

# SELECTED NEBRASKA STATUTES REGARDING DEBT COLLECTION

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## Table of Contents

- § 45-601 Act, how cited; collection agency; license required; violation; penalty; foreign agency; communication authorized.
- § 45-602 Terms, defined.
- § 45-603 Collection Agency Licensing Board; created; members; term; expenses; employees; Secretary of State; duties.
- § 45-604 Board; adopt rules and regulations.
- § 45-605 Board; duties; application for license; filing; issuance; denial; appeal.
- § 45-606 License; application; fee; financial statement; form.
- § 45-607 License; qualifications of licensee.
- § 45-608 Licensee; bond; conditions.
- § 45-609 License; form; display.
- § 45-610 Licensee; employees; solicitor's certificates; form.
- § 45-611 Licenses; certificates; expiration; renewal; application; time.
- § 45-612 Licensee; solicitor; violation; conviction; revocation; hearing; order.
- § 45-613 Licensee; solicitor; complaint; citation; notice; hearing.
- § 45-614 Licensee; solicitor; citation; power to issue subpoenas; depositions.
- § 45-614 Licensee; solicitor; citation; hearing; board; findings; powers.
- § 45-615 Licensee; board; require financial statement; confidential.
- § 45-616 License; solicitor's certificate; appeals; procedure.
- § 45-617 Licensee; solicitor's certificate; appeal; effect.
- § 45-618 Licensee; change place of business; notify Secretary of State; new license; issuance; solicitor; employment terminated; return certificate.
- § 45-619 Licensee; board; require financial statement; confidential.
- § 45-620 License; certificates; fees.
- § 45-621 Nebraska Collection Agency Fund; created; use; investment.
- § 45-622 Licensee; solicitor; prohibited from practice of law.

- § 45-623 Collection of public debts; contracts authorized; requirements.
  
- § 45-1043 Borrower's obligation; licensee; contacts limitation.
- § 45-1044 Borrower's obligation; contact; limitation; waiver.
- § 45-1045 Licensee; contacts permitted without borrower's consent.
- § 45-1046 Borrower; default; notice to licensee; effect.
- § 45-1047 Licensee; actions; permitted; prohibited.
- § 45-1048 Borrower; right to action; licensee; judgment; effect.
- § 45-1049 Borrower; default; agreement; extent of enforceability.
- § 45-1050 Borrower; right to action; licensee; judgment; effect.
- § 45-1051 Borrower; default; agreement; extent of enforceability.
- § 45-1050 Borrower; loan; default; licensee; notice; contents.
- § 45-1051 Borrower; loan; default; right to cure; procedure.
- § 45-1052 Borrower; loan; default; licensee; possession of collateral; restrictions.
- § 45-1053 Loan; third-party obligation; when.
- § 45-1054 Borrower; deficiency; liability; how treated.
- § 45-1055 Writing evidencing borrower's obligation; form; copies; fee; licensee; duties.
- § 45-1056 Licensee; discrimination prohibited.
- § 45-1057 Licensee; loan; former debt; how treated.
- § 45-1058 Violation; loan transaction; licensee; liability.

**Nebraska Revised Statute 45-601. Act, how cited; collection agency; license required; violation; penalty; foreign agency; communication authorized.**

Sections 45-601 to 45-622 shall be known and may be cited as the Collection Agency Act.

No person, firm, corporation, or association shall conduct or operate a collection agency or do a collection agency business as defined in the act until he, she, or it has secured a license as provided in the act. Any person, firm, corporation, or association conducting or operating such a collection agency or doing such a collection agency business without a license shall be guilty of a Class III misdemeanor for each day that such unlawful business is conducted. Any officer or agent of a firm, corporation, or association who personally participates in any violation of the act shall be guilty of a Class III misdemeanor.

Nothing contained in this section shall be construed to require a regular employee of a collection agency duly licensed as such in this state to procure a collection agency license.

Nothing in the act shall be construed to prohibit a person, firm, corporation, or association regulated as a collection agency in another state and residing in another state from communicating with a debtor in this state.

**Nebraska Revised Statute 45-602. Terms, defined.**

For purposes of the Collection Agency Act:

- (1) Board shall mean the Collection Agency Licensing Board;
- (2) Collection agency shall mean and include:
  - (a) All persons, firms, corporations, and associations directly or indirectly engaged in soliciting, from more than one person, firm, corporation, or association, claims of any kind owed or due or asserted to be owed or due such solicited person, firm, corporation, or association, and all persons, firms, corporations, and associations directly or indirectly engaged in asserting, enforcing, or prosecuting such claims;
  - (b) Any person, firm, corporation, or association which, in attempting to collect or in collecting his, her, or its own accounts or claims, uses a fictitious name or any name other than his, her, or its own name which would indicate to the debtor that a third person is collecting or attempting to collect such account or claim; and
  - (c) Any person, firm, corporation, or association which attempts to or does give away or sell to any person, firm, corporation, or association, other than one licensed under the act, any system or series of letters or forms for use in the collection of accounts or claims which assert or indicate,

directly or indirectly, that the claim or account is being asserted or collected by any other person, firm, corporation, or association other than the creditor or owner of the claim or demand; and

- (3) Collection agency shall not mean or include (a) regular employees of a single creditor, (b) banks, (c) trust companies, (d) savings and loan associations, (e) building and loan associations, (f) abstract companies doing an escrow business, (g) duly licensed real estate brokers and agents when the claims or accounts being handled by such broker or agent are related to or are in connection with such brokers' or agents' regular real estate business, (h) express and telegraph companies subject to public regulation and supervision, (i) attorneys at law handling claims and collections in their own names and not operating a collection agency under the management of a layperson, (j) any person, firm, corporation, or association handling claims, accounts, or collections under an order or orders of any court, or (k) a person, firm, corporation, or association which, for valuable consideration, purchases accounts, claims, or demands of another and then, in such purchaser's own name, proceeds to assert or collect such accounts, claims, or demands.

**Nebraska Revised Statute 45-603. Collection Agency Licensing Board; created; members; term; expenses; employees; Secretary of State; duties.**

- (1) There is hereby created the Collection Agency Licensing Board which shall consist of the Secretary of State, who shall be chairperson of the board, and four members appointed by the Governor. Three of the members appointed by the Governor shall be licensees actively engaged in the collection business in this state, one of whom shall reside in each of the state's three congressional districts. The remaining member shall be appointed at large as a representative of the public. Such person shall not be a licensee actively engaged in the collection business in this state.
- (2) The term of office of each appointed member shall be for four years, except that of the members of the first board appointed under this section, two shall be appointed for a term of two years. Before a member's term expires, the Governor shall appoint a successor to take office on the expiration of the member's term. A member shall continue to serve after the expiration of his or her term until a successor is appointed and qualified. A vacancy in the office of a member shall be filled by appointment for the unexpired term.
- (3) The members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.
- (4) The board may employ such persons as may be necessary to carry out the Collection Agency Act, fix the salaries of such employees, and make such other expenditures as are necessary to properly carry out the act, except that all

remuneration, expenses, salaries, and expenditures provided for in the act shall be paid out of the Nebraska Collection Agency Fund.

- (5) The Secretary of State shall keep a record of all the proceedings, transactions, communications, and official acts performed pursuant to the act and perform such other duties as may be necessary to carry out the intent and purpose of the act.

**Nebraska Revised Statute 45-604. Board; adopt rules and regulations.**

The board may enact rules and regulations relating to the administration of, but not inconsistent with, the Collection Agency Act.

**Nebraska Revised Statute 45-605. Board; duties; application for license; filing; issuance; denial; appeal.**

The board shall be responsible for the administration of the Collection Agency Act. All applications for licenses provided for in the act shall be made to the board. If the applicant is an individual, the application shall include the applicant's social security number. The board shall investigate the qualifications of each applicant for a license. Based on the results of the investigation, the board may either issue a license to the applicant upon the payment of the license fee and the furnishing of the bond provided for in section 45-608 or refuse to issue such license. The action of the board may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

**Nebraska Revised Statute 45-606. License; application; fee; financial statement; form.**

Any person, firm, corporation, or association desiring to engage in this state in the collection business as defined in the Collection Agency Act shall make written and sworn application for a license therefor to the board upon a form to be prescribed by the board, which application shall be accompanied by an investigation fee of not to exceed two hundred fifty dollars. The amount of the fee shall be fixed by the board and shall not exceed the amount actually necessary to sustain the administration and enforcement of the act. Such application shall be accompanied by a duly verified financial statement of the applicant in form prescribed by the board.

**Nebraska Revised Statute 45-607. License; qualifications of licensee.**

- (1) The license provided for by section 45-606 shall be granted only to applicants who are trustworthy, who have a good reputation for honesty and fair dealings, who are financially responsible, and who are, in the opinion of the board, competent to engage in the collection of accounts and claims of others. No license shall be issued to a partnership, limited liability company, corporation, or

association unless the manager or executive officer thereof has been engaged in the collection business either as owner, officer, partner, member, or employee of an established reputable collection agency for a period of at least two years, except that the board may, if satisfied that the applicant or the manager or executive officer thereof has had sufficient business experience to be fully competent to engage in the collection business without such previous collection experience, approve such application.

- (2) No such license shall be issued to any person, firm, limited liability company, corporation, or association who or which is not a resident of this state or does not keep and maintain a regular office in this state in which are kept complete records of collections and claims handled by such person, firm, limited liability company, corporation, or association for creditors residing in this state and against debtors residing in this state, except that a foreign corporation or limited liability company duly authorized, admitted, and licensed to do business in this state may be issued such a license if it complies with all requirements of the Collection Agency Act, nor shall any license be issued to any person, firm, limited liability company, corporation, or association who or which or the principal officers of which have, within the past five years, been convicted in any court of fraud or have been convicted of or had judgment entered against them in any court for failure to account to their client or customer for money or property collected by them for such client or customer.

**Nebraska Revised Statute 45-608. Licensee; bond; conditions.**

No license shall be issued under section 45-607 until the applicant has furnished a good and sufficient corporate surety bond in the sum of fifteen thousand dollars for those agencies or foreign corporations having sixteen or more licensed solicitors, ten thousand dollars for any agency having five to fifteen licensed solicitors, and five thousand dollars for any agency having less than five solicitors, payable to and approved by the board and conditioned that the licensee shall faithfully and truly perform all agreements entered into with the licensee's clients or customers and shall, within forty-five days after the close of each calendar month, report to and pay to his, her, or its client or customer the net proceeds of all collections made during the preceding calendar month and due to each client or customer, which bond shall be in such form as approved by the board and shall be filed in the office of the Secretary of State. No person shall be required to post a bond in excess of one hundred thousand dollars.

An action may be brought in any court of competent jurisdiction upon such bond by any person to whom the licensee fails to account and pay as set forth in such bond or who has been damaged by failure of the licensee to comply with all agreements entered into with such person, except that the aggregate liability of the surety to all such persons shall, in no event, exceed the sum of such bond.

**Nebraska Revised Statute 45-609. License; form; display.**

The license provided for in section 45-607 shall be in such form as prescribed by the board. If the licensee maintains a branch office, he, she, or it shall not do a collection agency business in such branch office until he, she, or it has secured a branch office certificate therefor. A licensee, so long as his, her, or its license is in full force and effect and in good standing, shall be entitled to branch office certificates for any branch offices operated by such licensee upon payment of the fee therefor provided in section 45-620. A licensee shall display his, her, or its license in a conspicuous place in his, her, or its principal place of business, and if he, she, or it conducts a branch office, the branch office certificate shall be conspicuously displayed in the branch office.

**Nebraska Revised Statute 45-610. Licensee; employees; solicitor's certificates; form.**

The board shall, upon written application by a licensee and the payment of the fee therefor provided in section 45-620, issue solicitor's certificates to employees of the licensee who solicit or collect accounts, which certificates shall be in such form as determined by the board. Such certificates shall entitle the solicitor named in the certificate to solicit and handle, for the licensee named in the certificate, collection Nebraska Revised Statute agency business, accounts, and claims. Upon the termination of the employment of the solicitor by the licensee, such certificate shall become null and void and shall be returned by such solicitor to the licensee for cancellation by the board.

**Nebraska Revised Statute 45-611. Licenses; certificates; expiration; renewal; application; time.**

All licenses and certificates issued under the Collection Agency Act shall expire on December 31 following the date of issuance unless renewed as provided in this section prior to such date. All branch office certificates and solicitor's certificates shall continue in full force and effect only so long as the license under which they are issued is in full force and effect.

Each licensee shall, if he or she desires to have his or her license renewed, make application to the board for such renewal on or before December 1 of each year and shall, with such application, furnish the bond required by section 45-608 or furnish evidence of the continuation in effect of the prior bond so furnished and pay the renewal fee provided for in section 45-620.

If an application for renewal of a license is denied, the applicant may appeal from such refusal the same as from the refusal to issue an original license.

Upon renewal of a license, the board shall issue to the licensee a new license or a certificate of renewal of the previous license in such form as the board determines. Upon the renewal of a license, the licensee may, if he, she, or it maintains a branch

office, secure a renewal of his, her, or its branch office certificate upon payment of the renewal fee provided for in such section. Such licensee may also secure renewals of his, her, or its solicitor's certificates upon payment of the renewal fee provided for in such section.

**Nebraska Revised Statute 45-612. Licensee; solicitor; violation; conviction; revocation; hearing; order.**

Upon final conviction of any licensee or solicitor by any court in Nebraska of fraud or embezzlement or upon final judgment against such licensee or solicitor in any court in Nebraska for fraud or embezzlement or for failure to account to his, her, or its client or customer within the time provided for in section 45-608 or upon the termination of the bond furnished by the licensee under such section without another sufficient bond being substituted therefor, the board shall forthwith revoke such license or, in the case of a solicitor, such solicitor's certificate. Such license shall also be revoked by the board at any time a licensee fails to maintain a regular office in this state in which are kept complete records of all collections and claims handled and being handled by such licensee or at any time the licensee becomes a nonresident of this state or, in the case of a foreign corporation, is no longer licensed to do business in this state. Such license or solicitor's certificate shall also be revoked if after a hearing, as provided in sections 45-613 and 45-614, the board finds that such license or certificate should be revoked.

**Nebraska Revised Statute 45-613. Licensee; solicitor; complaint; citation; notice; hearing.**

The board may, upon its own motion, and shall, upon the sworn complaint of any customer or client of a licensee, cite such licensee or solicitor of such licensee to appear before it at a time and place as set forth in such citation to show cause, if any, why such license or certificate should not be suspended or revoked. Such citation shall be in writing and shall set forth the exact charges against the licensee or solicitor, and a true copy thereof shall be served on such licensee or solicitor at least twenty days prior to the day of hearing in the same manner as summons of the district courts are served. If the citation is against a solicitor, a true copy of the citation shall also be served upon the licensee under whose license the solicitor's certificate has been issued.

**Nebraska Revised Statute 45-614. Licensee; solicitor; citation; power to issue subpoenas; depositions.**

In the preparation for and the conduct of a hearing held pursuant to section 45-613, the board may issue subpoenas to require the attendance and testimony of witnesses and the production of any pertinent records, papers, books, and documents and may administer oaths, examine witnesses, and take any evidence it deems pertinent to a proper determination of the charge. The party against whom such citation is issued shall have the right to obtain from the Secretary of State subpoenas for witnesses such party

may desire to have at such hearing. Depositions may be taken and used at such hearings the same as taken and used in civil actions in the district courts of this state. Witnesses so subpoenaed shall receive the same fees as witnesses in the district courts of this state.

**Nebraska Revised Statute 45-615. Licensee; solicitor; citation; hearing; board; findings; powers.**

After a hearing held pursuant to sections 45-613 and 45-614, the board shall state in writing its findings in the matter. If the board finds that the cited licensee or solicitor has failed to comply with the intent and purposes of the Collection Agency Act or, in the case of a licensee, has failed to account to a customer or client as provided for in section 45-608 or is not financially responsible, the board may suspend or revoke such license or certificate. A certified copy of the findings of the board shall be served upon the cited licensee or solicitor by certified mail within five days of the issuance of such findings.

**Nebraska Revised Statute 45-616. License; solicitor's certificate; appeals; procedure.**

Any refusal to grant a license or solicitor's certificate under the Collection Agency Act or the suspension or revocation of a license or solicitor's certificate may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

**Nebraska Revised Statute 45-617. Licensee; solicitor's certificate; appeal; effect.**

Pending final determination of an appeal as provided in section 45-616, the holder of a license or the holder of a solicitor's certificate shall be permitted to do business as a collection agency or as a collection agency solicitor the same as though such license or certificate was in full force and effect.

**Nebraska Revised Statute 45-618. Licensee; change place of business; notify Secretary of State; new license; issuance; solicitor; employment terminated; return certificate.**

If a licensed collection agency or its branch office changes the location of its place of business, the licensee shall forthwith notify the Secretary of State of such change and the Secretary of State shall thereupon issue a new license or branch office certificate, as the case may be, setting forth the new address. If the employment, by a licensee, of a solicitor holding a certificate is terminated, such certificate shall be forthwith turned over to the licensee by such solicitor and the licensee shall forthwith turn such certificate over to the Secretary of State for cancellation.

**Nebraska Revised Statute 45-619. Licensee; board; require financial statement; confidential.**

The board may, at any time, require a licensee to submit a verified financial statement for examination so that it may determine whether the licensee is financially responsible to carry on a collection agency business within the intents and purposes of the Collection Agency Act. Any financial statement submitted by a licensee shall be confidential and not a public record unless introduced in evidence at a hearing conducted by the board.

**Nebraska Revised Statute 45-620. License; certificates; fees.**

No license, renewal of license, branch office certificate, or solicitor's certificate, as provided for in the Collection Agency Act, shall be issued by the board until the following fees have been paid to the Secretary of State: For a license, not to exceed two hundred dollars; for renewal of a license, not to exceed one hundred dollars; for a branch office certificate, not to exceed fifty dollars; for renewal of a branch office certificate, not to exceed thirty-five dollars; for a solicitor's certificate and for renewal of a solicitor's certificate, not to exceed ten dollars. The amount of the fees shall be fixed by the board and shall not exceed the amounts actually necessary to sustain the administration and enforcement of the act.

**Nebraska Revised Statute 45-621. Nebraska Collection Agency Fund; created; use; investment.**

- (1) All fees collected under the Collection Agency Act shall be remitted to the State Treasurer for credit to a special fund to be known as the Nebraska Collection Agency Fund. The board may use the fund as may be necessary for the proper administration and enforcement of the act. The fund shall be paid out only on proper vouchers approved by the board and upon warrants issued by the Director of Administrative Services and countersigned by the State Treasurer as provided by law. All fees and expenses of the Attorney General in representing the board pursuant to the act shall be paid out of such fund. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Nebraska Collection Agency Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.
- (2) On or before July 5, 2001, the State Treasurer shall transfer four hundred thousand dollars from the Nebraska Collection Agency Fund to the General Fund.

**Nebraska Revised Statute 45-622. Licensee; solicitor; prohibited from practice of law.**

Nothing in the Collection Agency Act shall be construed to authorize or permit the holder of a license or the holder of a solicitor's certificate, as provided for in the act, to engage in the practice of law.

**Nebraska Revised Statute 45-623. Collection of public debts; contracts authorized; requirements.**

- (1) Any state agency, county, city, village, or other political subdivision may contract to retain a collection agency licensed pursuant to sections 45-601 to 45-622, within or without this state, for the purpose of collecting public debts owed by any person to such state agency, county, city, village, or other political subdivision.
- (2) No debt owed pursuant to subsection (1) of this section may be assigned to a collection agency unless (a) there has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last-known address of the debtor (i) of the existence of the debt and (ii) that the debt may be assigned to a collection agency for collection if the debt is not paid and (b) at least thirty days have elapsed from the time the notice was sent, except that in the case of an order for support being enforced by a county attorney, authorized attorney, or prosecuting attorney pursuant to Chapter 42 or 43, this notice requirement shall not apply and Title IV-D of the federal Social Security Act, as amended, shall be complied with.
- (3) A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor. This subsection shall not be construed to in any way limit the remedies and powers available to an authorized attorney as defined in section 43-512.
- (4) For purposes of this section, debt shall include all delinquent fees or payments except delinquent property taxes on real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be twenty-five dollars or four and one-half percent of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

**Nebraska Revised Statute 45-1043. Borrower's obligation; licensee; contacts limitation.**

Except as otherwise provided by the Nebraska Installment Loan Act or other law, a 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.

**Nebraska Revised Statute 45-1044. Borrower's obligation; contact; limitation; waiver.**

The borrower may waive the benefits of section 45-1043 at any time by giving consent if such consent is given at a time subsequent to the date the debt arises.

**Nebraska Revised Statute 45-1045. Licensee; contacts permitted without borrower's consent.**

The licensee may contact any person without the borrower's consent:

- (1) 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
- (2) 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.

**Nebraska Revised Statute 45-1046. Borrower; default; notice to licensee; effect.**

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 licensee shall, after such notice, except as provided in sections 45-1047 and 45-1048, limit contacts to one notice per month by mail. No notice shall be designed to threaten action not otherwise permitted by law.

**Nebraska Revised Statute 45-1047. Licensee; actions; permitted; prohibited.**

- (1) Sections 45-1043 to 45-1046 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) 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 he or she 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.

**Nebraska Revised Statute 45-1048. Borrower; right to action; licensee; judgment; effect.**

Nothing in sections 45-1043 and 45-1046 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.

**Nebraska Revised Statute 45-1049. Borrower; default; agreement; extent of enforceability.**

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:

- (1) The borrower fails to make a payment on the loan or other charges required by the agreement; or
- (2) The prospect of payment, performance, or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the licensee.

**Nebraska Revised Statute 45-1050. Borrower; loan; default; licensee; notice; contents.**

- (1) With respect to a loan, after a borrower has been in default for ten days for failure to make a required payment, a licensee may give the borrower the notice described in this section. A licensee gives notice to the borrower under this section when the licensee delivers the notice to the borrower or delivers or mails the notice to the last-known address of the borrower's residence.
- (2) The notice shall be in writing and shall conspicuously state: The name, address, and telephone number of the licensee to which payment is to be made, a brief identification of the loan, the borrower's right to cure the default, the amount of payment and date by which payment must be made to cure the default, and that any credit insurance issued in connection with the loan contract may be canceled unless the borrower cures the default. The department shall prescribe the form of such notice.

**Nebraska Revised Statute 45-1051. Borrower; loan; default; right to cure; procedure.**

- (1) With respect to a loan, after a default consisting only of the borrower's failure to make a required payment, a 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.

- (2) With respect to defaults on the same obligation after a licensee has once given a notice of borrower's right to cure, the borrower shall have no further right to cure and the licensee has no obligation to proceed against the borrower or the collateral.

**Nebraska Revised Statute 45-1052. Borrower; loan; default; licensee; possession of collateral; restrictions.**

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.

**Nebraska Revised Statute 45-1053. Loan; third-party obligation; when.**

- (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 he or she may have to pay and reasonably informs him or her of his or her 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.

**Nebraska Revised Statute 45-1054. Borrower; deficiency; liability; how treated.**

- (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 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 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 licensee if the borrower has wrongfully damaged the collateral if, after default, failure to cure, and demand, the borrower has wrongfully failed to make the collateral available to the licensee.
- (4) If the licensee elects to bring an action against the borrower for a debt arising from a loan, when under this section the licensee would not be entitled to a deficiency judgment if the licensee took possession of the collateral, and obtains judgment (a) the 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.

**Nebraska Revised Statute 45-1055. Writing evidencing borrower's obligation; form; copies; fee; licensee; duties.**

- (1) The licensee shall 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 under 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.

- (2) 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 the end of the period covered by the statement and a copy of the loan agreement, 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.
- (3) The licensee shall answer in writing, within ten business days after receipt, any written request for payoff information from the borrower or the 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.

**Nebraska Revised Statute 45-1056. Licensee; discrimination prohibited.**

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.

**Nebraska Revised Statute 45-1057. Licensee; loan; former debt; how treated.**

No licensee shall, directly or indirectly, require a borrower as a condition of granting a loan to such borrower to reaffirm or otherwise obligate himself or herself to pay a former debt to the licensee which has been discharged in bankruptcy proceedings.

**Nebraska Revised Statute 45-1058. Violation; loan transaction; licensee; liability.**

Any violation of sections 45-1043 to 45-1058 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 such sections 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 attorneys' 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 adapted to avoid the error.