on a precomputed or interest bearing loan is  
20 unpaid in full for ten or more consecutive days, Sundays and holidays  
21 included, after it is due, the licensee may charge and collect a default  
22 charge not exceeding an amount equal to five percent of such installment.  
23 If any installment payment is made by a check, draft, or similar signed  
24 order which is not honored because of insufficient funds, no account, or  
25 any other reason except an error of a third party to the loan contract,  
26 the licensee may charge and collect a fifteen-dollar bad check charge.  
27 Such default or bad check charges may be collected when due or at any  
28 time thereafter;

29 (e) If, as of an installment due date, the payment date of all  
30 wholly unpaid installments is deferred one or more full months and the  
31 maturity of the contract is extended for a corresponding period, the

1 licensee may charge and collect a deferment charge not exceeding the  
2 charge applicable to the first of the installments deferred, multiplied  
3 by the number of months in the deferment period. The deferment period is  
4 that period during which no payment is made or required by reason of such  
5 deferment. The deferment charge may be collected at the time of deferment  
6 or at any time thereafter. The portion of the precomputed charges  
7 applicable to each deferred balance and installment period following the  
8 deferment period shall remain the same as that applicable to such balance  
9 and periods under the original loan contract. No installment on which a  
10 default charge has been collected, or on account of which any partial  
11 payment has been made, shall be deferred or included in the computation  
12 of the deferment charge unless such default charge or partial payment is  
13 refunded to the borrower or credited to the deferment charge. Any payment  
14 received at the time of deferment may be applied first to the deferment  
15 charge and the remainder, if any, applied to the unpaid balance of the  
16 contract, except that if such payment is sufficient to pay, in addition  
17 to the appropriate deferment charge, any installment which is in default  
18 and the applicable default charge, it shall be first so applied and any  
19 such installment shall not be deferred or subject to the deferment  
20 charge. If a loan is prepaid in full during the deferment period, the  
21 borrower shall receive, in addition to the required rebate, a rebate of  
22 that portion of the deferment charge applicable to any unexpired full  
23 month or months of such deferment period; and

24 (f) If two or more full installments are in default for one full  
25 month or more at any installment date and if the contract so provides,  
26 the licensee may reduce the contract balance by the rebate which would be  
27 required for prepayment in full as of such installment date and the  
28 amount remaining unpaid shall be deemed to be the unpaid principal  
29 balance and thereafter in lieu of charging, collecting, receiving, and  
30 applying charges as provided in this subsection, charges may be charged,  
31 collected, received, and applied at the agreed rate as otherwise provided

1 by this section until the loan is fully paid.

2 (3) The charges, as referred to in subsection (1) of this section,  
3 shall not be compounded. The charging, collecting, and receiving of  
4 charges as provided in subsection (2) of this section shall not be deemed  
5 compounding. If part or all of the consideration for a loan contract is  
6 the unpaid principal balance of a prior loan, then the principal amount  
7 payable under such loan contract may include any unpaid charges on the  
8 prior loan which have accrued within sixty days before the making of such  
9 loan contract and may include the balance remaining after giving the  
10 rebate required by subsection (2) of this section. Except as provided in  
11 subsection (2) of this section, charges shall (a) be computed and paid  
12 only as a percentage per month of the unpaid principal balance or  
13 portions thereof and (b) be computed on the basis of the number of days  
14 actually elapsed. For purposes of computing charges, whether at the  
15 maximum rate or less, a month shall be that period of time from any date  
16 in a month to the corresponding date in the next month but if there is no  
17 such corresponding date then to the last day of the next month, and a day  
18 shall be considered one-thirtieth of a month when computation is made for  
19 a fraction of a month.

20 (4) Except as provided in subsections (5) and (6) of this section,  
21 in addition to that provided for under the Nebraska Installment Loan Act,  
22 no further or other amount whatsoever shall be directly or indirectly  
23 charged, contracted for, or received. If any amount, in excess of the  
24 charges permitted, is charged, contracted for, or received, the loan  
25 contract shall not on that account be void, but the licensee shall have  
26 no right to collect or receive any interest or other charges whatsoever.  
27 If such interest or other charges have been collected or contracted for,  
28 the licensee shall refund to the borrower all interest and other charges  
29 collected and shall not collect any interest or other charges contracted  
30 for and thereafter due on the loan involved, as liquidated damages, and  
31 the licensee or its assignee, if found liable, shall pay the costs of any

1 action relating thereto, including reasonable attorney's fees. No  
2 licensee shall be found liable under this subsection if the licensee  
3 shows by a preponderance of the evidence that the violation was not  
4 intentional and resulted from a bona fide error notwithstanding the  
5 maintenance of procedures reasonably adopted to avoid any such error.

6 (5) A borrower may be required to pay all reasonable expenses  
7 incurred in connection with the making, closing, disbursing, extending,  
8 readjusting, or renewing of loans. Such expenses may include abstracting,  
9 recording, releasing, and registration fees; premiums paid for nonfiling  
10 insurance; premiums paid on insurance policies covering tangible personal  
11 property securing the loan; amounts charged for a debt cancellation  
12 contract or a debt suspension contract, as agreed upon by the parties, if  
13 the debt cancellation contract or debt suspension contract is a contract  
14 of a financial institution or licensee and such contract is sold directly  
15 by such financial institution or licensee or by an unaffiliated,  
16 nonexclusive agent of such financial institution or licensee in  
17 accordance with 12 C.F.R. part 37, as such part existed on January 1,  
18 2011, and the financial institution or licensee is responsible for the  
19 unaffiliated, nonexclusive agent's compliance with such part; title  
20 examinations; credit reports; survey; taxes or charges imposed upon or in  
21 connection with the making and recording or releasing of any mortgage;  
22 amounts charged for a guaranteed asset protection waiver; and fees and  
23 expenses charged for electronic title and lien services. Except as  
24 provided in subsection (6) of this section, a borrower may also be  
25 required to pay a nonrefundable loan origination fee not to exceed the  
26 lesser of five hundred dollars or an amount equal to seven percent of  
27 that part of the original principal balance of any loan not in excess of  
28 two thousand dollars and five percent on that part of the original  
29 principal balance in excess of two thousand dollars, if the licensee has  
30 not made another loan to the borrower within the previous twelve months.  
31 If the licensee has made another loan to the borrower within the previous

1 twelve months, a nonrefundable loan origination fee may only be charged  
2 on new funds advanced on each successive loan. Such reasonable initial  
3 charges may be collected from the borrower or included in the principal  
4 balance of the loan at the time the loan is made and shall not be  
5 considered interest or a charge for the use of the money loaned.

6 (6)(a) Loans secured solely by real property that are not made  
7 pursuant to subdivision (11) of section 45-101.04 on real property shall  
8 not be subject to the limitation ~~limitations~~ on the rate of interest  
9 provided in subsection (1) of this section or the limitations on the  
10 nonrefundable loan origination fee under subsection (5) of this section  
11 if (i) the principal amount of the loan is seven thousand five hundred  
12 dollars or more and (ii) the sum of the principal amount of the loan and  
13 the balances of all other liens against the property do not exceed one  
14 hundred percent of the appraised value of the property. Acceptable  
15 methods of determining appraised value shall be made by the department  
16 pursuant to rule, regulation, or order.

17 (b) An origination fee on such loan shall be computed only on the  
18 principal amount of the loan reduced by any portion of the principal that  
19 consists of the amount required to pay off another loan made under this  
20 subsection by the same licensee.

21 (c) A prepayment penalty on such loan shall be permitted only if (i)  
22 the maximum amount of the penalty to be assessed is stated in writing at  
23 the time the loan is made, (ii) the loan is prepaid in full within two  
24 years from the date of the loan, and (iii) the loan is prepaid with money  
25 other than the proceeds of another loan made by the same licensee. Such  
26 prepayment penalty shall not exceed six months interest on eighty percent  
27 of the original principal balance computed at the agreed rate of interest  
28 on the loan.

29 (d) A licensee making a loan pursuant to this subsection may obtain  
30 an interest in any fixtures attached to such real property and any  
31 insurance proceeds payable in connection with such real property or the

1 loan.

2 (e) For purposes of this subsection, principal amount of the loan  
3 means the total sum owed by the borrower including, but not limited to,  
4 insurance premiums, loan origination fees, or any other amount that is  
5 financed, except that for purposes of subdivision (6)(b) of this section,  
6 loan origination fees shall not be included in calculating the principal  
7 amount of the loan.

8 Sec. 4. Original section 45-1014, Reissue Revised Statutes of  
9 Nebraska, and sections 45-1013 and 45-1024, Revised Statutes Cumulative  
10 Supplement, 2020, are repealed.