

GUIDANCE DOCUMENT

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Application Hearing Guidance

In any application for a license before the Nebraska Department of Banking and Finance (“Department”), it is the Applicant's burden to prove that it meets the statutory criteria for obtaining the license. The statutory criteria for an Installment Loan License are set forth in the Installment Loan Act (Neb. Rev. Stat. § 45-1001 to § 45-1070), and in particular, Section 45-1008 of that Act.

All Applicants are expected to present evidence as to its operations and should address the following factors of importance in the section entitled, “General Hearing Questions”. The questions are further organized below based on the business activities of the Applicant. Applicants who originate or make installment loans are expected to address the factors in the section entitled “Originator Hearing Questions”. Applicants holding, servicing, or otherwise participating in installment loans are expected to address the factors in the section entitled “Non-Originator Hearing Questions.”

General Hearing Questions

1. Discuss (or provide) any information which will allow the Department to conclude that the character and general fitness of the Applicant is such that the Applicant as a licensee will operate the installment loan business in a fair, honest, and efficient manner.
2. The Applicant should be prepared to expand on any statements made in the application, particularly with respect to:
 - a. The experience, character, and general fitness of the Applicant, officers, directors, shareholders, partners, and/or members;
 - b. The name of the individual who will manage this office location along with this person’s qualifications and business experience, if such person is not included in 2a, above;
 - c. The financial condition of the company; and
 - d. Any bankruptcies, business reorganizations, license revocations, criminal indictments, and/or convictions for the Applicant and any person associated with the Applicant.

NOTE: If any person associated with the Applicant (including consultants) has ever been convicted of any misdemeanor involving an installment loan business or related activity/business, or any felony, that person should be present at the hearing and should expect to give a statement on the record.

3. Discuss the anticipated source of funds for the operation.
4. Describe any other business/activity which will be conducted at the office which will be conducted in addition to the installment loan business:
 - a. Will there be a segregation of these activities from the installment loan business? For example, will the office have its own physically distinct telephone, entryway, and office space; and
 - b. Will separate records be kept for the installment loan business?
5. Does the Applicant hold any other licenses in Nebraska? If yes, describe:
 - a. Any disciplinary or other actions taken against those licenses.
6. Has the Applicant or a parent company, subsidiary, or affiliate obtained a similar license from any other state/jurisdiction? If yes, describe:
 - a. The nature of those operations;
 - b. The entity's experience with licensing authorities in other jurisdictions;
 - c. Any disciplinary or other actions taken against those licenses;
 - d. The segregation of these activities and/or separate records kept for the installment loan business; and
 - e. If a subsidiary, the involvement of the officers of the subsidiary company with the parent company and vice versa.
7. Have the proposed officers, directors, shareholders, partners, members, or managers been associated with similar companies in Nebraska or any other state/jurisdiction?
8. Are there any other persons, including entities, which will maintain a relationship with the Applicant? If yes, discuss:
 - a. The nature of this relationship;
 - b. The type of oversight which the related entity will exercise over the Applicant; and
 - c. Whether the Applicant will maintain autonomy of management.
9. Will the Applicant be using any consultants? If so, who, and what is their experience?
10. What types of insurance does the Applicant plan to sell, if any?
 - a. Has the Applicant received authorization from the Nebraska Department of Insurance; and
 - b. Has Applicant drafted the statutorily required notice to be given to borrowers required under Section 45-1027? Copy should be entered as an exhibit.

11. Does Applicant intend to offer, sell, or provide guaranteed asset protection waivers?
If yes:
 - a. Discuss Applicant's procedures for offering, selling, and/or providing these products; and
 - b. Provide an exhibit showing Applicant's compliance with the disclosure requirements of Section 45-1105 of the Guaranteed Asset Protection Waiver Act.
12. Will Applicant be utilizing debt cancellation contracts and/or debt suspension contracts? If yes, discuss Applicant's procedures for offering and selling these products.
13. Discuss the Applicant's recordkeeping procedures. Specify the types of records that will be maintained along with an explanation as to how confidential information will be kept private.
14. Discuss the Applicant's process for resolving consumer complaints.
15. Provide the following information concerning the office location:
 - a. Does the location have adequate space for examiners to work;
 - b. Does the Applicant have procedures to allow for remote access for examiners to work; and
 - c. What are the office hours?
16. If the license is approved, when would Applicant intend to open for business?

Originator Hearing Questions

1. Has the Applicant drafted the Federal Regulation Z notice to be given to customers (APR, fees, etc.)? If yes:
 - a. Is a specimen copy available? Copy should be entered as an exhibit; and
 - b. Discuss the Applicant's procedures for complying with Federal Reserve Board Regulation Z.
2. Does the Applicant have available a draft of the statement to borrowers required under Section 45-1031? Copy should be entered as an exhibit.
3. What procedures does the Applicant have in place to ensure that the following do not occur:
 - a. Interest rate does not exceed 24% per annum on that part of the unpaid principal balance on any installment loan in excess of one thousand dollars and 21% per annum on any remainder of such unpaid principal balance as required under Section 45-1024;
 - b. Loan origination fee does not exceed the lesser of five hundred dollars or an amount equal to 7% of that part of the original principal balance of any loan not in excess of two thousand dollars and 5% on that part of the original principal balance in excess of two thousand dollars;
 - c. Prepayment penalty on loans secured by real property does not exceed two years and does not exceed six months interest on 80% of the original principal balance computed at the agreed rate of interest on the loan;
 - d. The term of the loan does not exceed thirty-six calendar months from the date of making such contract when the principal balance is not more than three thousand dollars; and
 - e. If the Applicant intends on offering reverse mortgages, what procedures does the Applicant have in place to ensure that a nonrefundable loan origination fee does not exceed 2% of the appraised value of the borrower's residence as required under Section 45-1068?
4. Describe the nature of the contemplated installment loan business:
 - a. Will the lending activity be restricted in any manner;
 - b. Will there be any residential mortgage lending at this office location; and
 - c. If the answer to Question 3(b) is yes, provide the Nationwide Mortgage Licensing System ("NMLS") unique identifier numbers for those individuals who will be licensed as mortgage loan originators ("MLO(s)") and provide an exhibit showing the status of their MLO license applications.

5. Provide the following information concerning the physical location:
 - a. Describe the physical location of the company; and
 - b. Have all zoning requirements and any applicable local ordinances been complied with?

6. If the application is granted, describe how the business will benefit the community in which the Applicant will be located or for Nebraska residents:
 - a. The convenience of the locations of any existing licensees to residents of the area as compared to convenience of Applicant's proposed location; and
 - b. The anticipated number of persons in the area who desire to use the services of Applicant and the amount of business they would generate.

Non-Originator Hearing Questions

1. Discuss the Applicant's procedures for complying with Federal Reserve Board Regulation Z, and the procedures applicant has to ensure customers received the Federal Regulation Z notice to be given to customers (APR, fees, etc.).
2. Discuss the Applicant's procedures for ensuring customers have received the statement to borrowers required under Section 45-1031.
3. What procedures does the Applicant have in place to ensure that the following do not occur:
 - a. Interest rate does not exceed the amount allowable under applicable law;
 - b. Loan origination fee does not exceed the lesser of five hundred dollars or an amount equal to 7% of that part of the original principal balance of any loan not in excess of two thousand dollars and 5% on that part of the original principal balance in excess of two thousand dollars;
 - c. Prepayment penalty on loans secured by real property does not exceed two years and does not exceed six months interest on 80% of the original principal balance computed at the agreed rate of interest on the loan;
 - d. The term of the loan does not exceed thirty-six calendar months from the date of making such contract when the principal balance is not more than three thousand dollars; and
 - e. For reverse mortgages, what procedures does the Applicant have in place to ensure that a nonrefundable loan origination fee does not exceed 2% of the appraised value of the borrower's residence as required under Section 45-1068?
4. If the application is granted, describe how the business will benefit Nebraska residents:
 - a. The anticipated number of Nebraska customers of Applicant and the amount of business they would generate.