



NEBRASKA EXPANDS SCOPE OF INSTALLMENT SALES ACT AND INSTALLMENT LOAN ACT

Nebraska passed L. B. 363 in March of 2021, effective March 18, 2021, to expand the scope of several key consumer finance statutes to require licensing of entities that acquire any servicing rights or other forms of participation, among other new licensing triggers. Below is a summary of the key provisions.

Installment Sale Act

The definition of a “sales finance company” was expanded to insert to the existing definition, which provided that sales finance company means a person purchasing one or more installment contracts from one or more sellers, the following:

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.

Thus, merely acquiring servicing rights or a participation or engaging with a consumer on behalf of the purchaser makes an entity a “sales finance company.” Nebraska requires sales finance companies to obtain a license.

Installment Loan Act

The following provision was added to the licensing provision of the Nebraska Installment Loan Act, which previously required a license to engage in the business of making loans under the Act:

A license shall also be required for any person that holds or acquires any rights of ownership, servicing, or other forms of participation in a loan under the Nebraska Installment Loan Act or that engages with, or conducts loan activity with, an installment loan borrower in connection with a loan under the act.

Thus, the licensing requirement is expanded to cover servicing and participation or “loan activity” (undefined) with a borrower.

According to recently released FAQs by the Nebraska regulator, while an in-state location is required for licensees that “make loans,” and in-state location is not required for a licensee that does not “make” loans.

These are very expansive licensing triggers that may catch

unsuspecting businesses by surprise. The ambiguity in the new provisions of the triggers also is likely to lead to confusion.

Please let us know if you have questions or need help understanding the impact of these new provisions. ☐

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