

INTERPRETATIVE OPINION NO. 8

USE OF THE TERMS “LOAN” AND “PAYDAY LOAN”

The Nebraska Department of Banking and Finance (“Department”) hereby issues this Interpretative Opinion regarding the improper use of the term “loan” and the permissible use of the term “payday loan” by licensees under the Delayed Deposit Services Licensing Act (“Act”).

Neb. Rev. Stat. § 45-908 provides that in order to issue a delayed deposit services business license, the Director must determine that the character and general fitness of the applicant and its officers, directors, and shareholders are such as to warrant a belief that the business will be operated honestly, fairly, efficiently, and in accordance with the Act.

Neb. Rev. Stat. § 45-902(2) defines “delayed deposit services business,” as a person who for a fee (a) accepts a check dated subsequent to the date it was written or (b) accepts a check dated on the date it was written and holds the check for a period of days prior to deposit or presentment pursuant to an agreement with or any representation made to the maker of the check.

The definition of “delayed deposit services business” does not include offering loans. The Department interprets this to mean that delayed deposit transactions are not recognized as loans and therefore should not be represented as loans by the licensee.

In order to operate in accordance with the Act, a licensee may use the phrase “payday loan” in its advertising, signage, coupons, contracts, or other customer contacts, but may not use the term “loan” by itself for any purpose. All printed materials and websites, including the fine print, should be reviewed to ensure compliance. Licensees may not be listed, or advertise, in a telephone book under the Loans section. Permissible telephone book sections include: Cash Advance Services, Payday Loan, and Payroll Advancement.

Improper use of the term “loan” may lead to Department administrative action, as the Department could find that the licensee is not operating honestly or in accordance with the Act.

EFFECTIVE DATE: June 5, 2014