



LEGISLATURE OF THE STATE OF IDAHO



Sixty-seventh Legislature

First Regular Session - 2023

IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT

RELATING TO COMMERCIAL TRANSACTIONS; AMENDING SECTION 28-46-302, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSES TO MAKE REGULATED CONSUMER LOANS; AMENDING SECTION 28-46-304, IDAHO CODE, TO REVISE PROVISIONS RELATED TO REGULATED LICENSE REPORTS; AMENDING SECTION 28-46-403, IDAHO CODE, TO REVISE PROVISIONS REGARDING QUALIFICATIONS FOR A PAYDAY LOAN LICENSE; AMENDING SECTION 28-46-404, IDAHO CODE, TO REVISE PROVISIONS REGARDING PAYDAY LOAN LICENSE APPLICATIONS; AND AMENDING SECTION 28-46-409, IDAHO CODE, TO REVISE ANNUAL REPORTING REQUIREMENTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 28-46-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-302. LICENSE TO MAKE REGULATED CONSUMER LOANS. (1) The administrator shall receive and act on all applications for a license to do business as a regulated lender. Applications shall be filed ~~in the manner through~~ an electronic system of licensing as prescribed by the administrator, shall contain such information as the administrator may reasonably require, shall be updated as necessary to keep the information current, and shall be accompanied by an application fee of three hundred fifty dollars (\$350). When an application for licensure is denied or withdrawn, the administrator shall retain all fees paid by the applicant. The administrator may deny an application for a license if the administrator finds that:

(a) The financial responsibility, character, and fitness of the applicant, and of the officers and directors thereof (if the applicant is a corporation), are not such as to warrant belief that the business will be operated honestly and fairly within the purposes of this act;

~~(b) The applicant does not maintain at least thirty thousand dollars (\$30,000) in liquid assets, as determined in accordance with generally accepted accounting principles, available for the purpose of making loans under this chapter;~~

~~(c) (b)~~ The applicant has had a license, substantially equivalent to a license under this chapter and issued by any state, denied, revoked or suspended under the law of such state;

~~(d) (c)~~ The applicant has filed an application for a license ~~which~~ that is false or misleading with respect to any material fact;

~~(e) (d)~~ The application does not contain all of the information required by the administrator; or

~~(f) (e)~~ The application is not accompanied by an application fee of three hundred fifty dollars (\$350).

(2) A licensee under this chapter shall meet the requirements of subsection (1) of this section at all times while licensed pursuant to this

1 chapter. The administrator is empowered to conduct investigations as he may  
2 deem necessary, to enable him to determine the existence of the requirements  
3 set out in subsection (1) of this section.

4 (3) (a) Upon written request, the applicant is entitled to a hearing on  
5 the question of his qualifications for a license if:

6 ~~(a) (i)~~ The administrator has notified the applicant in writing  
7 that his application has been denied, or that objections have been  
8 filed; or

9 ~~(b) (ii)~~ The administrator has not issued a license within sixty  
10 (60) days after the application for the license was filed.

11 ~~If a hearing is held, the applicant and those filing objections shall~~  
12 ~~reimburse, pro rata, the administrator for his reasonable and necessary ex-~~  
13 ~~penditures incurred as a result of the hearing.~~

14 (b) A request for a hearing may not be made more than fifteen (15) days  
15 after the administrator has mailed a writing to the applicant notifying  
16 him that the application has been denied and stating in substance the  
17 administrator's finding supporting denial of the application or that  
18 objections have been filed and the substance thereof.

19 (4) The administrator may issue additional licenses to the same li-  
20 censee upon application by the licensee, in the manner prescribed by the  
21 administrator, and payment of the required application fee. A separate  
22 license shall be required for each place of business. Each license shall  
23 remain in full force and effect unless the licensee does not satisfy the  
24 renewal requirements of subsection (8) of this section, or the license is  
25 relinquished, suspended or revoked.

26 (5) No licensee shall change the location of any place of business, or  
27 consolidate, or close any locations, without giving the administrator at  
28 least fifteen (15) days' prior written notice.

29 (6) A licensee shall not engage in the business of making regulated con-  
30 sumer loans at any place of business for which he does not hold a license ~~nor~~  
31 and shall he not engage in business under any other name than that in the li-  
32 cense.

33 (7) A license application shall be deemed withdrawn and void if an ap-  
34 plicant submits an incomplete license application and, after receipt of a  
35 written notice of the application deficiency, fails to provide the ~~director~~  
36 administrator with information necessary to complete the application within  
37 sixty (60) days of receipt of the deficiency notice. A written deficiency  
38 notice shall be deemed received by a license applicant when:

39 (a) Placed in regular U.S. mail by the ~~director~~ administrator or his  
40 agent using an address provided by the applicant on the license applica-  
41 tion; or

42 ~~E-mailed~~ Emailed to the applicant using an ~~e-mail~~ email address  
43 provided by the applicant on the license application or otherwise; or

44 (c) Posted by the ~~director~~ administrator or his agent on the ~~NMLSR if~~  
45 ~~the license application was submitted through the NMLSR~~ electronic sys-  
46 tem of licensing prescribed by the administrator pursuant to subsection  
47 (1) of this section.

48 (8) On or before ~~May~~ December 31 of each year, every licensee under this  
49 chapter shall pay a nonrefundable annual license renewal fee of one hundred  
50 fifty dollars (\$150) per licensed location, and shall file with the adminis-



1 trator a renewal form containing such information as the administrator may  
2 require. Notwithstanding the provisions of section 67-5254, Idaho Code, a  
3 license issued under this part automatically expires if not timely renewed  
4 according to the requirements of this section. Notwithstanding the provi-  
5 sions of section 67-5254, Idaho Code, branch licenses issued under this part  
6 also expire upon the expiration, relinquishment or revocation of a license  
7 issued under this part to a licensee's designated home office.

8 (9) For a period of time not to exceed sixty (60) days following license  
9 expiration, the ~~director~~ administrator may reinstate an expired license if  
10 he finds that the applicant meets the requirements for licensure under this  
11 part and the applicant has submitted to the ~~director~~ administrator:

12 (a) A complete application for renewal;

13 (b) The fees required to apply for license renewal, unless previously  
14 paid for the period for which the license renewal applies; and

15 (c) A reinstatement fee of two hundred dollars (\$200).

16 SECTION 2. That Section 28-46-304, Idaho Code, be, and the same is  
17 hereby amended to read as follows:

18 28-46-304. RECORDS -- ANNUAL REPORTS. (1) Every regulated lender  
19 shall maintain records in conformity with generally accepted accounting  
20 principles and practices in a manner that will enable the administrator to  
21 determine whether the regulated lender is complying with the provisions of  
22 this act. The recordkeeping system of a regulated lender shall be sufficient  
23 if he makes the required information reasonably available. The records need  
24 not be kept in the place of business where regulated consumer loans are made,  
25 if the administrator is given free access to the records wherever located.  
26 The records pertaining to any loan need not be preserved for more than two (2)  
27 years after making the final entry relating to the loan, but in the case of an  
28 open-end account, the two (2) years is measured from the date of each entry.

29 (2) ~~Concurrent with license renewal, on~~ On or before May 31 15 of each  
30 year, every licensee shall file with the administrator a composite annual  
31 report for the prior calendar year in the form prescribed by the administra-  
32 tor relating to all regulated consumer loans made by him. Information con-  
33 tained in annual reports shall be subject to disclosure according to chapter  
34 1, title 74, Idaho Code, and may be published only in composite form.

35 SECTION 3. That Section 28-46-403, Idaho Code, be, and the same is  
36 hereby amended to read as follows:

37 28-46-403. QUALIFICATIONS FOR PAYDAY LOAN LICENSE. (1) To qualify for  
38 a payday loan license under this part, ~~an applicant shall satisfy the follow-~~  
39 ~~ing requirements:~~

40 ~~(a) The applicant shall have liquid assets of at least thirty thousand~~  
41 ~~dollars (\$30,000) determined in accordance with generally accepted~~  
42 ~~accounting principles, provided that applicants seeking to engage in~~  
43 ~~the business of payday loans at more than one (1) location in the state~~  
44 ~~shall have liquid assets of at least an additional five thousand dollars~~  
45 ~~(\$5,000) for each additional location in the state up to a maximum of~~  
46 ~~seventy-five thousand dollars (\$75,000) for all locations in the state;~~  
47 ~~and~~



1 ~~(b)~~ The the financial responsibility, financial condition, business  
2 experience, character, and general fitness of the applicant shall rea-  
3 sonably warrant the administrator's belief that the applicant's busi-  
4 ness will be conducted lawfully and fairly. In determining whether this  
5 qualification has been met, and for the purpose of investigating com-  
6 pliance with this act, the administrator may review:

7 ~~(i)~~ (a) The relevant business records and the capital adequacy of the  
8 applicant;

9 ~~(ii)~~ (b) The competence, experience, integrity, and financial ability  
10 of any applicant, and, if the applicant is an entity, of any person who  
11 is a member, partner, director, or senior officer ~~or twenty-five per-~~  
12 ~~cent (25%) or more equity owner of the applicant; and~~

13 ~~(iii)~~ (c) Any record of conviction, on the part of the applicant, or  
14 any person referred to in ~~subparagraph (ii) of this paragraph~~ (b) of  
15 this subsection of any criminal activity; any fraud or other act of per-  
16 sonal dishonesty; any act, omission, or practice ~~which that~~ constitutes  
17 a breach of a fiduciary duty; or any suspension, revocation, removal, or  
18 administrative action by any agency or department of the United States,  
19 or any state, from participation in the conduct of any business.

20 (2) The requirements set forth in subsection (1) of this section are  
21 continuing in nature. A licensee shall meet the requirements of this section  
22 at all times while licensed pursuant to this part 4.

23 SECTION 4. That Section 28-46-404, Idaho Code, be, and the same is  
24 hereby amended to read as follows:

25 28-46-404. APPLICATION FOR PAYDAY LOAN LICENSE. (1) Each application  
26 for a payday loan license shall be in writing and under oath to the adminis-  
27 trator, ~~in a form prescribed by the administrator, and shall include. Ap-~~  
28 applications shall be filed through an electronic system of licensing as pre-  
29 scribed by the administrator and shall contain such information as the ad-  
30 ministrator may reasonably require, including at least the following:

31 (a) The legal name, residence, and business address of the applicant  
32 and, if the applicant is an entity, of every member, partner, director,  
33 senior officer, or ~~twenty-five percent (25%) or more equity owner~~ other  
34 individuals in control of or with the authority to direct the affairs of  
35 the applicant;

36 (b) The location at which the principal place of business of the appli-  
37 cant is located; and

38 (c) Other data and information the administrator may require with re-  
39 spect to the applicant, and, if the applicant is an entity, such data and  
40 information of its members, partners, directors, or senior officers, ~~or~~  
41 ~~twenty-five percent (25%) or more equity owners~~ of the applicant.

42 (2) Each application for a license shall be accompanied by an applica-  
43 tion fee in the amount of three hundred fifty dollars (\$350). Such fee shall  
44 not be subject to refund.

45 (3) The fee set forth in subsection (2) of this section shall be re-  
46 quired for each location for which an application is submitted.

47 (4) Within sixty (60) days of the filing of an application in a form  
48 prescribed by the administrator, that is accompanied by the fee required in  
49 subsection (2) of this section, the administrator shall investigate to as-



1 certain whether the qualifications prescribed by subsection (1) of section  
2 28-46-403, Idaho Code, have been satisfied. If the administrator finds that  
3 the qualifications have been satisfied and approves the documents, the ad-  
4 ministrator shall issue to the applicant a license to engage in the payday  
5 loan business.

6 (5) Notwithstanding the provisions of section 67-5254, Idaho Code, a  
7 license issued pursuant to this part automatically expires if not timely  
8 renewed according to the requirements of subsection (7) of this section, or  
9 when the license is relinquished, suspended, or revoked pursuant to this  
10 act. Notwithstanding the provisions of section 67-5254, Idaho Code, branch  
11 licenses issued under this part also expire upon the expiration, relin-  
12 quishment, or revocation of a license issued under this part to a licensee's  
13 designated home office.

14 (6) A license application shall be deemed withdrawn and void if an ap-  
15 plicant submits an incomplete license application and, after receipt of a  
16 written notice of the application deficiency, fails to provide the ~~director~~  
17 administrator with information necessary to complete the application within  
18 sixty (60) days of receipt of the deficiency notice. A written deficiency  
19 notice shall be deemed received by a license applicant when:

20 (a) Placed in regular U.S. mail by the ~~director~~ administrator or his  
21 agent using an address provided by the applicant on the license applica-  
22 tion; or

23 (b) ~~E-mailed~~ Emailed to the applicant using an ~~e-mail~~ email address  
24 provided by the applicant on the license application; or

25 (c) Posted by the ~~director~~ administrator or his agent on the ~~NMLSR if~~  
26 ~~the license application was submitted through the NMLSR~~ electronic sys-  
27 tem of licensing prescribed by the administrator pursuant to subsection  
28 (1) of this section.

29 (7) On or before ~~May~~ December 31 of each year, every licensee under this  
30 part ~~4~~ shall pay a nonrefundable annual license renewal fee of one hundred  
31 fifty dollars (\$150) per licensed location, and shall file with the adminis-  
32 trator a renewal form containing such information as the administrator may  
33 require.

34 (8) For a period of time not to exceed sixty (60) days following license  
35 expiration, the ~~director~~ administrator may reinstate an expired license if  
36 he finds that the applicant meets the requirements for licensure under this  
37 part and the applicant has submitted to the ~~director~~ administrator:

38 (a) A complete application for renewal;

39 (b) The fees required to apply for license renewal, unless previously  
40 paid for the period for which the license renewal applies; and

41 (c) A reinstatement fee of two hundred dollars (\$200).

42 SECTION 5. That Section 28-46-409, Idaho Code, be, and the same is  
43 hereby amended to read as follows:

44 28-46-409. RECORDS -- ANNUAL REPORTS. (1) Every licensee shall main-  
45 tain records in conformity with generally accepted accounting principles  
46 and practices in a manner that will enable the administrator to determine  
47 whether the licensee is complying with the provisions of this act. The  
48 recordkeeping system of a licensee shall be sufficient if he makes the re-  
49 quired information reasonably available. The records need not be kept in the

1 place of business where payday loans are made if the administrator is given  
2 free access to the records wherever located. The records pertaining to any  
3 loan need not be preserved for more than two (2) years after the due date of  
4 the loan.

5 (2) On or before May ~~31~~ 15 of each year, every licensee shall file with  
6 the administrator a composite annual report for the prior calendar year in  
7 the form prescribed by the administrator relating to all payday loans made by  
8 him. Information contained in annual reports shall be subject to disclosure  
9 according to chapter 1, title 74, Idaho Code, and may be published only in  
10 composite form.