



# Nebraska Secretary of State Petition Sponsor Sworn Statement

**Petition:** Payday Lending

**Sponsor 1:**

**Sponsor Name:** Albert Davis III  
**Street Address:** 66455 Ponderosa Rd. Hyannis, NE 69350  
**Phone Number:** 308-458-9948  
**Email:** oloranch@gmail.com



**Sponsor 2:**

**Sponsor Name:** Thomas A. Wagoner, Jr.  
**Street Address:** 12807 Craig St. Omaha, NE 68142  
**Phone Number:** 402-957-0887  
**Email:** mickwagoner@live.com

**Sponsor 3:**

**Sponsor Name:** Fr. Damian Zuerlein  
**Street Address:** 1334 South 9<sup>th</sup> Street, Omaha, NE 68108  
**Phone Number:** (402) 934-7706  
**Email:** djzuerlein@archomaha.org

STATE OF NEBRASKA )

COUNTY OF Douglas )ss.

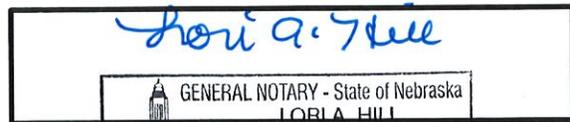
I hereby swear that this is a complete list containing the names and street addresses of every person, corporation, or association sponsoring the aforementioned petition.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12<sup>th</sup> day of September, 2019

SIGNATURE OF SPONSOR: [Handwritten Signature]

Subscribed in my presence and sworn before me this 12<sup>th</sup> day of September, 2019

By Thomas A Wagoner Jr.  
(Printed Name of Sponsor)  
My Commission Expires: 10 / 18 / 21



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STATE OF NEBRASKA	)
	)ss.
COUNTY OF <u>Douglas</u>	)
I hereby swear that this is a complete list containing the names and street addresses of every person, corporation, or association sponsoring the aforementioned petition.	
IN WITNESS WHEREOF, I have hereunto subscribed my name this <u>12</u> day of <u>September</u> , 2019.	
SIGNATURE OF SPONSOR: <u>[Signature]</u>	
Subscribed in my presence and sworn before me this <u>12th</u> day of <u>September</u> .	
By <u>F. Damian Zuerlein</u>	
(Printed Name of Sponsor)	
My Commission Expires: <u>10 / 18 / 21</u>	

# NEBRASKA PAYDAY LENDING INITIATIVE PETITION DRAFT

## Object Statement

The object of this Petition is to...

Amend Nebraska statutes to reduce the amount that delayed deposit services licensees, also known as payday lenders, can charge to a maximum annual percentage rate of thirty-six percent; to prohibit payday lenders from evading this rate cap; and to deem void and uncollectable any transaction made in violation of this rate cap.

## Proposed Text of Statutory Initiative Petition

A BILL FOR AN ACT relating to the Delayed Deposit Services Licensing Act; to amend sections 45-918 and 45-919, Revised Statutes Cumulative Supplement, 2018; to change provisions governing licensees; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 45-918, Revised Statutes Cumulative Supplement, 2018, is amended to read:

45-918. (1) ~~No licensee shall charge as a fee a total amount in excess of fifteen dollars per one hundred dollars or pro rata for any part thereof on the face amount of a check for services provided by the licensee. A licensee shall not impose an annual percentage rate greater than thirty-six percent in connection with a delayed deposit transaction. Any delayed deposit transaction made in violation of this section is void, and the licensee making such delayed deposit transaction has no right to collect, receive, or retain any principal, interest, fees, or any other charges in connection with such delayed deposit transaction.~~

(2) The fees set forth in this section shall not be charged to individuals on active duty military or their spouses or dependents in an amount that exceeds what is allowed under 10 U.S.C. 987, as such section existed on January 1, 2018.

Section 2. Section 45-919, Revised Statutes Cumulative Supplement, 2018, is amended to read:

45-919. (1) No licensee shall:

(a) At any one time hold from any one maker more than two checks;

(b) At any one time hold from any one maker a check or checks in an aggregate face amount of more than five hundred dollars;

(c) Hold or agree to hold a check for more than thirty-four days. A check which is in the process of collection for the reason that it was not negotiable on the day agreed upon shall not be deemed as being held in excess of the thirty-four-day period;

(d) Require the maker to receive payment by a method which causes the maker to pay additional or further fees and charges to the licensee, an affiliate of the licensee, or any other person;

(e) Accept a check as repayment, refinancing, or any other consolidation of a check or checks held by the same licensee;

(f) Except as provided in section 45-919.01, renew, roll over, defer, or in any way extend a delayed deposit transaction by allowing the maker to pay less than the total amount of the check and any authorized fees or charges. This subdivision shall not prevent a licensee that agreed to hold a check for less than thirty-four days from agreeing to hold the check for an additional period of time no greater than the thirty-four days it would have originally been able to hold the check if (i) the extension is at the request of the maker, (ii) no additional fees are charged for the extension, and (iii) the delayed deposit transaction is completed as required by subdivision (1)(c) of this section. The licensee shall retain written or electronic proof of compliance with this subdivision. If a licensee fails, or is unable, to provide such proof to the department upon request, there shall be a rebuttable presumption that a violation of this subdivision has occurred and the department may pursue any remedies or actions available to it under the Delayed Deposit Services Licensing Act;

(g) Enter into another delayed deposit transaction with the same maker on the same business day as the completion of a delayed deposit transaction unless prior to entering into the transaction the maker and the licensee verify on a form prescribed by the department that completion of the prior delayed deposit transaction has occurred. The licensee shall retain written proof of compliance with this subdivision. If a licensee fails, or is unable, to provide such proof to the department

upon request, there shall be a rebuttable presumption that a violation of this subdivision has occurred and the department may pursue any remedies or actions available to it under the act;

(h) Charge, collect, or receive any finance charges, fees, interest, or similar charges for loan brokerage, insurance, or any other ancillary products;

(i) Negotiate or present a paper check for payment unless the check is endorsed with the actual business name of the licensee;

(j) Engage, in connection with a delayed deposit transaction, in unfair or deceptive practices or advertising under the Uniform Deceptive Trade Practices Act to engage in any act that limits or restricts the application of the Delayed Deposit Services Licensing Act, including, but not limited to, making transactions disguised as personal property, personal sales, or leaseback transactions, or disguise transaction proceeds as cash rebated for the pretextual installment sale of goods and services; ~~or~~

(k) Evade the requirements of section 45-918, including, but not limited to, making, offering, assisting, arranging, or guaranteeing a delayed deposit transaction with a greater rate of interest, consideration, fees, or charges than is permitted therein through any method including mail, telephone, internet or any electronic means regardless of whether the licensee has a physical location in the state; or

~~(k)~~ (1) Attempt to deposit or negotiate a check after two consecutive failed collection attempts unless the licensee has obtained a new, written payment authorization from the maker.

(2) No licensee, affiliate of a licensee, or any other person, including a person operating as a credit services organization, shall charge, collect, or receive any finance charges, fees, interest, or similar charges that would cause a maker to pay an amount in excess of or in addition to those permitted under the Delayed Deposit Services Licensing Act in connection with a delayed deposit transaction, including, but not limited to, charges for loan brokerage, insurance, or any other ancillary products.

(3) For purposes of this section, (a) completion of a delayed deposit transaction means the licensee has presented a maker's check for payment to a financial institution as defined in section 8-101.03 or the maker redeemed the check by paying the full amount of the check in cash to the licensee and (b) licensee shall

include (i) a person related to the licensee by common ownership or control, (ii) a person in whom such licensee has any financial interest of ten percent or more, or (iii) any employee or agent of the licensee.

**INITIATIVE PETITION**



For Secretary of State Use Only

The object of this petition is to: (See reverse side for actual text of measure)

**Amend Nebraska statutes to reduce the amount that delayed deposit services licensees, also known as payday lenders, can charge to a maximum annual percentage rate of thirty-six percent; to prohibit payday lenders from evading this rate cap; and to deem void and uncollectable any transaction made in violation of this rate cap.**

To the Honorable Robert Evnen, Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of \_\_\_\_\_, respectfully demand that the following proposed law shall be referred to the registered voters of the state for their approval or rejection at the general election to be held on the 3rd day of November 2020, and each for himself or herself says: I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of \_\_\_\_\_ and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and My printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

**WARNING TO PETITION SIGNERS-- VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not qualified to sign the petition shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.**

	DATE	SIGNATURE	PRINTED NAME	DATE OF BIRTH	ADDRESS (Street Number & Name)	CITY OR VILLAGE	ZIP CODE
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STATE OF NEBRASKA ) \_\_\_\_\_, (name of circulator) being first duly sworn, deposes and says that he or she is the circulator  
 ) ss of this petition containing \_\_\_\_\_ signatures, that he or she is at least eighteen years of age, that each person whose name appears on the petition personally  
 COUNTY OF \_\_\_\_\_ ) signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition  
 and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her  
 name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer  
 the object of the petition as printed on the petition before he or she affixed his or her signature to the petition.

\_\_\_\_\_  
Circulator  
 \_\_\_\_\_  
Address  
 \_\_\_\_\_  
City, State, Zip

Subscribed and sworn to before me, a notary public, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, Nebraska.

(Seal)

\_\_\_\_\_  
Notary Public

## Proposed Statutory Language:

(underscored language indicates added language, ~~strike-through~~ indicates language being removed)

### A BILL

#### **FOR AN ACT relating to the Delayed Deposit Services Licensing Act; to amend sections 45-918 and 45-919, Revised Statutes Cumulative Supplement, 2018; to change provisions governing licensees; and to repeal the original sections.**

Be it enacted by the people of the State of Nebraska,

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(2) The fees set forth in this section shall not be charged to individuals on active duty military or their spouses or dependents in an amount that exceeds what is allowed under 10 U.S.C. 987, as such section existed on January 1, 2018.

Section 2. Section 45-919, Revised Statutes Cumulative Supplement, 2018, is amended to read:

45-919. (1) No licensee shall:

- (a) At any one time hold from any one maker more than two checks;
- (b) At any one time hold from any one maker a check or checks in an aggregate face amount of more than five hundred dollars;
- (c) Hold or agree to hold a check for more than thirty-four days. A check which is in the process of collection for the reason that it was not negotiable on the day agreed upon shall not be deemed as being held in excess of the thirty-four-day period;
- (d) Require the maker to receive payment by a method which causes the maker to pay additional or further fees and charges to the licensee, an affiliate of the licensee, or any other person;
- (e) Accept a check as repayment, refinancing, or any other consolidation of a check or checks held by the same licensee;
- (f) Except as provided in section 45-919.01, renew, roll over, defer, or in any way extend a delayed deposit transaction by allowing the maker to pay less than the total amount of the check and any authorized fees or charges. This subdivision shall not prevent a licensee that agreed to hold a check for less than thirty-four days from agreeing to hold the check for an additional period of time no greater than the thirty-four days it would have originally been able to hold the check if (i) the extension is at the request of the maker, (ii) no additional fees are charged for the extension, and (iii) the delayed deposit transaction is completed as required by subdivision (1)(c) of this section. The licensee shall retain written or electronic proof of compliance with this subdivision. If a licensee fails, or is unable, to provide such proof to the department upon request, there shall be a rebuttable presumption that a violation of this subdivision has occurred and the department may pursue any remedies or actions available to it under the Delayed Deposit Services Licensing Act;
- (g) Enter into another delayed deposit transaction with the same maker on the same business day as the completion of a delayed deposit transaction unless prior to entering into the transaction the maker and the licensee verify on a form prescribed by the department that completion of the prior delayed deposit transaction has occurred. The licensee shall retain written proof of compliance with this subdivision. If a licensee fails, or is unable, to provide such proof to the department upon request, there shall be a rebuttable presumption that a violation of this subdivision has occurred and the department may pursue any remedies or actions available to it under the act;
- (h) Charge, collect, or receive any finance charges, fees, interest, or similar charges for loan brokerage, insurance, or any other ancillary products;
- (i) Negotiate or present a paper check for payment unless the check is endorsed with the actual business name of the licensee;
- (j) Engage, in connection with a delayed deposit transaction, in unfair or deceptive practices or advertising under the Uniform Deceptive Trade Practices Act to engage in any act that limits or restricts the application of the Delayed Deposit Services Licensing Act, including, but not limited to, making transactions disguised as personal property, personal sales, or leaseback transactions, or disguise transaction proceeds as cash rebated for the pretextual installment sale of goods and services; ~~or~~
- (k) Evade the requirements of section 45-918, including, but not limited to, making, offering, assisting, arranging, or guaranteeing a delayed deposit transaction with a greater rate of interest, consideration, fees, or charges than is permitted therein through any method including mail, telephone, internet or any electronic means regardless of whether the licensee has a physical location in the state; or

~~(1)~~ (1) Attempt to deposit or negotiate a check after two consecutive failed collection attempts unless the licensee has obtained a new, written payment authorization from the maker.

(2) No licensee, affiliate of a licensee, or any other person, including a person operating as a credit services organization, shall charge, collect, or receive any finance charges, fees, interest, or similar charges that would cause a maker to pay an amount in excess of or in addition to those permitted under the Delayed Deposit Services Licensing Act in connection with a delayed deposit transaction, including, but not limited to, charges for loan brokerage, insurance, or any other ancillary products.

(3) For purposes of this section, (a) completion of a delayed deposit transaction means the licensee has presented a maker's check for payment to a financial institution as defined in section 8-101.03 or the maker redeemed the check by paying the full amount of the check in cash to the licensee and (b) licensee shall include (i) a person related to the licensee by common ownership or control, (ii) a person in whom such licensee has any financial interest of ten percent or more, or (iii) any employee or agent of the licensee.