

LEGISLATIVE BILL 140

Approved by the Governor March 29, 2017

Introduced by Williams, 36.

A BILL FOR AN ACT relating to banking and finance; to amend sections 8-101.01, 8-102, 8-104, 8-105, 8-106, 8-107, 8-109, 8-110, 8-111, 8-112, 8-113, 8-114, 8-116.01, 8-118, 8-119, 8-120, 8-122, 8-124, 8-124.01, 8-125, 8-126, 8-127, 8-129, 8-130, 8-132, 8-133, 8-137, 8-138, 8-139, 8-141, 8-143, 8-143.01, 8-144, 8-145, 8-147, 8-148, 8-148.01, 8-148.02, 8-148.04, 8-148.05, 8-148.07, 8-148.08, 8-150, 8-152, 8-158, 8-160, 8-161, 8-163, 8-164, 8-166, 8-167, 8-168, 8-169, 8-170, 8-171, 8-173, 8-174, 8-175, 8-177, 8-178, 8-179, 8-180, 8-182, 8-183, 8-183.04, 8-183.05, 8-184, 8-185, 8-186, 8-187, 8-188, 8-189, 8-190, 8-191, 8-192, 8-193, 8-194, 8-195, 8-196, 8-197, 8-198, 8-199, 8-1,100, 8-1,101, 8-1,102, 8-1,103, 8-1,104, 8-1,105, 8-1,106, 8-1,107, 8-1,108, 8-1,109, 8-1,110, 8-1,111, 8-1,112, 8-1,113, 8-1,115, 8-1,116, 8-1,117, 8-1,118, 8-1,119, 8-1,124, 8-1,125, 8-1,126, 8-1,127, 8-1,128, 8-1,129, 8-1,131, 8-1,133, 8-1,134, 8-1,135, 8-1,136, 8-1,137, 8-1,138, 8-1,139, 8-206, 8-207, 8-603, 8-701, 8-815, 8-820, 8-822, 8-826, 8-828, 8-2401, 21-1770, 28-612, 30-2602.02, 30-2640, 45-902, 45-919, 45-1103, and 49-1497, Reissue Revised Statutes of Nebraska, and sections 8-101, 8-103, 8-108, 8-116, 8-117, 8-128, 8-135, 8-153, 8-157, 8-157.01, 8-162.02, 8-167.01, 8-1,140, 8-318, 8-355, 8-601, 8-602, 8-702, 8-1401, 9-701, 21-17,115, 45-335, and 45-1002, Revised Statutes Cumulative Supplement, 2016; to change provisions of the Nebraska Banking Act; to change and eliminate provisions relating to Department of Banking and Finance and Director of Banking and Finance powers and duties, the management of banks and other financial institutions, safe deposit boxes, and the registration of mortgage loan originators; to change provisions relating to executive officer license revocation and suspension, provide a civil penalty, and provide for an exemption from the license requirement as prescribed; to adopt certain federal provisions; to change provisions relating to merger and consolidation of banks; to change provisions relating to department fees, assessments, and fines; to change provisions relating to banks as personal representatives or administrators, bank records and files, bank subsidiary corporations, rewards, and certain notice to the Governor; to change and eliminate state provisions relating to the Federal Banking Act of 1933; to change and eliminate provisions relating to personal loans by banks and trust companies and the violation of such provisions; to change provisions relating to trust company powers; to change provisions relating to confidential records or information; to eliminate a duty of the department to issue a certificate and other approval duties; to define and redefine terms; to provide for applicability; to revise powers of state-chartered banks, building and loan associations, and credit unions; to change provisions relating to credit union loan officer licenses; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 8-121, 8-151, 8-1,120, 8-1,121, 8-816, 8-819, and 8-827, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 8-101.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~8-101.01~~ Sections ~~8-102~~ ~~8-101~~ to 8-1,140 and sections 1, 2, 37, and 51 of this act shall be known and may be cited as the Nebraska Banking Act.

Sec. 2. Section 8-101, Revised Statutes Cumulative Supplement, 2016, is amended to read:

~~8-101~~ For purposes of the Nebraska Banking Act, unless the context otherwise requires:

(1) Access device means a code, a transaction card, or any other means of access to a customer's account, or any combination thereof, that may be used by a customer for the purpose of initiating an electronic funds transfer at an automatic teller machine or a point-of-sale terminal;

(2) Acquiring financial institution means any financial institution establishing a point-of-sale terminal;

(3) Automatic teller machine means a machine established and located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated and at which banking transactions as defined in section 8-157.01 may be conducted. An unattended automatic teller machine shall not be deemed to be a branch operated by a financial institution;

(4) Automatic teller machine surcharge means a fee that an operator of an automatic teller machine imposes upon a consumer for an electronic funds transfer, if such operator is not the financial institution that holds an account of such consumer from which the electronic funds transfer is to be made;

(5) Bank or banking corporation means any incorporated banking institution which was incorporated under the laws of this state as they existed prior to May 9, 1933, and any corporation duly organized under the laws of this state for the purpose of conducting a bank within this state under the act. Bank means any such banking institution which is, in addition to the exercise of other powers, following the practice of repaying deposits upon check, draft, or order and of making loans;

(6) Bank subsidiary corporation means a corporation which has a bank as a shareholder and which is organized for purposes of engaging in activities which are part of the business of banking or incidental to such business except for the receipt of deposits. A bank subsidiary corporation is not to be considered a branch of its bank shareholder;

(7) Capital or capital stock means capital stock;

(8) Data processing center means a facility, wherever located, at which electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and either authorized or routed to a switch or other data processing center in order to enable the automatic teller machine to perform any function for which it is designed;

(9) Department means the Department of Banking and Finance;

(10) Director means the Director of Banking and Finance;

(11) Financial institution means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the United States, the department, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; or a trust company;

(12) Financial institution employees includes parent holding company and affiliate employees;

(13) Foreign state agency means any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any other state, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands or which is operating under the code of law for the District of Columbia;

(14) Impulse means an electronic, sound, or mechanical impulse, or any combination thereof;

(15) Insolvent means a condition in which (a) the actual cash market value of the assets of a bank is insufficient to pay its liabilities to its depositors, (b) a bank is unable to meet the demands of its creditors in the usual and customary manner, (c) a bank, after demand in writing by the director, fails to make good any deficiency in its reserves as required by law, or (d) the stockholders of a bank, after written demand by the director, fail to make good an impairment of its capital or surplus;

(16) Making loans includes advances or credits that are initiated by means of credit card or other transaction card. Transaction card and other transactions, including transactions made pursuant to prior agreements, may be brought about and transmitted by means of an electronic impulse. Such loan transactions including transactions made pursuant to prior agreements shall be subject to sections 8-815 to 8-829 and shall be deemed loans made at the place of business of the financial institution;

(17) Order includes orders transmitted by electronic transmission;

(18) Point-of-sale terminal means an information processing terminal which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, which are transmitted to a financial institution or which are recorded for later transmission to effectuate electronic funds transfer transactions for the purchase or payment of goods and services and which are initiated by an access device. A point-of-sale terminal is not a branch operated by a financial institution. Any terminal owned or operated by a seller of goods and services shall be connected directly or indirectly to an acquiring financial institution; and

(19) Switch means any facility where electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and are routed and transmitted to a financial institution or data processing center, wherever located. A switch may also be a data processing center.

~~(1) Bank subsidiary corporation means a corporation which has a bank as a shareholder and which is organized for purposes of engaging in activities which are part of the business of banking or incidental to such business except for the receipt of deposits. A bank subsidiary corporation is not to be considered a branch of its bank shareholder;~~

~~(2) Capital or capital stock means capital stock;~~

~~(3) Department means the Department of Banking and Finance;~~

~~(4) Director means the Director of Banking and Finance;~~

~~(5) Bank or banking corporation means any incorporated banking institution which was incorporated under the laws of this state as they existed prior to May 9, 1933, and any corporation duly organized under the laws of this state for the purpose of conducting a bank within this state under the act. Bank means any such banking institution which is, in addition to the exercise of other powers, following the practice of repaying deposits upon check, draft, or order and of making loans;~~

~~(6) Order includes orders transmitted by electronic transmission;~~

~~(7) Automatic teller machine means a machine established and located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated and at~~

which banking transactions as defined in section 8-157.01 may be conducted. An unattended automatic teller machine shall not be deemed to be a branch operated by a financial institution;

~~(8) Automatic teller machine surcharge means a fee that an operator of an automatic teller machine imposes upon a consumer for an electronic funds transfer, if such operator is not the financial institution that holds an account of such consumer from which the electronic funds transfer is to be made;~~

~~(9) Data processing center means a facility, wherever located, at which electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and either authorized or routed to a switch or other data processing center in order to enable the automatic teller machine to perform any function for which it is designed;~~

~~(10) Point-of-sale terminal means an information processing terminal which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, which are transmitted to a financial institution or which are recorded for later transmission to effectuate electronic funds transfer transactions for the purchase or payment of goods and services and which are initiated by an access device. A point-of-sale terminal is not a branch operated by a financial institution. Any terminal owned or operated by a seller of goods and services shall be connected directly or indirectly to an acquiring financial institution;~~

~~(11) Making loans includes advances or credits that are initiated by means of credit card or other transaction card. Transaction card and other transactions, including transactions made pursuant to prior agreements, may be brought about and transmitted by means of an electronic impulse. Such loan transactions including transactions made pursuant to prior agreements shall be subject to sections 8-815 to 8-829 and shall be deemed loans made at the place of business of the financial institution;~~

~~(12) Financial institution means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the United States, the department, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; or a trust company;~~

~~(13) Financial institution employees includes parent holding company and affiliate employees;~~

~~(14) Switch means any facility where electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and are routed and transmitted to a financial institution or data processing center, wherever located. A switch may also be a data processing center;~~

~~(15) Impulse means an electronic, sound, or mechanical impulse, or any combination thereof;~~

~~(16) Insolvent means a condition in which (a) the actual cash market value of the assets of a bank is insufficient to pay its liabilities to its depositors, (b) a bank is unable to meet the demands of its creditors in the usual and customary manner, (c) a bank, after demand in writing by the director, fails to make good any deficiency in its reserves as required by law, or (d) the stockholders of a bank, after written demand by the director, fail to make good an impairment of its capital or surplus;~~

~~(17) Foreign state agency means any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any other state, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands or which is operating under the code of law for the District of Columbia;~~

~~(18) Acquiring financial institution means any financial institution establishing a point-of-sale terminal; and~~

~~(19) Access device means a code, a transaction card, or any other means of access to a customer's account, or any combination thereof, that may be used by a customer for the purpose of initiating an electronic funds transfer at an automatic teller machine or a point-of-sale terminal.~~

Sec. 3. Section 8-102, Reissue Revised Statutes of Nebraska, is amended to read:

8-102 The department shall, under the laws of this state specifically made applicable to each, have general supervision and control over banks, trust companies, credit unions, and building and loan associations, and savings and loan associations, ÷ all of which are hereby declared to be quasi-public in nature and subject to regulation and control by the state.

Sec. 4. Section 8-103, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-103 ~~(1)(a)~~ ~~(1)~~ The director shall have charge of and full supervision over the examination of banks and the enforcement of compliance with the statutes by banks and their holding companies in their business and functions and shall constructively aid and assist banks in maintaining proper banking standards and efficiency.

~~(b)~~ The director shall also have charge of and full supervision over the examination of and the enforcement of compliance with the statutes by trust companies, building and loan associations, savings and loan associations, and credit unions in their business and functions and shall constructively aid and assist trust companies, building and loan associations, savings and loan associations, and credit unions in maintaining proper standards and efficiency.

~~(2)~~ If the director is financially interested directly or indirectly in any financial institution chartered by the department doing business in

~~Nebraska, subject to his or her jurisdiction, the financial institution shall be under the direct supervision of the Governor, and as to such financial institution, the Governor shall exercise all the supervisory powers otherwise vested in the director ~~Director of Banking and Finance~~ by the laws of this state, and reports of examination by state bank examiners, foreign state bank examiners, examiners of the Federal Reserve Board, examiners of the Office of the Comptroller of the Currency, examiners of the Federal Deposit Insurance Corporation, and examiners of the Consumer Financial Protection Bureau shall be transmitted to the Governor.~~

(3)(a) No person employed by the department shall ~~be permitted to borrow money from any financial institution chartered by doing business in Nebraska subject to the jurisdiction of the department, except that any such person~~ persons employed by the department may borrow money in the normal course of business from the Nebraska State Employees Credit Union. If the credit union is acquired by, or merged into, a Nebraska state-chartered credit union, persons employed by the department may borrow money in the normal course of business from the successor credit union.

(b) In the event a loan to a person employed by the department is sold or otherwise transferred to a financial institution ~~chartered by doing business in Nebraska and subject to the jurisdiction of the department,~~ no violation of this section occurs if (i) ~~such~~ the person employed by the department did not solicit the sale or transfer of the loan and (ii) ~~such~~ the person employed by the department gives notice to the director of such sale or transfer. The director, in his or her discretion, may require such person to make all reasonable efforts to seek another lender.

(4) Any person who intentionally violates this section or who aids, abets, or assists in a violation of this section ~~is shall be~~ guilty of a Class IV felony.

Sec. 5. Section 8-104, Reissue Revised Statutes of Nebraska, is amended to read:

8-104 The director shall, before assuming the duties of office, take and subscribe to the constitutional oath of office, and file the oath same in the office of the Secretary of State, and ~~shall~~ be bonded or insured as required by section 11-201.

Sec. 6. Section 8-105, Reissue Revised Statutes of Nebraska, is amended to read:

8-105 (1) The director may employ such deputies, counsels, examiners, and other assistants as he or she may need to discharge in a proper manner the duties imposed upon him or her by law. ~~Neither the director, nor any deputy or assistant, shall employ any person who at the time of hire is a relative of the director or a relative of any deputy or assistant in the work of the department.~~ The deputies, counsels, examiners, and other assistants shall perform such duties as are ~~shall be~~ assigned to them. The employment of any person in the work of the department is subject to section 49-1499.07.

(2) Deputies ~~The deputies and financial institution examiners hired after March 4, 2003,~~ shall hold office at the will of the director and shall receive such salary as set by the director and approved by the Governor based upon the level of credentials for the positions. ~~Each employee who is employed as a deputy or a financial institution examiner on March 4, 2003, may elect to become employed at will. The election to become employed at will may be made at any time upon notification to the director in writing, but once made, such election shall be final. Until the election to be employed at will is made, the employee shall be treated as continuing participation in the State Personnel System. The director shall, with the approval of the Governor, fix the compensation of the other examiners and assistants, which shall be paid either monthly or on a biweekly basis.~~

(3) ~~(2)~~ The deputies, counsels, examiners, and other assistants, before assuming the duties of office, shall be bonded or insured as required by section 11-201.

Sec. 7. Section 8-106, Reissue Revised Statutes of Nebraska, is amended to read:

8-106 The director may adopt and promulgate rules and regulations shall ~~have the power to make such rules and to establish such regulations~~ for the governance ~~government~~ of banks under his or her supervision as may in his or her judgment seem wise and expedient and which do not in any way conflict with any of the provisions of law. In adopting and promulgating ~~making~~ such rules and regulations, the director shall consider generally recognized sound banking principles, the financial soundness of banks, competitive conditions, and general economic conditions.

Sec. 8. Section 8-107, Reissue Revised Statutes of Nebraska, is amended to read:

8-107 The department has the authority ~~shall have power~~ to require the officers of any bank, or any of them, to open and keep such books or accounts as the department in its discretion may determine and prescribe for the purpose of keeping accurate and convenient records of the transactions and accounts of such bank. Any bank that refuses or neglects to open and keep such books or accounts as may be prescribed by the department shall be subject to a penalty of ten dollars for each day it neglects or fails to open and keep such books and accounts after receiving written notice from the department. Such penalty may be collected in the manner prescribed for the collection of fees for the examination of such bank.

Sec. 9. Section 8-108, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-108 (1)(a) (1) The director, his or her deputy, or any duly appointed examiner ~~has the authority shall have power~~ to make a thorough examination into all the books, papers, and affairs of any bank or other financial institution chartered by the department in Nebraska subject to the department's jurisdiction, or its holding company, if any, and in so doing to administer oaths and affirmations, to examine on oath or affirmation the officers, agents, and clerks of such financial institution or its holding company, if any, touching the matter which they may be authorized and directed to inquire into and examine, and to subpoena the attendance of any person or persons in this state to testify under oath or affirmation in relation to the affairs of such financial institution or its holding company, if any. ~~The director, deputy, or examiner has~~ Such powers shall include, but not be limited to, the authority to examine and monitor by electronic means the books, papers, and affairs of any financial institution or the holding company of a financial institution. The director may provide any examination or report to the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller of the Currency, the Consumer Financial Protection Bureau, or a foreign state agency ~~The examination may be in the presence of at least two members of the board of directors of the institution or its holding company, if any, undergoing such examination, and it shall be the duty of the examiner to incorporate in his or her report the names of the directors in whose presence the examination was made.~~

(b) (2) The director may accept any examination or report from a foreign state agency and may accept any examination or report from the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller of the Currency, or the Consumer Financial Protection Bureau in lieu of an examination or report required under the Nebraska Banking Act. Any such examination or report accepted by the director remains the property and confidential record of the foreign state agency or federal agency which provided the examination or report to the director. A request or subpoena for any such examination or report shall be directed to the foreign state agency or federal agency which provided the examination or report to the director, or a foreign state agency.

~~(3) The director may provide any such examination or report to the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller of the Currency, the Consumer Financial Protection Bureau, or a foreign state agency.~~

(2) ~~The department has the authority shall have power~~ to examine the books, papers, and affairs of any electronic data processing center which has contracted with a financial institution to conduct the financial institution's electronic data processing business. The department may charge the electronic data processing center for the time spent by examiners in such examination at the rate set forth in section 8-606 for examiners' time spent in examinations of financial institutions.

Sec. 10. Section 8-109, Reissue Revised Statutes of Nebraska, is amended to read:

8-109 If any financial institution bank examiner ~~has shall have~~ knowledge of the insolvency or unsafe condition of any financial institution chartered by the department, bank under state supervision, or that there are bad or doubtful assets in any such financial institution, bank, or that any such financial institution the bank or any of its officers has violated any law governing the conduct of the financial institution bank, or that it is unsafe and inexpedient to permit any such financial institution bank to continue business, and the financial institution examiner fails to immediately shall fail to forthwith report such fact in writing over his or her signature to the director department, ~~he or she is shall be~~ guilty of a Class II misdemeanor and shall forfeit his or her office.

Sec. 11. Section 8-110, Reissue Revised Statutes of Nebraska, is amended to read:

8-110 The department shall require each state bank to obtain a fidelity bond, naming the bank as obligee, in an amount to be fixed by the director department. The bond shall be issued by an authorized insurer and shall be conditioned to protect and indemnify the bank from loss which it may sustain, of money or other personal property, including that for which the bank is responsible through or by reason of the fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction, misapplication, misappropriation, or any other dishonest or criminal act of or by any of its officers or employees. Such bond may contain a deductible clause in an amount to be approved by the director. An executed copy of the bond shall be filed with and approved by the director and shall remain a part of the records of the department. The director may provide for such copies to be filed electronically. If the premium of the bond is not paid, the bond shall not be canceled or subject to cancellation unless at least ten days' advance notice, in writing, is filed with the department. No bond which is current with respect to premium payments shall be canceled or subject to cancellation unless at least forty-five days' advance notice, in writing, is filed with the department. The bond shall ~~always~~ be open to public inspection during the office hours of the department. In the event a bond is canceled, the director department may take whatever action he or she it deems appropriate in connection with the continued operation of the bank involved.

Sec. 12. Section 8-111, Reissue Revised Statutes of Nebraska, is amended to read:

8-111 The director may convey any real estate title ~~to~~ which is vested in the department Department of Banking and Finance by operation of law or otherwise. Such conveyance shall be signed by the director, sealed with the

seal of the department, and acknowledged by the director.

Sec. 13. Section 8-112, Reissue Revised Statutes of Nebraska, is amended to read:

8-112 (1) The director shall keep, as records of his or her office, proper books showing all acts, matters, and things done under the jurisdiction of the department. Neither the director nor anyone connected with the department shall in any instance disclose the name of any customer, including a depositor, debtor, beneficiary, member, or account holder ~~depositor or debtor~~ of any financial institution or other entity regulated by the department or the amount of any deposit, debt, or account holdings of any of them ~~his or her deposit or debt to anyone~~, except insofar as may be necessary in the performance of his or her official duty, except that the department may maintain a record of debtors ~~borrowers~~ from the financial institutions ~~in this state~~ and may give information concerning the total liabilities of any such debtor ~~borrowers~~ to any financial institution owning obligations of such debtor ~~borrowers~~.

(2) Examination reports, investigation reports, and documents and information relating to such reports are confidential records of the department and may be released or disclosed only (a) insofar as is necessary in the performance of the official duty of the department or (b) pursuant to a properly issued subpoena to the department and upon entry of a protective order from a court of competent jurisdiction to protect and keep confidential the names of borrowers or depositors or to protect the public interest.

(3) Examination reports, investigation reports, and documents and information relating to such reports remain confidential records of the department, even if such examination reports, investigation reports, and documents and information relating to such reports are transmitted to a financial institution or other entity regulated by the department which is the subject of such reports or documents and information, and may not be otherwise released or disclosed by any such financial institution or other entity regulated by the department.

(4) The restrictions listed in subsections (2) and (3) of this section shall also apply to any representative or agent of the financial institution or other entity regulated by the department.

(5) If examination reports, investigation reports, or documents and information relating to such reports are subpoenaed from the department, the party issuing the subpoena shall give notice of the issuance of such subpoena at least three business days in advance of the entry of a protective order to the financial institution or other entity regulated by the department which is the subject of such reports or documents and information, unless the financial institution or other entity regulated by the department is already a party to the underlying proceeding or unless such notice is otherwise prohibited by law or by court order.

Sec. 14. Section 8-113, Reissue Revised Statutes of Nebraska, is amended to read:

8-113 (1) No individual, firm, company, corporation, or association doing business in the State of Nebraska, unless organized as a bank under the Nebraska Banking Act or the authority of the federal government, or as a building and loan association, savings and loan association, or savings bank under Chapter 8, article 3, or the authority of the federal government, shall use the word bank or any derivative thereof as any part of a title or description of any business activity.

(2) This section does not apply to:

(a) Banks, building and loan associations, savings and loan associations, or savings banks chartered and supervised by a foreign state agency;

(b) Bank holding companies registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative bank is used;

(c) Affiliates or subsidiaries of (i) a bank organized under the Nebraska Banking Act or the authority of the federal government or chartered and supervised by a foreign state agency, (ii) a building and loan association, savings and loan association, or savings bank organized under Chapter 8, article 3, or the authority of the federal government or chartered and supervised by a foreign state agency, or (iii) a bank holding company registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative bank is used;

(d) Organizations substantially owned by (i) a bank organized under the Nebraska Banking Act or the authority of the federal government or chartered and supervised by a foreign state agency, (ii) a building and loan association, savings and loan association, or savings bank organized under Chapter 8, article 3, or the authority of the federal government or chartered and supervised by a foreign state agency, (iii) a bank holding company registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative bank is used, or (iv) any combination of entities listed in subdivisions (i) through (iii) of this subdivision;

(e) Mortgage bankers licensed or registered under the Residential Mortgage Licensing Act, if the word mortgage immediately precedes the word bank or its derivative;

(f) Organizations which are described in section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01, which are exempt from taxation under section 501(a) of the code, and which are not providing or arranging for financial services subject to the authority of the department, a foreign state

agency, or the federal government;

(g) Trade associations which are exempt from taxation under section 501(c)(6) of the code and which represent a segment of the banking or savings and loan industries, and any affiliate or subsidiary thereof;

(h) Firms, companies, corporations, or associations which sponsor incentive-based solid waste recycling programs that issue reward points or credits to persons for their participation therein; and

(i) Such other firms, companies, corporations, or associations as have been in existence and doing business prior to December 1, 1975, under a name composed in part of the word bank or some derivative thereof.

(3) This section does not apply to an individual, firm, company, corporation, or association doing business in Nebraska which uses the word bank or any derivative thereof as any part of a title or description of any business activity if such use is unlikely to mislead or confuse the public or give the impression that such individual, firm, company, corporation, or association is lawfully organized and operating as a bank under the Nebraska Banking Act or the authority of the federal government, or as a building and loan association, savings and loan association, or savings bank under Chapter 8, article 3, or the authority of the federal government.

(4) Any violation of this section ~~is shall be~~ a Class V misdemeanor.

Sec. 15. Section 8-114, Reissue Revised Statutes of Nebraska, is amended to read:

8-114 (1) It ~~is shall be~~ unlawful for any person to conduct a bank within this state except by means of a corporation duly organized for such purpose under the laws of this state. It ~~is shall be~~ unlawful for any corporation to receive money upon deposit or conduct a bank under the laws of this state until such corporation has complied with all the provisions and requirements of the Nebraska Banking Act.

(2) Any violation of this section ~~is shall be~~ a Class V misdemeanor for each day of the continuation of such offense and ~~is be~~ cause for the appointment of a receiver as provided in the act to wind up such banking business.

Sec. 16. Section 8-116, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-116 (1) Except as provided in subsection (2) of this section, a charter for a bank shall not be issued unless the corporation applying therefor has surplus and paid-up capital stock in an amount not less than the amount necessary for compliance with subsection (1) of section 8-702 for the insurance of deposits.

(2) The ~~director has department shall have~~ the authority to determine the minimum amount of paid-up capital stock and surplus required for any corporation applying for a bank charter, which amount shall not be less than the amount provided in subsection (1) of this section.

Sec. 17. Section 8-116.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-116.01 With the approval of the director, any bank may at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate and subject to the claims of other depositors and may be subordinated and subjected to the claims of other creditors. ~~The capital stock of any bank as such term capital stock is used respectively in sections 8-116, 8-118, and 8-127, the capital of any corporation transacting a banking business as the term capital is used in section 8-187, and the capital of a bank as the term capital is used in section 8-132, shall be deemed to be unimpaired when the amount of such capital notes and debentures as represented by cash or sound assets exceeds the impairment as found by the department.~~ Before any such capital notes or debentures are retired or paid by the bank, any existing deficiency of its capital, disregarding the notes or debentures to be retired, must be paid in, in cash, to the end that the sound capital assets shall at least equal the capital or capital stock of the bank ~~in the sense such terms capital and capital stock are used in the respective sections named.~~ Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of such bank and shall not be held liable for assessments to restore impairments in the capital of such bank.

Sec. 18. Section 8-117, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-117 (1)(a) The director may grant approval for a conditional bank charter which may remain inactive for an initial period of up to eighteen months.

(b) The purpose for which a conditional bank charter may be granted is limited to the acquisition or potential acquisition of a financial institution which (i) is located in this state or which has a branch in this state and (ii) has been determined to be troubled or failing by its primary state or federal regulator.

(2) A person or persons organizing for and desiring to obtain a conditional bank charter shall make, under oath, and transmit to the department an application prescribed by the department, to include, but not be limited to:

(a) The name of the proposed bank;

(b) A draft copy of the articles of incorporation of the proposed bank;

(c) The names, addresses, financial condition, and business history of the proposed stockholders, officers, and directors of the proposed bank;

(d) The sources and amounts of capital that would be available to the proposed bank; and

(e) A preliminary business plan describing the operations of the proposed bank.

(3) Upon receipt of a substantially completed application for a conditional bank charter and payment of the fee required by section 8-602, the director may, in his or her discretion, hold a public hearing on the application. If a hearing is to be held, notice of the filing of the application and the date of hearing thereon shall be published by the department for three weeks in a minimum of two newspapers with general circulation in Nebraska. The newspapers shall be selected at the director's discretion, except that the director shall consider the county or counties of residence of the proposed members of the board of directors of the proposed conditional bank charter in making such selection. The date for hearing the application shall be not less than thirty days after the last publication of notice of hearing. Notice shall also be sent by first-class mail to the main office of all financial institutions doing business in the state. Electronic mail may be used if a financial institution agrees in advance to receive such notice by electronic mail.

(4) If the director determines that a hearing on the application for a conditional bank charter is not necessary, then the department shall publish a notice of the proposed application in a minimum of two newspapers of general circulation in Nebraska. The newspapers shall be selected in accordance with subsection (3) of this section. The department shall send notice of the application by first-class mail to the main office of all financial institutions doing business in the state. Electronic mail may be used if a financial institution agrees in advance to receive such notice by electronic mail. If the director receives a substantive objection to the application within fifteen days after the publication or notice, whichever occurs last, a hearing shall be scheduled on the application.

(5) The expense of any publication and mailing required by this section shall be paid by the applicant but payment shall not be a condition precedent to approval by the director.

(6) If the ~~director department~~ upon investigation and after any public hearing on the application is satisfied that (a) the stockholders, officers, and directors of the proposed corporation applying for such conditional bank charter are parties of integrity and responsibility, (b) the applicant has sufficient sources and amounts of capital available to the proposed bank, and (c) the applicant has a business plan describing the operations of the proposed bank that indicates the proposed bank has a reasonable probability of usefulness and success, the department shall, upon the payment of any required fees and costs, grant a conditional bank charter effective for a period not to exceed eighteen months from the date of issuance.

(7) A conditional bank charter may be converted to a full bank charter upon proof satisfactory to the ~~director department~~ that:

(a) The financial institution to be acquired is in a troubled or failing status as required by subsection (1) of this section;

(b) The requirements of section 8-110 have been met;

(c) The requirements of section 8-702 have been met;

(d) Capital stock and surplus in amounts determined pursuant to section 8-116 have been paid in;

(e) The fees required by section 8-602 have been paid to the department;

and
(f) Any other conditions imposed by the director have been complied with.

(8) A conditional bank charter may be extended for successive periods of one year if the holder of the charter files a written request for an extension of such charter at least ninety days prior to the expiration date of such charter. Such request shall be accompanied by (a) any information deemed necessary by the ~~director department~~ to assure ~~the department itself~~ that the requirements of subsection (6) of this section continue to be met and (b) the fee required by section 8-602.

(9) The department shall issue a notice of expiration of a conditional bank charter if eighteen months have passed since the issuance of such charter and the holder of such charter (a) has not converted to a full bank charter pursuant to subsection (7) of this section, (b) has not made a request for an extension pursuant to subsection (8) of this section, or (c) has made a request for an extension pursuant to subsection (8) of this section which was not approved by the ~~director department~~.

Sec. 19. Section 8-118, Reissue Revised Statutes of Nebraska, is amended to read:

8-118 (1) It shall be unlawful for any person for hire (a) ~~(1)~~ to promote or attempt to promote the organization of a corporation to conduct the business of a bank in this state or (b) ~~(2)~~ to sell the capital stock of such a corporation prior to the issuance of a charter to such corporation authorizing its operation as a bank.

(2) Any person violating the provisions of this section ~~is shall be~~ guilty of a Class II misdemeanor.

Sec. 20. Section 8-119, Reissue Revised Statutes of Nebraska, is amended to read:

8-119 No corporation organized for the purpose of conducting a bank under the laws of this state shall be granted the ~~certificate provided in section 8-121, or the charter provided in section 8-122,~~ until the corporation has there shall have been filed with the department a statement, under oath, of the

president or cashier of such corporation that no premium, bonus, commission, compensation, reward, salary, or other form of remuneration has been paid, or promised to be paid, to any person for selling the stock of such corporation. The president or cashier of any such corporation who shall be found guilty of filing a false statement under the provisions of this section ~~is shall be~~ guilty of a Class I misdemeanor. ~~If Whenever,~~ after such certificate and charter ~~has shall have~~ been delivered, the ~~director determines~~ department shall determine, after a public hearing, that such statement is false, ~~the department~~ it shall cancel such certificate and charter, and a receiver shall be appointed for such corporation in the manner provided for in case of a corporation which is conducting a bank in an unsafe or unauthorized manner.

Sec. 21. Section 8-120, Reissue Revised Statutes of Nebraska, is amended to read:

8-120 (1) Every corporation organized for and desiring to conduct a bank or to conduct a bank for purposes of a merger with an existing bank shall make under oath and transmit to the department a complete detailed application giving (a) the name of the proposed bank; (b) a ~~certified~~ copy of the proposed articles of incorporation; (c) the names of the stockholders; (d) the county, city, or village and the exact location therein in which such bank is proposed to be located; (e) the nature of the proposed banking business; (f) the proposed amounts of paid-up capital stock and surplus, and the items of actual cash and property, as reported and approved at a meeting of the stockholders, to be included in such amounts; and (g) a statement that at least twenty percent of the amounts stated in subdivision (f) of this subsection have in fact been paid in to the corporation by its stockholders.

(2) In the case of a merger, the existing bank which is to be merged into shall complete an application and meet the requirements of this section.

(3) This section also applies when application is made for transfer of a bank charter and move of a bank's main office to any location other than (a) within the corporate limits of the city or village of its original charter, (b) within the county in which it is located if such bank charter is not located in a city or village, or (c) as provided in subdivision (6) of section 8-115.01.

Sec. 22. Section 8-122, Reissue Revised Statutes of Nebraska, is amended to read:

8-122 (1) After the examination and approval by the Director of Banking and Finance department of the application required by section 8-120, if the ~~director~~ department upon investigation and after any public hearing on the application held pursuant to section 8-115.01 shall be satisfied that the stockholders, ~~directors,~~ and officers of the corporation applying for such charter are parties of integrity and responsibility, that the requirements of section 8-702 have been met, and that the public necessity, convenience, and advantage will be promoted by permitting such corporation to engage in business as a bank, the department shall, upon the payment of the required fees, and, upon the filing with the department of a statement, under oath, of the president, secretary, or treasurer, that the paid-up capital stock and surplus have been paid in, as determined by the Director of Banking and Finance department in accordance with section 8-116, issue to such corporation a charter to transact the business of a bank in this state provided for in its articles of incorporation. In the case of a bank organized to merge with an existing bank, there shall be a rebuttable presumption that the public necessity, convenience, and advantage will be met by the merger of the two banks, except that such presumption shall not apply when the new bank that is formed by the merger is at a different location than that of the former existing bank. Any application for merger under this subsection shall be subject to section 8-1516.

(2) On payment of the required fees and the receipt of the charter, such corporation may begin to conduct a bank.

Sec. 23. Section 8-124, Reissue Revised Statutes of Nebraska, is amended to read:

8-124 (1) ~~The affairs and business of any bank chartered after September 2, 1973, or which has had transfer of twenty-five percent or more of voting shares after September 2, 1973, shall be managed or controlled by a board of directors of not less than five and not more than twenty-five~~ fifteen members, who shall be selected at such time and in such manner as may be provided by the articles of incorporation of the corporation and in conformity with the Nebraska Banking Act. The board of directors shall select a president. No person shall act as president if he or she is not a member of the board of directors Any bank chartered before September 2, 1973, may have a minimum of three directors and not more than fifteen directors so long as it does not have transfer of twenty-five percent or more voting shares, with such directors selected as provided in this section. Any vacancy on the board shall be filled within ninety days by appointment by the remaining directors, and any director so appointed shall serve until the next election of directors, except that if the vacancy created leaves a minimum of five directors, appointment shall be optional.

~~The board shall appoint a secretary and, from among its own members, select a president. Such officers shall hold their office at the pleasure of the board of directors.~~

(2) The board of directors shall hold at least one regular meeting in each calendar quarter, and at one of such meetings in each year a thorough examination of the books, records, funds, and securities held by the bank shall be made and recorded in detail upon its record book. In lieu of the one annual examination required, the board of directors may accept one annual audit by an

accountant or accounting firm approved by the Director of Banking and Finance.

Sec. 24. Section 8-124.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-124.01 At any time that a vacancy on the board of directors of a bank occurs, the bank shall, within thirty days, notify the department of the vacancy. Vacancies shall be filled within ninety days by appointment by the remaining directors, and any director so appointed shall serve until the next election of directors, except that if the vacancy created leaves a minimum of five directors, appointment shall be optional. When the vacancy has been filled, the bank shall make application to notify the department for approval that the vacancy has been filled and include in the notice the name, address, and occupation of the director appointed in accordance with section 8-126.

Sec. 25. Section 8-125, Reissue Revised Statutes of Nebraska, is amended to read:

8-125 A full and complete record of the proceedings and business of all meetings of the board of directors shall be recorded in spread upon the bank's minutes. Such record of the meetings shall show the gross earnings and disposition thereof by indicating expenses and taxes paid, worthless items charged off, depreciation in assets, amount carried to surplus fund, and amount of dividend, and shall also indicate the amount of undivided profits remaining. Published statements of assets and liabilities shall show for undivided profits only the net amount after deducting all expenses.

Sec. 26. Section 8-126, Reissue Revised Statutes of Nebraska, is amended to read:

8-126 (1) A majority of the members of the board of directors of any bank ~~transacting business under the Nebraska Banking Act~~ shall have their residences in this state or within twenty-five miles of the main office of the bank. Reasonable efforts shall be made to acquire members of such board of directors from the county in which the main office of such bank is located and from counties in which branches of such bank are located.

(2) Directors of banks shall be persons of good moral character, known integrity, business experience, and responsibility. No person shall act as a member of the board of directors of any bank until such bank applies for and obtains approval from the department ~~Department of Banking and Finance~~.

(3) If the department, upon investigation, determines that any director of a bank is conducting the business of the bank in an unsafe or unauthorized manner or is endangering the interests of the stockholders or depositors, the Director of Banking and Finance has the department shall have authority, following notice and opportunity for hearing, to revoke such approval to act as a member of the board of directors.

(4) The Director of Banking and Finance ~~department~~ may adopt and promulgate rules and regulations and prescribe forms to carry out this section.

Sec. 27. Section 8-127, Reissue Revised Statutes of Nebraska, is amended to read:

8-127 (1) ~~Every~~ ~~The president and cashier, or the business manager,~~ of every bank shall cause to be kept at all times a full and correct list of the names and residences of all its stockholders, the number of shares held by each, and the amount of paid-up capital represented thereby. Such list shall be subject to the inspection of all stockholders of the bank during all business hours, and shall be kept in the business office where all stockholders may have ready access to it.

(2) Any person violating this section is ~~shall be~~ guilty of a Class III misdemeanor.

Sec. 28. Section 8-128, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-128 The paid-in capital stock of any bank may be increased or decreased in the following manner: The stockholders at any regular meeting or at any special meeting duly called for such purpose shall by vote of those owning two-thirds of the capital stock authorize an officer of the bank ~~the president or cashier~~ to notify the department of the proposed increase or reduction of paid-in capital stock, and a notice containing a statement of the amount of any proposed reduction of paid-in capital stock shall be published for two weeks in some newspaper published and of general circulation in the county where the main office of such bank is located. Reduction of paid-in capital stock shall be discretionary with the director ~~department~~, but shall be denied if granting the same would reduce the paid-in capital stock below the requirements of the Nebraska Banking Act or would impair the security of the depositors. The bank shall notify the department when the proposed increase or decrease of the paid-in capital stock has been consummated.

Sec. 29. Section 8-129, Reissue Revised Statutes of Nebraska, is amended to read:

8-129 Whenever the director ~~deems shall deem~~ it expedient, he or she may call a meeting of the stockholders of any bank ~~organized under the laws of this state,~~ by sending mailing notice of such meeting to each stockholder five days previous thereto. All necessary expenses incurred in the giving of such notice shall be borne by the bank whose stockholders are required to convene.

Sec. 30. Section 8-130, Reissue Revised Statutes of Nebraska, is amended to read:

8-130 Any bank or trust company, organized incorporated under the laws of this state, may ~~shall have power to~~ subscribe to the capital stock of the Federal Reserve Bank of Kansas City, Missouri, and become a member of the federal reserve system created and organized under an act of Congress of the United States, approved December 23, 1913, and known as the Federal Reserve

Act, and ~~may shall have power to~~ assume such liabilities and to exercise such powers as a member of such system as are prescribed by the provisions of such act, or amendments thereto. So long as such bank or trust company shall remain a member of such system, it shall be subject to examination by the legally constituted authorities, and to all provisions of such Federal Reserve Act and regulations made pursuant thereto by the Federal Reserve Board which are applicable to such bank or trust company as a member of the federal reserve system. The ~~director state authorities~~ may, in ~~his or her~~ their discretion, accept examinations and audits made under the provisions of the Federal Reserve Act in lieu of examinations required of banks or trust companies organized under the laws of this state.

Sec. 31. Section 8-132, Reissue Revised Statutes of Nebraska, is amended to read:

8-132 (1) ~~The available funds of a bank shall consist of cash on hand and balances due from other solvent banks approved by the department.~~ Cash shall include lawful money of the United States and exchange for any clearinghouse association. Whenever the available funds or any reserve of any bank are deemed deficient by the ~~director department~~, such bank shall not make any new loans or discount otherwise than by discounting or purchasing bills of exchange payable at sight or make any dividends of its profits until it has on hand available funds and reserve deemed sufficient for operation by the ~~director department~~. The department shall notify any bank, in case its available funds or reserves are deemed deficient or its capital is impaired, to make good such available funds, reserves, or capital within such time as the ~~director department~~ may direct, and any failure of such bank to make good any deficiency in the amount of its available funds, reserve, or capital within the time directed shall be cause for the ~~department director~~ to take possession of such bank, declare it insolvent, and liquidate it as provided in the Nebraska Banking Act.

(2) The capital of any bank shall be deemed to be unimpaired when the amount of capital notes and debentures as represented by cash or sound assets exceeds an impairment as found by the department.

Sec. 32. Section 8-133, Reissue Revised Statutes of Nebraska, is amended to read:

8-133 (1)(a) ~~Except as provided in this section, a (1) A state-chartered bank may pay interest at any rate on any deposits made or retained in the bank.~~

(b) A bank shall not pay to any officer, director, principal stockholder, or employee a greater rate of interest on the deposits of such officer, director, principal stockholder, or employee than that paid to other depositors on similar deposits with such bank. Any person who causes the payment of a greater rate of interest on such deposits is guilty of a Class IV felony. Any officer, director, principal stockholder, or employee who requests or receives a greater rate of interest on his or her deposits than that paid to other depositors on similar deposits with such bank is guilty of a Class IV felony.

(2) Any officer, director, principal stockholder, or employee of a bank or any other person who, directly or indirectly, and either personally or for the bank, pays any money, gives any consideration of value, or pledges any assets of the bank, except as provided in this section or otherwise by law, as an inducement, in addition to the legal interest, for making or retaining a deposit in the bank is shall be guilty of a Class IV felony. Any depositor who accepts any such pledge of assets is inducement shall be guilty of a Class IV felony. Deposits made in violation of this section are shall not be entitled to priority of payment from the assets of the bank. In determining the maximum interest that may be paid on deposits, the bank shall consider generally recognized sound banking principles, the financial soundness of banks, competitive conditions, and general economic conditions.

(3) A bank may secure deposits made by a trustee under 11 U.S.C. 101 et seq. by pledge of the assets of the bank or by furnishing a surety bond as provided in 11 U.S.C. 345.

(4) A bank may also secure deposits made by the United States Secretary of the Interior on behalf of any individual Indian or any Indian tribe under 25 U.S.C. 162a by a pledge of the assets of the bank or by furnishing an acceptable bond as provided in 25 U.S.C. 162a.

(5) A bank may secure deposits by a pledge of the assets of the bank or by furnishing an acceptable bond as provided in the Public Funds Deposit Security Act.

(6) ~~(4)~~ Nothing in this section shall prohibit a bank or any officer, director, stockholder, or employee thereof from providing to a depositor a guaranty bond which provides coverage for the deposits of the depositor which are in excess of the amounts insured by the Federal Deposit Insurance Corporation.

(7) Nothing in this section shall prohibit a bank or any officer, director, stockholder, or employee thereof from providing to a depositor or an irrevocable, nontransferable, unconditional standby letter of credit issued by the Federal Home Loan Bank of Topeka which provides coverage for the deposits of the depositor which are in excess of the amounts insured by the Federal Deposit Insurance Corporation. Any bank which offers letters of credit for consideration to depositors pursuant to this section shall post a notice in the lobby of each office of such bank stating that letters of credit issued by the Federal Home Loan Bank of Topeka which provide coverage for deposits in excess of the amounts insured by the Federal Deposit Insurance Corporation may be available to depositors of the bank. Provision of a letter of credit issued by the Federal Home Loan Bank of Topeka by a bank to a depositor shall be at the discretion of the bank. The notice required under this section shall be

sufficient if made in substantially the following form:-

(8) For purposes of this section, principal stockholder means a person owning ten percent or more of the voting shares of the bank.

Notice

~~This bank is a member of the Federal Home Loan Bank of Topeka and offers for consideration Federal Home Loan Bank of Topeka letters of credit which provide coverage for deposits in excess of the amounts insured by the Federal Deposit Insurance Corporation. Please contact a representative of the bank to determine if such a letter of credit is available to you.~~

Sec. 33. Section 8-135, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-135 (1) All persons, regardless of age, may become depositors in any bank and shall be subject to the same duties and liabilities respecting their deposits. Whenever a deposit is accepted by any bank in the name of any person, regardless of age, the deposit may be withdrawn by the depositor by any of the following methods:

(a) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the depositor and constitutes a valid release and discharge to the bank for all payments so made; or

(b) Electronic means through:

(i) Preauthorized direct withdrawal;

(ii) An automatic teller machine;

(iii) A debit card;

(iv) A transfer by telephone;

(v) A network, including the Internet; or

(vi) Any electronic terminal, computer, magnetic tape, or other electronic means.

(2) All persons, individually or with others and regardless of age, may enter into an agreement with a bank for the lease of a safe deposit box and shall be bound by the terms of the agreement.

(3) ~~(2)~~ This section shall not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as the act existed on January 1, 2017 ~~2016~~, and shall not affect the legal relationships between a minor and any person other than the bank.

Sec. 34. Section 8-137, Reissue Revised Statutes of Nebraska, is amended to read:

8-137 No officer or employee of any bank shall certify any check drawn upon such bank unless the person, firm, or corporation drawing the check has on deposit with the bank at the time such check is certified an amount of credit, on the depositors' ledger of such bank, subject to the payment of such check, equal to the amount specified in such check. ~~The ; but the~~ amount of such check shall not be recoverable from the payee or holder except in case of fraud. Whenever a check drawn upon any bank is certified by any officer or employee of such bank, the amount of the check thereof shall be immediately charged against the account of the person, firm, or corporation drawing the check same.

Sec. 35. Section 8-138, Reissue Revised Statutes of Nebraska, is amended to read:

8-138 No bank shall accept or receive on deposit for any purpose any money, bank bills, United States treasury notes or currency, or other notes, bills, checks, drafts, credits, or currency, when such bank is insolvent. ~~If ; and if~~ any bank receives or accepts ~~shall receive or accept~~ on deposit any such deposits when such bank is insolvent, the officer, agent, or employee knowingly receiving or accepting or being accessory to, ~~or~~ ~~permitting,~~ or conniving at the receiving or accepting on deposit of such bank ~~therein or thereby,~~ any such deposit, is ~~shall be~~ guilty of a Class III felony.

Sec. 36. Section 8-139, Reissue Revised Statutes of Nebraska, is amended to read:

8-139 (1) No loan or investment shall be made by a bank, directly or indirectly, without the approval of an active executive officer.

(2) Executive officers of banks shall be persons of good moral character, known integrity, business experience and responsibility, and be capable of conducting the affairs of a bank on sound banking principles.

(3) ~~Except as provided in subsection (6) of this section, no~~ ~~person~~ shall act as an active executive officer of any bank until such bank has applied ~~shall apply~~ for and obtained ~~obtain~~ from the department a license for such person to ~~so~~ act as an active executive officer. If the ~~director~~ department, upon investigation, is ~~shall be~~ satisfied that any active executive officer of a bank is conducting the its ~~its~~ business of the bank in an unsafe or unauthorized manner, or is endangering the interests of the stockholders or depositors of the bank, the department may ~~shall have authority to~~ revoke the ~~such~~ license of such active executive officer or suspend the ability of such active executive officer to continue to act as an active executive officer.

(4) Any person (a) whose license has been revoked or whose authority has been suspended by the department under subsection (3) of this section or who lacks a license and on whose behalf no election was made under subsection (6) of this section and (b) who acts or attempts ~~shall act or attempt~~ to act as an active executive officer of a any bank is ~~, except under a license from the department, or anyone who shall permit or assist such person to act or attempt to act as such,~~ shall be guilty of a Class III felony.

(5) As part of any order of revocation or suspension under subsection (3) of this section, the director may levy a civil penalty against the active

executive officer personally in an amount not to exceed ten thousand dollars. The civil penalty shall not be paid out of the assets of the bank in which the active executive officer is employed or otherwise performing services pursuant to contract. The department shall remit the civil penalty collected to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. Any person whose authority has been revoked or suspended with prejudice under this section shall not be eligible to act as an executive officer at any other bank without authorization to do so from the department. The department may make and enforce reasonable regulations and prescribe forms to be used to carry out the intent of this section.

(6) A bank has the right, on or after the operative date of this section, to elect for its active executive officers to be exempt from the requirement to apply for and obtain a license from the department. An election, once made, shall remain in effect with respect to all active executive officers of the bank until and unless the election is revoked by the bank. An election or revocation shall be made in a form and manner established by the department. Within thirty days after revoking such election, such bank shall apply for and obtain from the department a license for any person acting or desiring to act as an active executive officer of the bank.

(7) For purposes of this section, active executive officer means any employee of a bank or any person under contract to perform services for a bank who is determined by the department to be a policy-dominant individual in the bank or who exercises (a) management functions, (b) major policymaking functions, or (c) substantial employee supervision, including the power to terminate employment. An active executive officer includes, but is not limited to, a president, a vice-president, a cashier, an assistant cashier, a chief executive officer, a loan officer, or an investment officer.

(8) The director may adopt and promulgate rules and regulations and prescribe forms to be used to carry out the intent of this section.

Sec. 37. Any financial institution chartered by the department that employs a mortgage loan originator, as defined in section 45-702, shall register such employee with the Nationwide Mortgage Licensing System and Registry, as defined in section 45-702, by furnishing the following information concerning the employee's identity to the Nationwide Mortgage Licensing System and Registry:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information, for a state and national criminal history background check; and

(2) Personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

Sec. 38. Section 8-141, Reissue Revised Statutes of Nebraska, is amended to read:

8-141 (1) No bank shall directly or indirectly loan to any single corporation, limited liability company, firm, or individual, including in such loans all loans made to the several members or shareholders of such corporation firm, limited liability company, or firm corporation, for the use and benefit of such corporation, limited liability company, firm, or individual, more than twenty-five percent of the paid-up capital, surplus, and capital notes and debentures or fifteen percent of the unimpaired capital and unimpaired surplus of such bank, whichever is greater. Such limitations shall be subject to the following exceptions:

(a) Obligations of any person, partnership, limited liability company, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock, when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent of the face amount of the notes covered by such documents, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(b) Obligations of any person, partnership, limited liability company, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(c) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by negotiable warehouse receipts in an amount not less than one hundred fifteen percent of the face amount of the note or notes secured by such documents shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus; or

(d) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, in an amount at least equal to the face amount of the note or notes secured by such collateral, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus.

(2)(a) ~~(2)~~ For purposes of this section, the discounting of bills of exchange, drawn in good faith against actually existing values, and the discounting of commercial paper actually owned by the persons negotiating the bills of exchange or commercial paper ~~same~~ shall not be considered as the lending of money.

(b) Loans or obligations shall not be subject to any limitation under this section, based upon such capital and surplus or such unimpaired capital and unimpaired surplus, to the extent that such capital and surplus or such unimpaired capital and unimpaired surplus they are secured or covered by guaranties, or by commitments or agreements to take over or to purchase such capital and surplus or such unimpaired capital and unimpaired surplus ~~the same~~, made by any federal reserve bank or by the United States Government or any authorized agency thereof, including any corporation wholly owned directly or indirectly by the United States, or general obligations of any state of the United States or any political subdivision of the state ~~thereof~~. The phrase general obligation of any state or any political subdivision of the state ~~thereof~~ means an obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation, but does not include municipal revenue bonds and sanitary and improvement district warrants which are subject to the limitations set forth in this section.

(c) Any bank may subscribe to, invest in, purchase, and own single-family mortgages secured by the Federal Housing Administration or the United States Department of Veterans Affairs and mortgage-backed certificates of the Government National Mortgage Association which are guaranteed as to payment of principal and interest by the Government National Mortgage Association. Such mortgages and certificates shall not be subject under this section to any limitation based upon such capital and surplus or such unimpaired capital and unimpaired surplus.

(d) Obligations representing loans to any national banking association or to any banking institution organized under the laws of any state, when such loans are approved by the director ~~Director of Banking and Finance~~ by rule and regulation or otherwise, shall not be subject under this section to any limitation based upon such capital and surplus or such unimpaired capital and unimpaired surplus.

(e) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject under this section to any limitation based on such capital and surplus or such unimpaired capital and unimpaired surplus. The director ~~department~~ may adopt and promulgate rules and regulations governing the terms and conditions of such security interest and segregated deposit account.

(f) For the purpose of determining lending limits, partnerships shall not be treated as separate entities. Each individual shall be charged with his or her personal debt plus the debt of every partnership in which he or she is a partner, except that for purposes of this section (a) an individual shall only be charged with the debt of any limited partnership in which he or she is a partner to the extent that the terms of the limited partnership agreement provide that such individual is to be held liable for the debts or actions of such limited partnership and (b) no individual shall be charged with the debt of any general partnership in which he or she is a partner beyond the extent to which (i) his or her liability for such partnership debt is limited by the terms of a contract or other written agreement between the bank and such individual and (ii) any personal debt of such individual is incurred for the use and benefit of such general partnership.

(3) A loan made within lending limits at the initial time the loan was made may be renewed, extended, or serviced without regard to changes in the lending limit of a bank following the initial extension of the loan if (a) the renewal, extension, or servicing of the loan does not result in the extension of funds beyond the initial amount of the loan or (b) the accrued interest on the loan is not added to the original amount of the loan in the process of renewal, extension, or servicing.

(4) Any bank may purchase or take an interest in life insurance contracts for any purpose incidental to the business of banking. A bank's purchase of any life insurance contract, as measured by its cash surrender value, from any one life insurance company shall not at any time exceed twenty-five percent of the paid-up capital, surplus, and capital notes and debentures of such bank or fifteen percent of the unimpaired capital and unimpaired surplus of such bank, whichever is greater. A bank's purchase of life insurance contracts, as measured by their cash surrender values, in the aggregate from all life insurance companies shall not at any time exceed thirty-five percent of the paid-up capital, surplus, undivided profits, and capital notes and debentures of such bank. The limitations under this subsection on a bank's purchase of life insurance contracts, in the aggregate from all life insurance companies, shall not apply to any contract purchased prior to April 5, 1994.

(5) On and after January 21, 2013, the director ~~has the authority is authorized~~ to determine the manner and extent to which credit exposure resulting from derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, and securities borrowing transactions shall be taken into account for purposes of determining compliance with this section. In making such determinations, the director may, but is not required to, act by rule ~~and~~ ~~7~~ regulation~~7~~ or order.

(6) For purposes of this section:

(a) Derivative transaction means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets;

(b) Loan includes:

(i) All direct and indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of that person;

(ii) To the extent specified by rule ~~and~~ ~~7~~ regulation~~7~~ or order of the ~~director department~~, any liability of a state bank to advance funds to or on behalf of a person pursuant to a contractual commitment; and

(iii) Any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the bank and the person; and

(c) Unimpaired capital and unimpaired surplus means (i) the bank's tier 1 and tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), and (ii) the balance of the bank's allowance for loan and lease losses not included in the bank's tier 2 capital for purposes of the calculation of risk-based capital by the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3). Notwithstanding the provisions of section 8-1,140, the ~~director department~~ may, by order, deny or limit the inclusion of goodwill in the calculation of a bank's unimpaired capital and unimpaired surplus or in the calculation of a bank's paid-up capital and surplus.

Sec. 39. Section 8-143, Reissue Revised Statutes of Nebraska, is amended to read:

8-143 If the directors of any bank knowingly violate or knowingly permit any of the officers, employees, or agents of the bank to violate section 8-141, all rights, privileges, and franchises of the bank shall be ~~thereby~~ forfeited. Before ~~the such charter of the bank is shall be~~ declared forfeited, ~~the~~ such violation shall be determined and adjudged by a court of competent jurisdiction in ~~an action a suit~~ brought for that purpose by the Director of Banking and Finance in his or her own name. In case of such violation, every director ~~of the bank who~~ participated in or knowingly assented to the ~~violation or permission to violate section 8-141~~ same shall be held liable in his or her personal and individual capacity for all damages which the bank, its shareholders, or any other person ~~has shall have~~ sustained in consequence of such violation.

Sec. 40. Section 8-143.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-143.01 (1) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds the higher of twenty-five thousand dollars or five percent of the bank's unimpaired capital and unimpaired surplus unless (a) the extension of credit has been approved in advance by a majority vote of the entire board of directors of the bank, a record of which shall be made and kept as a part of the records of such bank, and (b) the interested party has abstained from participating directly or indirectly in such vote.

(2) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds five hundred thousand dollars except by complying with the requirements of subdivisions (1)(a) and (b) of this section.

(3) No bank shall extend credit to any of its executive officers, and no such executive officer shall borrow from or otherwise become indebted to his or her bank, except in the amounts and for the purposes set forth in subsection (4) of this section.

(4) A bank shall be authorized to extend credit to any of its executive officers:

(a) In any amount to finance the education of such executive officer's children;

(b)(i) In any amount to finance or refinance the purchase, construction, maintenance, or improvement of a residence of such executive officer if the extension of credit is secured by a first lien on the residence and the residence is owned or is expected to be owned after the extension of credit by the executive officer and (ii) in the case of a refinancing, only the amount of the refinancing used to repay the original extension of credit, together with the closing costs of the refinancing, and any additional amount thereof used

for any of the purposes enumerated in this subdivision are included within this category of credit;

(c) In any amount if the extension of credit is (i) secured by a perfected security interest in bonds, notes, certificates of indebtedness, or Treasury Bills of the United States or in other such obligations fully guaranteed as to principal and interest by the United States, (ii) secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States, or (iii) secured by a perfected security interest in a segregated deposit account in the lending bank; or

(d) For any other purpose not specified in subdivisions (a), (b), and (c) of this subsection if the aggregate amount of such other extensions of credit to such executive officer does not exceed, at any one time, the greater of two and one-half percent of the bank's unimpaired capital and unimpaired surplus or twenty-five thousand dollars, but in no event greater than one hundred thousand dollars or the amount of the bank's lending limit as prescribed in section 8-141, whichever is less.

(5)(a) Except as provided in subdivision (b) or (c) of this subsection, any executive officer shall make, on an annual basis, a written report to the board of directors of the bank of which he or she is an executive officer stating the date and amount of all loans or indebtedness on which he or she is a borrower, cosigner, or guarantor, the security therefor, and the purpose for which the proceeds have been or are to be used.

(b) Except as provided in subdivision (c) of this subsection, in lieu of the reports required by subdivision (a) of this subsection, the board of directors of a bank may obtain a credit report from a recognized credit agency, on an annual basis, for any or all of its executive officers.

(c) Subdivisions (a) and (b) of this subsection do not apply to any executive officer if such officer is excluded by a resolution of the board of directors or by the bylaws of the bank from participating in the major policymaking functions of the bank and does not actually participate in the major policymaking functions of the bank.

(6) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds the lending limit of the bank as prescribed in section 8-141.

(7)(a) Except as provided in subdivision (b) of this subsection, no bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons unless the extension of credit (i) is made on substantially the same terms, including interest rates and collateral, as, and following credit-underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this section and who are not employed by the bank and (ii) does not involve more than the normal risk of repayment or present other unfavorable features.

(b) Nothing in subdivision (a) of this subsection shall prohibit any extension of credit made by a bank pursuant to a benefit or compensation program under the provisions of 12 C.F.R. 215.4(a)(2).

(8) For purposes of this section:

(a) Executive officer ~~means shall mean~~ a person who participates or has authority to participate, other than in the capacity of director, in the major policymaking functions of the bank, whether or not the officer has an official title, the title designates such officer as an assistant, or such officer is serving without salary or other compensation. Executive officer ~~includes shall include~~ the chairperson of the board of directors, the president, all vice presidents, the cashier, the corporate secretary, and the treasurer, unless the executive officer is excluded by a resolution of the board of directors or by the bylaws of the bank from participating, other than in the capacity of director, in the major policymaking functions of the bank, and the executive officer does not actually participate in such functions. A manager or assistant manager of a branch of a bank shall not be considered to be an executive officer unless such individual participates or is authorized to participate in the major policymaking functions of the bank; and

(b) Unimpaired capital and unimpaired surplus ~~means shall mean~~ the sum of:

(i) The total equity capital of the bank reported on its most recent consolidated report of condition filed under section 8-166;

(ii) Any subordinated notes and debentures approved as an addition to the bank's capital structure by the appropriate federal banking agency; and

(iii) Any valuation reserves created by charges to the bank's income reported on its most recent consolidated report of condition filed under section 8-166.

(9) Any executive officer, director, or principal shareholder of a bank or any other person who intentionally violates this section or who aids, abets, or assists in a violation of this section ~~is shall be~~ guilty of a Class IV felony.

(10) The Director of Banking and Finance ~~may shall have authority to~~ adopt and promulgate rules and regulations to ~~carry out implement~~ this section, including rules ~~and~~ ~~or~~ regulations defining or further defining terms used in this section, consistent with the provisions of 12 U.S.C. 84 and implementing Regulation O ~~as such section and regulation existed on January 1, 2017.~~

Sec. 41. Section 8-144, Reissue Revised Statutes of Nebraska, is amended to read:

8-144 Any officer or employee of any bank who shall willfully and knowingly ~~violates~~ ~~violate~~ any ~~provision~~ ~~of the provisions~~ of sections 8-141 to 8-143.01 shall be liable under his or her bond for any loss to the bank resulting therefrom.

Sec. 42. Section 8-145, Reissue Revised Statutes of Nebraska, is amended to read:

8-145 Any stockholder or director, officer, agent, or employee of any bank who, for the use or benefit of himself or herself or any ~~other~~ other person other than the ~~such~~ bank, solicits, ~~or~~ asks for, or receives or agrees to receive from any person, any gift or compensation or reward or inducement of any kind for (1) procuring or endeavoring to procure any loan from such bank to any person, ~~or~~ (2) procuring or endeavoring to procure the purchase by such bank from any person of any negotiable or nonnegotiable instrument of any kind by discount or otherwise, ~~or~~ (3) procuring or endeavoring to procure the purchase by such bank from any person of any real or personal property of any kind, or (4) procuring or endeavoring to procure such bank to permit any person to overdraw his or her account with such bank, is ~~shall be~~ guilty of a Class I misdemeanor.

Sec. 43. Section 8-147, Reissue Revised Statutes of Nebraska, is amended to read:

8-147 (1) The aggregate amount of direct borrowing of any bank shall at no time exceed the amount of its paid-up capital, surplus, undivided profits, capital reserves, capital notes, and debentures, except with the prior written permission of the director. Direct borrowing does ~~shall~~ not include:

(a) Money borrowed on the bank's bills payable secured by (i) direct or indirect obligations of the United States Government or (ii) obligations guaranteed by agencies of the United States Government;

(b) Rediscounts, bills payable, borrowings, or other liabilities with or to the federal reserve system or the federal reserve banks, if the bank is a member of the federal reserve system;

(c) Rediscounts, bills payable, borrowings, or other liabilities with or to the Federal Home Loan Bank System or the Federal Home Loan Banks, if the bank is a member of the Federal Home Loan Bank System; or

(d) Rediscounts, bills payable, borrowings, or other liabilities with or to the federal intermediate credit banks.

(2) The aggregate amount of the loans and investments of any bank shall at no time exceed fifteen times the amount of its paid-up capital, surplus, undivided profits, capital reserves, capital notes, and debentures. For purposes of this section, loans and investments shall not include a bank's (a) cash reserves, (b) real estate and buildings at which the bank is authorized to conduct its business, (c) furniture and fixtures, and (d) obligations set forth in subdivisions (1)(a), (b), and (c) of this section.

(3) Any bank becoming a member of the federal reserve system or the Federal Home Loan Bank System shall have the same privileges to the same extent as national banks.

(4) With the prior written permission of the director, a bank may rediscount paper in an amount in excess of its paid-up capital stock.

(5) Any transfer of assets of a bank in violation of this section is ~~shall~~ be void as against the creditors of the bank.

(6) Any officer, director, or employee of a bank who does, or permits to be done, any act in violation of this section and any other person who knowingly assists in the violation of this section is ~~shall be~~ guilty of a Class IV felony.

Sec. 44. Section 8-148, Reissue Revised Statutes of Nebraska, is amended to read:

8-148 (1) Except as provided in subsection (2) or (3) of this section, a bank shall not make any loan or discount on the security of the shares of its own capital stock or the capital stock of its holding company, if any, be the purchaser or holder of any such shares, or purchase any securities convertible into stock or, except as provided in this section and sections 8-148.01, 8-148.02, 8-148.04, 8-148.06, 8-149, and 21-2109, the shares of any corporation, unless such security or purchase is necessary to prevent loss upon a debt previously contracted in good faith. Such stock so purchased or acquired shall, within six months after the time of its purchase unless written approval of a longer holding period is obtained from the director, be sold or disposed of at public or private sale, or in default thereof, a receiver may be appointed to close up the business of the bank, except that such stock, if shares of another bank or a bank holding company, shall be sold or disposed of as required by the director. In no case shall the amount of stock so held at any one time exceed ten percent of the paid-up capital of such bank.

(2) Any bank may subscribe to, invest, purchase, and own shares of investment companies registered under the Investment Company Act of 1940 when the investment companies' assets consist of and are limited to obligations that are eligible for investment by the bank. The director ~~department~~ may adopt and promulgate rules and regulations governing the amounts, terms, and conditions of such subscriptions, investments, purchases, and ownership.

(3) Any bank may subscribe to, invest, purchase, and own Student Loan Marketing Association stock, Government National Mortgage Association stock, Federal National Mortgage Association stock, Federal Agricultural Mortgage Corporation stock, Federal Home Loan Mortgage Corporation stock, or stock issued by any authorized agency of the United States Government, including any corporation or enterprise wholly owned directly or indirectly by the United States, or with the authority to borrow directly from the United States

treasury, which the ~~director department~~ has approved by rule and regulation or order. The ~~director department~~ may further adopt and promulgate rules and regulations governing the amounts, terms, and conditions of such subscriptions, investments, purchases, and ownerships, except that a bank shall not obligate more than five percent of its capital, surplus, undivided profits, and unencumbered reserves for such stock.

Sec. 45. Section 8-148.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-148.01 Any bank may invest not more than ten percent of its capital and surplus either in stock of a corporation operating a computer center or directly, alone or with others, in a computer center. With written approval of the ~~director~~ Director of Banking and Finance, such additional percentage of its capital and surplus may be so invested as the director shall approve. Such investment ~~is shall~~ not be subject to the provisions of sections 8-148, 8-149, and 8-150.

Sec. 46. Section 8-148.02, Reissue Revised Statutes of Nebraska, is amended to read:

8-148.02 Any bank may subscribe to, invest, buy, and own stock in any agricultural credit corporation or livestock loan company, or its affiliate, the principal business of which corporation must be the extension of short and intermediate term credit to farmers and ranchers, including partnerships, limited liability companies, and corporations engaged in farming and ranching, for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock. ~~The~~ Such bank shall not obligate more than thirty-five percent of its paid-up capital, surplus, undivided profits, capital reserves, capital notes, and debentures for such purposes, except that if ~~the~~ such bank owns at least eighty percent of the voting stock of such agricultural credit corporation or livestock loan company, ~~the~~ such limitation on the amount of obligation for such purposes shall not apply. Such subscription, investment, possession, or ownership ~~is shall~~ not be subject to the provisions of sections 8-148, 8-149, and 8-150.

Sec. 47. Section 8-148.04, Reissue Revised Statutes of Nebraska, is amended to read:

8-148.04 (1) Any bank may make a community development investment or investments either directly or through purchasing an equity interest in or an evidence of indebtedness of an entity primarily engaged in making community development investments, if the following conditions are satisfied:

(a) An investment under this subsection does not expose the bank to unlimited liability; and

(b) The bank's aggregate investment under this subsection does not exceed fifteen percent of its capital and surplus. If the bank's investment in any one entity will exceed five percent of its capital and surplus, the prior written approval of the ~~director department~~ must be obtained.

(2) Nothing in this section ~~prevents shall prevent~~ a bank from charging off as a contribution an investment made pursuant to subsection (1) of this section.

(3) ~~The~~ Such subscription, investment, possession, or ownership ~~is shall~~ not be subject to sections 8-148, 8-149, and 8-150.

(4) For purposes of this section, community development investments means investments of a predominantly civic, community, or public nature and not merely private and entrepreneurial.

Sec. 48. Section 8-148.05, Reissue Revised Statutes of Nebraska, is amended to read:

8-148.05 (1) Any bank may deal in, underwrite, and purchase for its own account qualified Canadian Government obligations to the same extent that such bank may deal in, underwrite, and purchase for its own account obligations of the United States Government or general obligations of any state thereof.

(2) For purposes of this section:

(a) Qualified Canadian Government obligation ~~means shall mean~~ any debt obligation which is backed by Canada or any Canadian province to a degree which is comparable to the liability of the United States Government or any state thereof for any obligation which is backed by the full faith and credit of the United States Government or any state thereof. Qualified Canadian Government obligations ~~shall also includes include~~ any debt obligation of any agent of Canada or any Canadian province if:

(i) The obligation of ~~the~~ such agent is assumed in such agent's capacity as agent for Canada or any Canadian province; and

(ii) Canada or any Canadian province, on whose behalf such agent is acting with respect to such obligation, is ultimately and unconditionally liable for such obligation; and

(b) The term Canadian province ~~means shall mean~~ a province of Canada and ~~includes shall include~~ the Yukon Territory and the Northwest Territories and their successors.

Sec. 49. Section 8-148.07, Reissue Revised Statutes of Nebraska, is amended to read:

8-148.07 A bank subsidiary corporation shall engage in only those activities prescribed under subdivision ~~(6) (1)~~ of section ~~2 of this act 8-101~~ or that its bank shareholder ~~or shareholders are~~ is authorized to perform under the laws of this state and shall engage in those activities only at locations in this state where the bank shareholder ~~or shareholders~~ could be authorized to perform activities.

Sec. 50. Section 8-148.08, Reissue Revised Statutes of Nebraska, is amended to read:

8-148.08 A bank subsidiary corporation is subject to examination and regulation by the department to the same extent as its bank shareholder or shareholders.

Sec. 51. (1) Any bank may subscribe to, invest, buy, and own stock of another financial institution if the transaction is part of the merger or consolidation of the other financial institution with the acquiring bank, or the acquisition of substantially all of the assets of the other financial institution by the acquiring bank, and if:

(a) The merger, consolidation, or asset acquisition occurs on the same day as the acquisition of the shares of the other financial institution and the other financial institution will not be operated by the acquiring bank as a separate entity; and

(b) The transaction receives the prior approval of the director.

(2) Any bank may subscribe to, invest, buy, and own stock of a company controlling another financial institution if the transaction is part of (a) the merger or consolidation of the company controlling the other financial institution with the company controlling the acquiring bank, or the acquisition of substantially all of the assets of the company controlling the other financial institution by the company controlling the acquiring bank, and (b) the merger or consolidation of the other financial institution with the acquiring bank, or the acquisition of substantially all of the assets of the other financial institution by the acquiring bank, and if:

(i) The merger, consolidation, or asset acquisition occurs on the same day as the acquisition of the shares of the company controlling the other financial institution, and neither the company controlling the other financial institution nor the other financial institution will be operated by the acquiring bank as a separate entity; and

(ii) The transaction receives the prior approval of the director.

(3) Any bank that acquires stock of another financial institution or company controlling another financial institution pursuant to this section shall not be deemed to be a bank holding company for purposes of the Nebraska Bank Holding Company Act of 1995, so long as the conditions of subdivision (1) (a) or (2)(b)(i) of this section, as applicable, are satisfied.

(4) For purposes of this section, financial institution means a bank, savings bank, credit card bank, savings and loan association, building and loan association, trust company, or credit union organized under the laws of any state or organized under the laws of the United States.

Sec. 52. Section 8-150, Reissue Revised Statutes of Nebraska, is amended to read:

8-150 (1) Any bank may purchase, hold, and convey real estate that is (a) acquired pursuant to for the following purposes: (1) Such as is authorized by section 8-149, (b) ; (2) such as shall be conveyed to it for debts due the bank, or (c) purchased ; and (3) such as it shall purchase at sale under judgments, decrees, deeds of trust, or mortgages held by the bank or purchased shall purchase to secure debts due to it upon its securities, but the bank at such sale shall not bid a larger amount than required to satisfy such judgments or decrees with costs. Real estate acquired in satisfaction of debts or at a sale upon judgments, decrees, deeds of trust, or mortgages shall be sold at private or public sale within five years unless authority shall be given in writing by the director department to hold it for a longer period.

(2) The total amount of real estate held by any bank for purposes of subdivisions (1)(b) (2) and (c) (3) of this section shall not be entered on the records of the bank as an asset at a value greater than (a) the unpaid balance of the debts due the bank plus its out-of-pocket expenses incurred in acquiring clear title, (b) its judgments or decrees with costs, or (c) the appraised value of such real estate, whichever is less, except that a bank may expend funds as necessary for repairs or to complete a project in order to market such property.

(3) A bank may utilize property acquired by it under subdivisions (1)(b) (2) and (c) (3) of this section in any manner authorized by the director department.

Sec. 53. Section 8-152, Reissue Revised Statutes of Nebraska, is amended to read:

8-152 A bank may make loans secured by real estate or may participate with other financial institutions in such loans whether such participation occurs at the inception of the loan or at any time after the loan was made thereafter.

Sec. 54. Section 8-153, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-153 All checks, unless sent to banks as special collection items, shall have preprinted the magnetically encoded routing and transit symbol of the bank and either the name of the maker or the magnetically encoded account number of the maker. Except for checks sent to banks as special collection items or checks presented for payment by the payee in person, all checks drawn on any bank organized under the laws of this state shall be cleared at par by the bank on which they are drawn. The term at par applies only to the settlement of checks between collecting and paying or remitting banks and does not apply to or prohibit a bank from deducting a fee from the face amount of the check for paying the check if the check is presented to the bank by the payee in person.

Sec. 55. Section 8-157, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-157 (1) Except as otherwise provided in this section and section 8-2103, the general business of every bank shall be transacted at the place of business specified in its charter.

(2)(a)(i) Except as provided in subdivision (2)(a)(ii) of this section, with the approval of the director, any bank located in this state may establish and maintain in this state an unlimited number of branches at which all banking transactions allowed by law may be made.

(ii) Any bank that owns or controls more than twenty-two percent of the total deposits in Nebraska, as described in subdivision (2)(c) of section 8-910 and computed in accordance with subsection (3) of section 8-910, or any bank that is a subsidiary of a bank holding company that owns or controls more than twenty-two percent of the total deposits in Nebraska, as described in subdivision (2)(c) of section 8-910 and computed in accordance with subsection (3) of section 8-910, shall not establish and maintain an unlimited number of branches as provided in subdivision (2)(a)(i) of this section. With the approval of the director, a bank as described in this subdivision may establish and maintain in the county in which the main office of such bank is located an unlimited number of branches at which all banking transactions allowed by law may be made, except that if the main office of such bank is located in a Class I or Class III county, such bank may establish and maintain in Class I and Class III counties an unlimited number of branches at which all banking transactions allowed by law may be made.

(iii) Any bank which establishes and maintains branches pursuant to subdivision (2)(a)(i) of this section and which subsequently becomes a bank as described in subdivision (2)(a)(ii) of this section shall not be subject to the limitations as to location of branches contained in subdivision (2)(a)(ii) of this section with regard to any such established branch and shall continue to be entitled to maintain any such established branch as if such bank had not become a bank as described in subdivision (2)(a)(ii) of this section.

(b) With the approval of the director, any bank or any branch may establish and maintain a mobile branch at which all banking transactions allowed by law may be made. Such mobile branch may consist of one or more vehicles which may transact business only within the county in which such bank or such branch is located and within counties in this state which adjoin such county.

(c) For purposes of this subsection:

(i) Class I county means a county in this state with a population of four hundred thousand or more as determined by the most recent federal decennial census;

(ii) Class II county means a county in this state with a population of at least two hundred thousand and less than four hundred thousand as determined by the most recent federal decennial census;

(iii) Class III county means a county in this state with a population of at least one hundred thousand and less than two hundred thousand as determined by the most recent federal decennial census; and

(iv) Class IV county means a county in this state with a population of less than one hundred thousand as determined by the most recent federal decennial census.

(3) With the approval of the director, a bank may establish and maintain branches acquired pursuant to section 8-1506 or 8-1516. All banking transactions allowed by law may be made at such branches.

(4) With the approval of the director, a bank may acquire the assets and assume the deposits of a branch of another financial institution in Nebraska if the acquired branch is converted to a branch of the acquiring bank. All banking transactions allowed by law may be made at a branch acquired pursuant to this subsection.

(5) With the approval of the director, a bank may establish a branch pursuant to subdivision (6) of section 8-115.01. All banking transactions allowed by law may be made at such branch.

(6) The name given to any branch established and maintained pursuant to this section shall not be substantially similar to the name of any existing bank or branch which is unaffiliated with the newly created branch and is located in the same city, village, or county. The name of such newly created branch shall be approved by the director.

(7) A bank which has a main chartered office or an approved branch located in the State of Nebraska may, through any of its executive officers, including executive officers licensed as such pursuant to section 8-139, or designated agents, conduct a loan closing at a location other than the place of business specified in the bank's charter or any branch thereof.

(8) A bank which has a main chartered office or approved branch located in the State of Nebraska may, upon notification to the department, establish savings account programs at any elementary or secondary school, whether public or private, that has students who reside in the same city or village as the main chartered office or branch of the bank, or, if the main office of the bank is located in an unincorporated area of a county, at any school that has students who reside in the same unincorporated area. The savings account programs shall be limited to the establishment of individual student accounts and the receipt of deposits for such accounts.

(9) Upon receiving an application for a branch to be established pursuant to subdivision (2)(a) of this section, to establish a mobile branch pursuant to subdivision (2)(b) of this section, to acquire a branch of another financial institution pursuant to subsection (4) of this section, to establish or acquire a branch pursuant to subsection (1) of section 8-2103, or to move the location of an established branch other than a move made pursuant to subdivision (6) of section 8-115.01, the director shall hold a public hearing on the matter if he or she determines, in his or her discretion, that the condition of the

applicant bank warrants a hearing. If the director determines that the condition of the bank does not warrant a hearing, the director shall publish a notice of the filing of the application in a newspaper of general circulation in the county where the proposed branch or mobile branch would be located, the expense of which shall be paid by the applicant bank. If the director receives any substantive objection to the proposed branch or mobile branch within fifteen days after publication of such notice, he or she shall hold a hearing on the application. Notice of a hearing held pursuant to this subsection shall be published for two consecutive weeks in a newspaper of general circulation in the county where the proposed branch or mobile branch would be located. The date for hearing the application shall not be more than ninety days after the filing of the application and not less than thirty days after the last publication of notice of hearing. The expense of any publication required by this section shall be paid by the applicant but payment shall not be a condition precedent to approval by the director.

Sec. 56. Section 8-157.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-157.01 (1) Any establishing financial institution may establish and maintain any number of automatic teller machines at which all banking transactions, defined as receiving deposits of every kind and nature and crediting such to customer accounts, cashing checks and cash withdrawals, transferring funds from checking accounts to savings accounts, transferring funds from savings accounts to checking accounts, transferring funds from either checking accounts and savings accounts to accounts of other customers, transferring payments from customer accounts into accounts maintained by other customers of the financial institution or the financial institution, including preauthorized draft authority, preauthorized loans, and credit transactions, receiving payments payable at the financial institution or otherwise, account balance inquiry, and any other transaction incidental to the business of the financial institution or which will provide a benefit to the financial institution's customers or the general public, may be conducted. Any automatic teller machine owned by a nonfinancial institution third party shall be sponsored by an establishing financial institution. Neither such automatic teller machines nor the transactions conducted thereat shall be construed as the establishment of a branch or as branch banking.

(2) Any financial institution may become a user financial institution by agreeing to pay the establishing financial institution the automatic teller machine usage fee. Such agreement shall be implied by the use of such automatic teller machines.

(3)(a) Beginning November 1, 2016, (i) all automatic teller machines shall be made available on a nondiscriminating basis for use by Nebraska customers of a user financial institution and (ii) all Nebraska automatic teller machine transactions initiated by Nebraska customers of a user financial institution shall be made on a nondiscriminating basis.

(b) It shall not be deemed discrimination if (i) an automatic teller machine does not offer the same transaction services as other automatic teller machines, (ii) there are no automatic teller machine usage fees charged between affiliate financial institutions for the use of automatic teller machines, (iii) the automatic teller machine usage fees of an establishing financial institution that authorizes and directly or indirectly routes Nebraska automatic teller machine transactions to multiple switches, all of which comply with the requirements of subdivision (3)(d) of this section, differ solely upon the fact that the automatic teller machine usage fee schedules of such switches differ from one another, (iv) automatic teller machine usage fees differ based upon whether the transaction initiated at an automatic teller machine is subject to a surcharge or provided on a surcharge-free basis, (v) the manner in which an establishing financial institution authorizes and directly or indirectly routes Nebraska automatic teller machine transactions results in the same automatic teller machine usage fees for all user financial institutions for essentially the same service routed over the same switch, or (vi) the automatic teller machines established or sponsored by an establishing financial institution are made available for use by Nebraska customers of any user financial institution which agrees to pay the automatic teller machine usage fee and which conforms to the operating rules and technical standards established by the switch to which a Nebraska automatic teller machine transaction is directly or indirectly routed.

(c) The director, upon notice and after a hearing, may terminate or suspend the use of any automatic teller machine if he or she determines that the automatic teller machine is not made available on a nondiscriminating basis or that Nebraska automatic teller machine transactions initiated at such automatic teller machine are not made on a nondiscriminating basis.

(d) A switch (i) shall provide to all financial institutions that have a main office or approved branch located in the State of Nebraska and that conform to the operating rules and technical standards established by the switch an equal opportunity to participate in the switch for the use of and access thereto; (ii) shall implement the same automatic teller machine usage fee for all user financial institutions for essentially the same service; (iii) shall be capable of operating to accept and route Nebraska automatic teller machine transactions, whether receiving data from an automatic teller machine, an establishing financial institution, or a data processing center; and (iv) shall be capable of being directly or indirectly connected to every data processing center for any automatic teller machine.

(e) The director, upon notice and after a hearing, may terminate or

suspend the operation of any switch with respect to all Nebraska automatic teller machine transactions if he or she determines that the switch is not being operated in the manner required under subdivision (3)(d) of this section.

(f) Subject to the requirement for a financial institution to comply with this subsection, no user financial institution or establishing financial institution shall be required to become a member of any particular switch.

(4) Any consumer initiating an electronic funds transfer at an automatic teller machine for which an automatic teller machine surcharge will be imposed shall receive notice in accordance with the provisions of 15 U.S.C. 1693b(d)(3) (A) and (B), as such section existed on January 1, ~~2017~~ 2016. Such notice shall appear on the screen of the automatic teller machine or appear on a paper notice issued from such machine after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

(5) A point-of-sale terminal may be established at any point within this state by a financial institution, a group of two or more financial institutions, or a combination of a financial institution or financial institutions and a third party or parties. Such parties may contract with a seller of goods and services or any other third party for the operation of point-of-sale terminals.

(6) A seller of goods and services or any other third party on whose premises one or more point-of-sale terminals are established shall not be, solely by virtue of such establishment, a financial institution and shall not be subject to the laws governing, or other requirements imposed on, financial institutions, except for the requirement that it faithfully perform its obligations in connection with any transaction originated at any point-of-sale terminal on its premises.

(7) Nothing in this section shall be construed to prohibit nonbank employees from assisting in transactions originated at automatic teller machines or point-of-sale terminals, and such assistance shall not be deemed to be engaging in the business of banking.

(8)(a) Beginning September 1, 2015, and thereafter annually by September 1, any entity operating as a switch in Nebraska prior to September 1, 2015, regardless of whether the switch had been approved by the department, shall file a notice with the department setting forth its name, address, and contact information for an officer authorized to answer inquiries related to its operations in Nebraska.

(b) On or after September 1, 2015, any entity intending to operate in Nebraska as a switch shall file a notice with the department setting forth its name, address, and contact information for an officer authorized to answer inquiries related to its operations in Nebraska. Such notice shall be filed at least thirty days prior to the date on which the switch commences operations, and thereafter annually by September 1.

(9) Nothing in this section prohibits ordinary clearinghouse transactions between financial institutions.

(10) Nothing in this section shall prevent any financial institution which has a main chartered office or an approved branch located in the State of Nebraska from participating in a national automatic teller machine program to allow its customers to use automatic teller machines located outside of the State of Nebraska which are established by out-of-state financial institutions or foreign financial institutions or to allow customers of out-of-state financial institutions or foreign financial institutions to use its automatic teller machines. Such participation and any automatic teller machine usage fees charged or received pursuant to the national automatic teller machine program or usage fees charged for the use of its automatic teller machines by customers of out-of-state financial institutions or foreign financial institutions shall not be considered for purposes of determining (a) if an automatic teller machine has been made available or Nebraska automatic teller machine transactions have been made on a nondiscriminating basis for use by Nebraska customers of a user financial institution or (b) if a switch complies with subdivision (3)(d) of this section.

(11) An agreement to operate or share an automatic teller machine may not prohibit, limit, or restrict the right of the operator or owner of the automatic teller machine to charge a customer conducting a transaction using an account from a foreign financial institution an access fee or surcharge not otherwise prohibited under state or federal law.

(12) Switch fees shall not be subject to this section or be regulated by the department.

(13) Nothing in this section shall prevent a group of two or more credit unions, each of which has a main chartered office or an approved branch located in the State of Nebraska, from participating in a credit union service organization organized on or before January 1, 2015, for the purpose of owning automatic teller machines, provided that all participating credit unions have an ownership interest in the credit union service organization and that the credit union service organization has an ownership interest in each of the participating credit unions' automatic teller machines. Such participation and any automatic teller machine usage fees associated with Nebraska automatic teller machine transactions initiated by customers of participating credit unions at such automatic teller machines shall not be considered for purposes of determining if such automatic teller machines have been made available on a nondiscriminating basis or if Nebraska automatic teller machine transactions initiated at such automatic teller machines have been made on a nondiscriminating basis, provided that all Nebraska automatic teller machine transactions initiated by customers of participating credit unions result in

the same automatic teller machine usage fees for essentially the same service routed over the same switch.

(14)(a) Except for any violation of this subsection, the department shall take no enforcement action under this section between May 14, 2015, and November 1, 2016, with respect to access to automatic teller machines, Nebraska automatic teller machine usage fees, or any agreements relating to Nebraska automatic teller machine usage fees which existed on May 14, 2015, except for changes in automatic teller machine usage fees announced prior to May 14, 2015.

(b) Nebraska automatic teller machine usage fees or agreements relating to Nebraska automatic teller machine usage fees in effect on May 14, 2015, shall remain unchanged until April 1, 2016, except for changes in automatic teller machine usage fees announced prior to May 14, 2015.

(c) There shall be a moratorium on the implementation of any agreement with new members relating to Nebraska automatic teller machine usage fees between May 14, 2015, and April 1, 2016, except for changes in automatic teller machine usage fees announced prior to May 14, 2015.

(d) Any agreement implemented on or after April 1, 2016, relating to Nebraska automatic teller machine usage fees shall comply with subsection (3) of this section.

(e) Commencing November 1, 2016, Nebraska automatic teller machine usage fees and any agreements relating to Nebraska automatic teller machine usage fees shall comply with subsection (3) of this section.

(15) For purposes of this section:

(a) Access means the ability to utilize an automatic teller machine or a point-of-sale terminal to conduct permitted banking transactions or purchase goods and services electronically;

(b) Account means a checking account, a savings account, a share account, or any other customer asset account held by a financial institution. Such an account may also include a line of credit which a financial institution has agreed to extend to its customer;

(c) Affiliate financial institution means any financial institution which is a subsidiary of the same bank holding company;

(d) Automatic teller machine usage fee means any per transaction fee established by a switch or otherwise established on behalf of an establishing financial institution and collected from the user financial institution and paid to the establishing financial institution for the use of the automatic teller machine. An automatic teller machine usage fee shall not include switch fees;

(e) Electronic funds transfer means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through a point-of-sale terminal, an automatic teller machine, or a personal terminal for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account;

(f) Essentially the same service means the same Nebraska automatic teller machine transaction offered by an establishing financial institution irrespective of the user financial institution, the Nebraska customer of which initiates the Nebraska automatic teller machine transaction. A Nebraska automatic teller machine transaction that is subject to a surcharge is not essentially the same service as the same banking transaction for which a surcharge is not imposed;

(g) Establishing financial institution means any financial institution which has a main chartered office or approved branch located in the State of Nebraska that establishes or sponsors an automatic teller machine or any out-of-state financial institution that establishes or sponsors an automatic teller machine;

(h) Financial institution means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the department, the United States, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; or a subsidiary of any such entity;

(i) Foreign financial institution means a financial institution located outside the United States;

(j) Nebraska automatic teller machine transaction means a banking transaction as defined in subsection (1) of this section which is (i) initiated at an automatic teller machine established in whole or in part or sponsored by an establishing financial institution, (ii) for an account of a Nebraska customer of a user financial institution, and (iii) processed through a switch regardless of whether it is routed directly or indirectly from an automatic teller machine;

(k) Personal terminal means a personal computer and telephone, wherever located, operated by a customer of a financial institution for the purpose of initiating a transaction affecting an account of the customer;

(l) Sponsoring an automatic teller machine means the acceptance of responsibility by an establishing financial institution for compliance with all provisions of law governing automatic teller machines and Nebraska automatic teller machine transactions in connection with an automatic teller machine owned by a nonfinancial institution third party;

(m) Switch fee means a fee established by a switch and assessed to a user financial institution or to an establishing financial institution other than an automatic teller machine usage fee; and

(n) User financial institution means any financial institution which has a main chartered office or approved branch located in the State of Nebraska which avails itself of and provides its customers with automatic teller machine

services.

Sec. 57. Section 8-158, Reissue Revised Statutes of Nebraska, is amended to read:

8-158 Any bank may be appointed and ~~, chartered to conduct a banking business in this state and so authorized by its corporate articles,~~ shall have power to act, either by itself or jointly with any natural person or persons, as personal representative of the estate of any deceased person or as special administrator of the estate of any deceased person under the appointment of a court of record having jurisdiction of the estate of such deceased person. When a bank is so appointed and an oath is required to be made, whether in order to qualify or for any other purpose, the president, vice president, or secretary of the bank may, on behalf of the bank, make and subscribe to the required oath.

Sec. 58. Section 8-160, Reissue Revised Statutes of Nebraska, is amended to read:

8-160 The director has the authority ~~shall have the power~~ to issue to banks amendments to their charters of authority to transact trust business as defined in the Nebraska Trust Company Act and has ~~shall have~~ general supervision and control over such trust department of banks.

Sec. 59. Section 8-161, Reissue Revised Statutes of Nebraska, is amended to read:

8-161 The director, before granting to any bank the right to operate a trust department, shall require such bank to make an application for amendment of its charter, setting forth such information as the director may require. If, upon investigation, the director is department shall be ~~is~~ satisfied that the trust department of the bank requesting such amendment will be operated by bank requesting such charter is operated by stockholders, directors, and officers of ~~the trust department of the bank requesting such amendment will be operated by~~ integrity and responsibility, the department shall, with such additional capital as the director shall require, issue to such bank an amendment to its charter, entitling it to operate a trust department and entitling it to transact the business provided for in the Nebraska Trust Company Act.

Sec. 60. Section 8-162.02, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-162.02 (1) A ~~state-chartered~~ bank may deposit or have on deposit funds of a fiduciary account controlled by the bank's trust department unless prohibited by applicable law.

(2) To the extent that the funds are awaiting investment or distribution and are not insured or guaranteed by the Federal Deposit Insurance Corporation, a ~~state-chartered~~ bank shall set aside collateral as security under the control of appropriate fiduciary officers and bank employees. The bank shall place pledged assets of fiduciary accounts in the joint custody or control of not fewer than two of the fiduciary officers or employees of the bank designated for that purpose by the board of directors. The bank may maintain the investments of a fiduciary account off-premises if consistent with applicable law and if the bank maintains adequate safeguards and controls. The market value of the collateral shall at all times equal or exceed the amount of the uninsured or unguaranteed fiduciary funds awaiting investment or distribution.

(3) A ~~state-chartered~~ bank may satisfy the collateral requirements of this section with any of the following: (a) Direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest; (b) readily marketable securities of the classes in which banks, trust companies, or other corporations exercising fiduciary powers are permitted to invest fiduciary funds under applicable state law; and (c) surety bonds, to the extent the surety bonds provide adequate security, unless prohibited by applicable law.

(4) A ~~state-chartered~~ bank, acting in its fiduciary capacity, may deposit funds of a fiduciary account that are awaiting investment or distribution with an affiliated insured depository institution unless prohibited by applicable law. The bank may set aside collateral as security for a deposit by or with an affiliate of fiduciary funds awaiting investment or distribution, as it would if the deposit was made at the bank, unless such action is prohibited by applicable law.

(5) Public funds deposited in and held by a ~~state-chartered~~ bank are not subject to this section.

(6) This section does not apply to a fiduciary account in which, pursuant to the terms of the governing instrument, full investment authority is retained by the grantor or is vested in persons or entities other than the ~~state-chartered~~ bank and the bank, acting in its fiduciary capacity, does not have the power to exert any influence over investment decisions.

Sec. 61. Section 8-163, Reissue Revised Statutes of Nebraska, is amended to read:

8-163 (1) No bank shall withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any part of its capital or surplus without the written permission of the director. If losses have at any time been sustained equal to or exceeding the undivided profits on hand, no dividends shall be made without the written permission of the director. No dividend shall be made by any bank in an amount greater than the net profits on hand without the written permission of the director.

(2) As used in this section, net profits on hand means the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets after deducting from the total thereof all current operating expenses, losses, and bad debts, accrued dividends on preferred stock, if any, and federal and state taxes, for the present and two immediately

preceding calendar years.

Sec. 62. Section 8-164, Reissue Revised Statutes of Nebraska, is amended to read:

8-164 The board of directors of any bank may declare dividends on its capital stock but only under the following conditions:

(1) All bad debts required to be charged off by either the board of directors or the department shall first have been charged off. All debts due any bank on which interest is past due and unpaid for a period of six months, unless such debts are well secured or in the process of collection, shall be considered bad debts within the meaning of this section; and

(2) Twenty percent of the net profits accumulated since the preceding dividend shall first have been carried to the surplus fund unless such surplus fund equals or exceeds the amount of the paid-up capital stock.

Sec. 63. Section 8-166, Reissue Revised Statutes of Nebraska, is amended to read:

8-166 (1) Every bank shall make to the department not less than two reports during each year according to the form which may be prescribed by the department, which report shall be certified as correct, in the manner prescribed by the department, by the president, vice president, cashier, or assistant cashier and in addition by two members of the board of directors.

(2) The director may waive the requirements of this section if a bank files its reports electronically with the Federal Deposit Insurance Corporation, the Federal Reserve Board, or an electronic collection agent of the Federal Deposit Insurance Corporation or the Federal Reserve Board.

Sec. 64. Section 8-167, Reissue Revised Statutes of Nebraska, is amended to read:

8-167 Each report required by section 8-166 shall exhibit in detail and under appropriate headings the resources and liabilities of the bank at the close of business on any past day specified by the call for report and shall be submitted to the department within thirty days, or as may be required by the department, after the receipt of requisition for the report. A summary of such report in the form prescribed by the department shall be published one time in a legal newspaper in the place where the main office of such bank is located. If there is no legal newspaper in the place where the main office of the bank is located, then such summary shall be published in a legal newspaper published in the same county or, if none is published in the county, in a legal newspaper of general circulation in the county. Such publication shall be at the expense of such bank. Proof of such publication shall be transmitted to the department within thirty days, or as may be required by the director department, from the date fixed for such report.

Sec. 65. Section 8-167.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-167.01 The publication requirements of section 8-167 shall not apply to any bank that makes a disclosure statement available to any member of the general public upon request in compliance with the disclosure of financial information provisions of 12 C.F.R. part 350, as such part existed on January 1, 2017 ~~2013~~.

Sec. 66. Section 8-168, Reissue Revised Statutes of Nebraska, is amended to read:

8-168 ~~A~~ Any bank shall ~~be required to~~ furnish such special reports as may be required by the director department to enable the such department to obtain full and complete knowledge of the condition of the such bank.

Sec. 67. Section 8-169, Reissue Revised Statutes of Nebraska, is amended to read:

8-169 Any bank that fails, neglects, or refuses ~~shall fail, neglect, or refuse~~ to make or furnish any report or any published statement required by the Nebraska Banking Act shall pay to the department a penalty of fifty dollars for each day such failure shall continue, unless the director department shall extend the time for filing such report.

Sec. 68. Section 8-170, Reissue Revised Statutes of Nebraska, is amended to read:

8-170 (1) Banks shall not be required to preserve or keep their records or files or copies thereof for a ~~longer period~~ longer than six years next after the first day of January of the year following the time of the making or filing of such records or files except as provided in subsection (2) of this section.

(2)(a) Ledger sheets showing unpaid balances in favor of depositors of banks shall not be destroyed unless the bank has remitted such unpaid balances to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act. Banks shall retain a record of every such remittance for ten years following the date of such remittance.

(b) Corporate records that relate to the corporation or the corporate existence of the bank shall not be destroyed.

(3) All records or files or copies thereof shall be readable or legible.

Sec. 69. Section 8-171, Reissue Revised Statutes of Nebraska, is amended to read:

8-171 No liability shall accrue against any bank ~~destroying any such records or files after the expiration of the time provided in accordance with sections 8-170 to 8-174~~ section 8-170. In any cause or proceedings in which any such records or files may be called into in question or be demanded of the bank or any officer or employee of the bank thereof, a showing that such records or files have been destroyed in accordance with the terms of sections 8-170 to 8-174 shall be a sufficient excuse for the failure to produce such records or files ~~them~~.

Sec. 70. Section 8-173, Reissue Revised Statutes of Nebraska, is amended to read:

8-173 All causes of action against a bank based upon a claim or claims inconsistent with an entry or entries in any bank record or ledger, made in the regular course of business, shall accrue one year after the date of such entry or entries. No action founded upon such a cause shall may be brought after the expiration of five years from the date of such accrual.

Sec. 71. Section 8-174, Reissue Revised Statutes of Nebraska, is amended to read:

8-174 ~~Sections~~ The provisions of sections 8-170 to 8-174, so far as may be permitted by the laws of the United States, shall apply to the records and files of national banks.

Sec. 72. Section 8-175, Reissue Revised Statutes of Nebraska, is amended to read:

8-175 Any person who ~~shall~~ willfully and knowingly subscribes ~~subscribe~~ to, or makes ~~make~~, or causes ~~cause~~ to be made, any false statement or false entry in the books of any bank, ~~or shall~~ knowingly subscribes ~~subscribe~~ to or exhibits ~~exhibit~~ false papers with the intent to deceive any person or persons authorized to examine into the affairs of any such bank, makes, states, or publishes ~~or shall make, state, or publish~~ any false statement of the amount of the assets or liabilities of any such bank, fails ~~or shall fail~~ to make true and correct entry in the books and records of such bank of its business and transactions in the manner and form prescribed by the department, mutilates, alters, destroys, secretes, or removes ~~or shall mutilate, alter, destroy, secrete, or remove~~ any of the books or records of such bank without the written consent of the director, or makes, states, or publishes ~~shall make, state, or publish~~ any false statement of the amount of the assets or liabilities of any such bank, is ~~shall be~~ guilty of a Class III felony.

Sec. 73. Section 8-177, Reissue Revised Statutes of Nebraska, is amended to read:

8-177 Any bank, which is in good faith winding up its business for the purpose of consolidating with some other financial institution ~~bank~~, may transfer its resources and liabilities to the financial institution ~~bank~~ with which it is in the process of consolidation, but no consolidation shall be made without the consent of the director ~~department~~, nor shall such consolidation operate to defeat the claim of any creditor or hinder any creditor in the collection of his or her debt against any such bank or financial institution ~~banks or either of them~~.

Sec. 74. Section 8-178, Reissue Revised Statutes of Nebraska, is amended to read:

8-178 (1) Any national bank ~~banking association~~ located and doing business within the State of Nebraska which follows the procedure prescribed by the laws of the United States may convert into a state bank or merge or consolidate with a state bank upon a vote of the holders of at least two-thirds of the capital stock of such state bank when the resulting state bank meets the requirements of the state law as to the formation of a new state bank. If the national bank ~~banking association~~ has been further chartered to conduct a trust company business within a trust department of the bank, the trust department to be converted shall meet the requirements of state law as to the formation of a trust company business within a trust department of a state bank.

(2) The public hearing requirement of subdivision (1) of section 8-115.01 and the rules and regulations of the director ~~department~~ shall be required only if (a) ~~(1)~~ after publishing a notice of the proposed conversion in a newspaper of general circulation in the county where the main office of the national bank is located, the expense of which shall be paid by the applicant bank, the director receives an objection to the conversion within fifteen days after such publication or (b) ~~(2)~~ in the discretion of the director, the condition of the bank warrants a hearing. If the national bank has been further chartered to conduct a trust company business within a trust department of the bank, the notice of the proposed conversion of the national bank shall include notice that the trust department will be converted in connection with the national bank conversion.

Sec. 75. Section 8-179, Reissue Revised Statutes of Nebraska, is amended to read:

8-179 (1) The resulting state bank under section 8-178 shall file a statement with the department, under the oath of its president or cashier, (a) showing that the procedure prescribed by the laws of the United States and by this state have been followed, (b) setting forth in the statement the matter prescribed by sections ~~8-121 and~~ 8-1901 to 8-1903, and (c) if the national bank has been further chartered to conduct a trust company business within a trust department of the bank, setting forth the matter prescribed by sections 8-159 to 8-162.01. Upon payment of all applicable fees, the department shall issue to such corporation ~~the certificate provided for in section 8-122,~~ a charter to transact the business provided for in its articles of incorporation, and, if applicable, a charter to conduct a trust company business within a trust department of the bank.

(2) The department may accept good assets of any such national bank, worth not less than par, in lieu of the payment otherwise provided by law for the stock of such resulting bank. When the parties requesting the conversion, merger, or consolidation are officers or directors of either the national bank or of the state bank, they shall be accepted without investigation as parties of integrity and responsibility. Unless the resulting bank is at a different location than the former national or state bank, the department shall recognize

the public necessity, convenience, and advantage of permitting the resulting bank and, if applicable, the trust company business within a trust department of the bank, to engage in business.

Sec. 76. Section 8-180, Reissue Revised Statutes of Nebraska, is amended to read:

8-180 Any state bank, without the approval of any state authority, may, upon a vote of the holders of at least two-thirds of its capital stock, convert into and merge or consolidate with a national bank ~~banking associations~~ as provided by federal law.

Sec. 77. Section 8-182, Reissue Revised Statutes of Nebraska, is amended to read:

8-182 The owner of shares of a state bank which were voted against a conversion into or a merger or consolidation with a national bank under section 8-181 shall be entitled to receive, from the assets of such state bank, the value of such stock in cash, when the conversion, merger, or consolidation becomes effective, upon written demand made to the resulting bank at any time within thirty days after the effective date of the conversion, merger, or consolidation, accompanied by the surrender of the stock certificates. The value of such shares shall be determined, as of the date of the shareholders' meeting approving the conversion, merger, or consolidation, by three appraisers, one to be selected by the owners of two-thirds of the shares voting against the conversion, merger, or consolidation, one by the board of directors of the resulting state bank, and the third by the two so chosen. If the appraisal is not completed within sixty days after the conversion, merger, or consolidation becomes effective the department shall cause an appraisal to be made and such appraisal shall then govern. The expenses of appraisal shall be paid by the resulting bank.

Sec. 78. Section 8-183, Reissue Revised Statutes of Nebraska, is amended to read:

8-183 Without approval by the director ~~department~~, no asset shall be carried on the books of the bank resulting pursuant to section 8-181 ~~resulting bank~~, when the resulting bank is a state bank, at a valuation higher than that on the books of the converting, merging, or consolidating bank at the time of the examination, by a state or national bank examiner, last occurring before the effective date of the conversion, merger, or consolidation.

Sec. 79. Section 8-183.04, Reissue Revised Statutes of Nebraska, is amended to read:

8-183.04 (1) Notwithstanding any other provision of the Nebraska Banking Act or any other Nebraska law, a state or federal savings association which was formed and in operation as a mutual savings association as of July 15, 1998, may elect to retain its mutual form of corporate organization upon conversion to a state bank.

(2) All references to shareholders or stockholders for state banks shall be deemed to be references to members for such a converted savings association.

(3) The amount and type of capital required for such a converted savings association shall be as required for federal mutual savings associations in 12 C.F.R. part 567, as such part existed on January 1, 2017 ~~2010~~, except that if at any time the department determines that the capital of such a converted savings association is impaired, the director ~~department~~ may require the members to make up the capital impairment.

(4) The director may ~~shall have the power to~~ adopt and promulgate rules and regulations governing such converted mutual savings associations. In adopting and promulgating such rules and regulations, the director may consider the provisions of sections 8-301 to 8-384 governing savings associations in mutual form of corporate organization.

Sec. 80. Section 8-183.05, Reissue Revised Statutes of Nebraska, is amended to read:

8-183.05 (1) Upon the issuance of a state bank charter to a converting savings association, the corporate existence of the converting savings association shall not terminate, but such bank shall be a continuation of the entity so converted and all property of the converted savings association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, immediately, by operation of law and without any conveyance or transfer and without any further act or deed, shall vest in and remain the property of such converted savings association, and the same shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting savings association.

(2) Upon issuance of the charter, the new state bank shall continue to have and succeed to all the rights, obligations, and relations of the converting savings association.

(3) All pending actions and other judicial proceedings to which the converting savings association is a party shall not be abated or discontinued by reason of such conversion but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion had not been made, and such converted savings association may continue the actions in its new corporate name. Any judgment, order, or decree may be rendered for or against the converting savings association theretofore involved in the proceedings.

(4) Nothing in this section shall be construed to authorize a converted savings association to establish branches except as permitted by section 8-157 and the Interstate Branching and Merger Act. This subsection shall not be

construed to require divestiture of any branches of a savings association in existence at the time of the conversion to a state bank charter.

Sec. 81. Section 8-184, Reissue Revised Statutes of Nebraska, is amended to read:

8-184 Whenever any bank shall desire to go into voluntary liquidation, it shall first obtain the written consent of the director department which may, before granting such request, order a special examination of the affairs of such bank, for which the same fees may be collected as in regular examination.

Sec. 82. Section 8-185, Reissue Revised Statutes of Nebraska, is amended to read:

8-185 Any bank may voluntarily liquidate by paying off all its depositors in full. The bank so liquidating shall file a certified statement with the department, setting forth the fact that all its liabilities have been paid and naming its stockholders with the amount of stock held by each, and surrender its ~~charter certificate of authority to transact a banking business~~. The department shall cause an examination to be made of any such bank for the purpose of determining that all of its liabilities, except liabilities to stockholders, have been paid. Upon such examination, if it appears that all liabilities other than liabilities to stockholders have been paid, the bank shall cease to be subject to the Nebraska Banking Act.

Sec. 83. Section 8-186, Reissue Revised Statutes of Nebraska, is amended to read:

8-186 Any bank may place its affairs and assets under the control of the department by posting on its door the following notice: This bank is in the hands of the Department of Banking and Finance. The posting of such notice, or the taking possession of any bank by the department or by any financial institution bank examiner shall be sufficient to place all of its assets of whatever nature immediately in the possession of the department, and shall operate as a bar to the levying of attachments or executions thereon, and shall operate to dissolve and release all levies, judgment liens, attachments, or other liens obtained through legal proceedings within sixty days next preceding the posting of such notice or the taking possession of such bank by the department.

Sec. 84. Section 8-187, Reissue Revised Statutes of Nebraska, is amended to read:

8-187 Whenever it appears to the director department from any examination or report provided for by the laws of this state that (1) the capital of any bank is impaired, (2) ~~a~~ or that such bank is conducting its business in an unsafe or unauthorized manner, (3) ~~a~~ bank or is endangering the interests of its depositors, (4) ~~a~~ bank, or upon its failure, refuses of such bank to make any of the reports or statements required by the laws of this state, (5) ~~or~~ if the officers or employees of any bank refuse to submit its books, papers, and affairs to the inspection of any examiner, (6) ~~or~~ if any officer of a bank thereof refuses to be examined upon oath touching the affairs of the ~~any~~ such bank, (7) ~~or~~ if from any examination or report provided for by law, the director department has reason to conclude that ~~a~~ such bank is in an unsafe or unsound condition to transact the business for which it is organized, or that it is unsafe and inexpedient for ~~the bank~~ it to continue its business, or (8) ~~a~~ if any such bank neglects or refuses to observe any order of the director department, the department may immediately ~~forthwith~~ take possession of the property and business of the bank, and shall thereafter conduct the affairs of the bank, and shall retain possession of all money, rights, credits, assets, and property of every description belonging to the bank, as against any mesne or final process issued by any court against the bank whose property has been taken, and may retain possession for a sufficient time to make an examination of its affairs and dispose of such property thereof as provided by law. All levies, judgment liens, attachments, or other liens obtained through legal proceedings against the bank or its property, acquired within sixty days next preceding the taking of possession of the bank, in the event the bank is liquidated and the business of the bank is not resumed or carried on after the taking of possession of the bank ~~over~~ thereof by the department, shall be void and the property affected by the levy, judgment lien, attachment, or other lien so obtained shall be wholly discharged and released from any levy, judgment lien, attachment, or other lien therefrom. The department director shall retain possession of the property and business of the bank until the bank resumes ~~shall resume~~ business or its affairs are finally liquidated under as provided ~~in~~ the Nebraska Banking Act.

Sec. 85. Section 8-188, Reissue Revised Statutes of Nebraska, is amended to read:

8-188 The ~~director~~, or any deputy, counsel, or any examiner authorized by the ~~director~~, may, on behalf of the department, take possession of a bank by handing to the president, cashier, or any person in charge of the bank, a written notice that the bank is in the possession of the department.

Sec. 86. Section 8-189, Reissue Revised Statutes of Nebraska, is amended to read:

8-189 Any officer, director, or employee of a bank, who attempts ~~shall attempt~~ to prevent the department from taking possession of such bank is ~~shall be~~ guilty of a Class I misdemeanor.

Sec. 87. Section 8-190, Reissue Revised Statutes of Nebraska, is amended to read:

8-190 Whenever any bank refuses or neglects to deliver possession of its affairs, assets, or property of whatever nature to the department or to any person ordered or appointed to take charge of such bank according to the

Nebraska Banking Act, the director shall make an application to the district court of the county in which the main office of such bank is located or to any judge of such court thereof for an order placing the department or such person in charge thereof and of its affairs and property. If the judge of the district court having jurisdiction is absent from the district at the time such application is to be made, any judge of the Court of Appeals or Supreme Court may grant such order, but the petition and order of possession shall be immediately forthwith transmitted to the clerk of the district court of the county in which the main office of such bank is located.

Sec. 88. Section 8-191, Reissue Revised Statutes of Nebraska, is amended to read:

8-191 Upon taking possession of the property and business of any bank, the department shall immediately forthwith give notice of such fact by letter or electronic mail telegram to all banks or trust companies holding or in possession of any assets of such bank, so far as known by the such department. No bank or trust company so notified or knowing of such possession by the department shall have a lien or charge for any payment, advance, or clearance thereafter made, or liability thereafter incurred, against any of the assets of the bank of whose property and business the department shall have taken possession unless the bank be continued as a going concern.

Sec. 89. Section 8-192, Reissue Revised Statutes of Nebraska, is amended to read:

8-192 Upon taking charge of any bank, the director shall cause to be made an inventory in triplicate of all the property, assets, and liabilities of the bank so far as the property, assets, and liabilities of the bank same can be ascertained. One copy of the inventory thereof shall be filed with in the office of the director, one copy of the inventory thereof retained in the bank, and, after the declaration of insolvency of the bank, as provided in section 8-194, one copy of the inventory shall be filed with the clerk of the district court of the county in which the main office of the bank is located.

Sec. 90. Section 8-193, Reissue Revised Statutes of Nebraska, is amended to read:

8-193 Whenever the officers, directors, stockholders, or owners of any insolvent bank give good and sufficient bond running to the department with an incorporated surety company authorized by the laws of this state to transact such business, conditioned upon the full settlement of all the liabilities of such bank by such officers, directors, stockholders, or owners within a stated time, and the bond is approved by the director department, then the department shall turn over all the assets of such bank to the officers, directors, stockholders, or owners of the bank furnishing the bond, reserving the same right to require report of the condition and to examine into the affairs of the bank as existed in the department previous to its closing. If, upon such examination, it is found by the department that the officers, directors, stockholders, or owners are not closing up the affairs of the bank in such manner as to discharge its liabilities and to close up its affairs in a manner satisfactory to the department within a reasonable time, the department shall take immediate possession of the bank for the liquidation under thereof—as provided in the Nebraska Banking Act.

Sec. 91. Section 8-194, Reissue Revised Statutes of Nebraska, is amended to read:

8-194 Upon determination of insolvency of any bank by the director and failure of the stockholders or owners thereof to restore solvency within the time and in the manner provided by law, or upon violation of the laws of the state by the bank, the director shall make a finding in writing of the condition of the affairs of such bank and a declaration of insolvency and such finding and declaration shall be filed with the clerk of the district court of the county in which the main office of such bank is located.

Sec. 92. Section 8-195, Reissue Revised Statutes of Nebraska, is amended to read:

8-195 Whenever any bank of whose property and business the department director has taken possession or whose insolvency has been declared under as provided in section 8-194 deems itself aggrieved by such actions thereby, it may, at any time not later than ten days after such declaration of insolvency has been filed with the clerk of the district court of the county in which the main office of the bank is located, petition the district court to enjoin further proceedings. The , and the court, after citing the Director of Banking and Finance director to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties, and determining the facts, may, upon proof by the bank, its officers, or its directors, that it is solvent, that the business of the bank has been and is being conducted as provided by law, that it is not endangering the interests of its depositors and other creditors, and that the Director of Banking and Finance director has acted arbitrarily and abused his or her discretion either by taking possession of the bank or by finding and declaring the bank to be insolvent and ordering its liquidation, set aside such declaration of insolvency and enjoin the director from proceeding further, and direct him or her to surrender the business and property to the bank. On proof that the bank is insolvent and that its stockholders or owners have failed to restore solvency as provided by law, or that the bank is being operated in violation of law, and that the director has acted within his or her powers, the petition shall be dismissed by the court.

Sec. 93. Section 8-196, Reissue Revised Statutes of Nebraska, is amended to read:

8-196 An appeal under section 8-195 shall operate as a stay of judgment of the district court, and no bond need be given if the appeal is taken by the director. ~~If, but~~ if the appeal is taken by the such bank, a bond shall be given as required by law for an appeal in civil cases.

Sec. 94. Section 8-197, Reissue Revised Statutes of Nebraska, is amended to read:

8-197 (1) Pending final judgment on the petition to enjoin under section 8-195, the department director shall retain possession of the property and business of the bank. If not enjoined, the director shall proceed to liquidate the affairs of the such bank as provided in the Nebraska Banking Act, except that: (a) ~~(1)~~ The Federal Deposit Insurance Corporation may, under the laws of this state, accept the appointment as receiver or liquidating agent liquidator of any insolvent state bank the deposits of which are insured by the Federal Deposit Insurance Corporation; or (b) ~~(2)~~ when any state bank is declared insolvent and ordered to be liquidated and the deposits of such bank are not insured by the Federal Deposit Insurance Corporation, then depositors and other creditors of such insolvent state bank, representing fifty-one percent or more of the deposits deposit and other claims in number and in amount of the total thereof, shall have the right to liquidate such insolvent bank by and through liquidating trustees, who shall have the same power as the department and the director to liquidate such bank if, within thirty days after the filing of the declaration of insolvency, articles of trusteeship executed and acknowledged by fifty-one percent or more of the depositors and other creditors in number, representing fifty-one percent or more of the total of all deposits and claims in such bank, are filed with the director. The articles creating the trusteeship shall be in writing, shall name the trustees, shall state the terms and conditions of such trust, and shall become effective when it is determined by the director that fifty-one percent or more of the depositors and other creditors in number, representing fifty-one percent or more of the total of all deposits and claims in such bank, have signed and acknowledged the same. All nonconsenting depositors and other creditors of the insolvent bank shall be held to be subject to the terms and conditions of such trusteeship to the same extent and with the same effect as if they had joined in the execution thereof, and their respective claims shall be treated in all respects as if they had joined in the execution of such articles of trusteeship. Upon finding that such articles have been executed and acknowledged as provided in this section, the director shall thereupon transfer all of the assets of the insolvent bank to such liquidating trustees and take their receipt therefor, and all duties and responsibilities of the department and the director as otherwise provided by law with respect to such liquidation shall be assumed by such liquidating trustees. The director shall then be relieved from further responsibility in connection therewith, and the director and the person who issued the applicable bond or equivalent commercial insurance policy shall be released from further liability on the director's official bond or equivalent commercial insurance policy in respect to such liquidation. The trustees shall then proceed to liquidate such bank as nearly as may be in the manner provided by law for the liquidation of insolvent banks by the department acting as receiver and liquidating agent.

(2) When the Federal Deposit Insurance Corporation or any party other than the department is appointed receiver and liquidating agent of an insolvent bank or other financial institution chartered by the department, all references to the department or the director as provided in the act for the liquidation of such banks and financial institutions shall mean the Federal Deposit Insurance Corporation or other appointed receiver and liquidating agent.

Sec. 95. Section 8-198, Reissue Revised Statutes of Nebraska, is amended to read:

8-198 The department may be designated the receiver and liquidating agent for any financial institution chartered by the department ~~subject to the department's jurisdiction~~ and, subject to the district court's supervision and control, may proceed to liquidate such financial institution or reorganize it in accordance with the Nebraska Banking Act.

Sec. 96. Section 8-199, Reissue Revised Statutes of Nebraska, is amended to read:

8-199 Whenever the department has been designated receiver for a financial an institution chartered by the department ~~subject to its jurisdiction~~, the department shall have all the powers and privileges provided by the laws of this state with respect to any other receiver and such incidental powers as shall be necessary to carry out an orderly and efficient liquidation or reorganization of any such financial institution for which the department may have become receiver, either by operation of law or by judicial appointment. Acting by and through the director, the department may in its own name as such receiver enforce on behalf of such financial institution or its creditors, ~~or~~ shareholders, or owners, by actions at law or in equity, all debts or other obligations of whatever kind or nature due to such financial institution or the creditors or shareholders thereof. In like manner, the department may make, execute, and deliver any and all deeds, assignments, and other instruments necessary and proper to effectuate any sale of real or personal property, or the settlement of any obligations belonging or due to such financial institution for which the department may have become receiver, or its creditors, ~~or~~ shareholders, or owners, when such sale or settlement is approved by the district court of the county in which the main office of such financial institution is located. The director shall receive no fees, salary, or other compensation for his or her services in connection with the liquidation or

reorganization of such financial institutions other than his or her salary.

Sec. 97. Section 8-1,100, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,100 The director may, under his or her hand and official seal, appoint such special deputies or assistants as he or she may find necessary for the efficient and economical liquidation of insolvent banks, with powers specified in the certificate of appointment, to assist him or her in the liquidation. The certificate shall be filed with in the office of the director and a certified copy with in the office of the clerk of the district court of the county in which the main office of such bank is located. He or she may also employ such counsel and expert assistance as may be necessary to perform the work of liquidation. He or she shall, subject to the approval of the district court of the county in which the main office of the insolvent bank is located, fix the compensation for the services rendered by such special deputies, assistants, and counsel, which shall be taxed as costs of the liquidation. He or she may discharge such special deputies, assistants, or counsel at any time or may assign them to one or more liquidations or transfer them from one liquidation to another.

Sec. 98. Section 8-1,101, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,101 Upon the declaration of insolvency, the director shall require bonds or equivalent commercial insurance policies from the special deputies or assistants in sums and with such condition as the director shall specify, to be approved by the district court Governor. The costs of any such bond or policy shall be taxed as costs in the liquidation. Such bond or policy shall be conditioned for the faithful performance of duty, and include indemnity to the department as receiver and liquidating agent.

Sec. 99. Section 8-1,102, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,102 Upon the declaration of insolvency of a bank by the director, the department shall become the receiver and liquidating agent to wind up the business of that bank, and the department shall be vested with the title to all of the assets of such bank wherever the assets wheresoever the same may be situated and whatever whatsoever kind and character such assets may be, as of the date of the filing of the declaration of insolvency with the clerk of the district court of the county in which the main office of such bank is located. All levies, judgment liens, attachments, or other liens obtained through legal proceedings against such bank or its property acquired within sixty days next preceding the filing of the declaration of insolvency shall be void, and the property affected by the levy, judgment lien, attachment, or other lien obtained through legal proceedings, shall be wholly discharged and released therefrom. If at any time within sixty days prior to the taking over by the director of a bank which is later declared insolvent any transfers of the assets of such bank are made to prevent liquidation and distribution of such assets to the bank's creditors as provided in the Nebraska Banking Act or if any transfers are made so as to create a preference of one creditor over another, such transfers shall be void and the director shall be entitled to recover such assets for the benefit of the trust.

Sec. 100. Section 8-1,103, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,103 For the purpose of executing and performing any of the powers and duties hereby conferred upon him or her, the director may, in the name of the department or the insolvent delinquent bank or in his or her own name as director, prosecute and defend any and all actions suits and other legal proceedings and may, in the name of the department or the insolvent delinquent bank or in his or her own name as director, execute, acknowledge, and deliver any and all deeds, assignments, releases, and other instruments necessary and proper to effectuate any sale of real or personal property or sale or compromise authorized by order of the court as provided in the Nebraska Banking Act. Any deed or other instrument executed pursuant to such authority shall be valid and effectual for all purposes as though the same had been executed by the officers of the insolvent delinquent bank by authority of its board of directors.

Sec. 101. Section 8-1,104, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,104 Upon taking possession of the property and business of any bank, the director shall collect all money due to such bank and do such other acts as are necessary to conserve its assets and business and, on declaration of insolvency, he or she shall proceed to liquidate the affairs of the bank under thereof as provided in the Nebraska Banking Act. He or she shall collect all debts due to and belonging to the such bank. If he or she desires to sell or compromise any or all bad or doubtful debts or any or all of the real and personal property of such bank, he or she shall apply to the district court of the county in which the main office of the bank is located for an order permitting such sale or compromise on such terms and in such manner as the court may direct. All money so collected by the director may be, from time to time, deposited in one or more state banks or national banks. No deposits of such money shall be made unless a pledge of assets, a guaranty depository bond, or both are given as security for such deposit. All depository banks are authorized to give such security. The director may invest a portion or all of such money in short-time interest-bearing securities of the federal government.

Sec. 102. Section 8-1,105, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,105 In any proceeding in connection with the insolvency, liquidation, or reorganization of a bank of which a district court has jurisdiction, a judge of the district court shall exercise such jurisdiction in any county in the judicial district for which he or she was appointed ~~elected~~ to perform any official act in the manner and with the same effect as he or she might exercise in the county in which the matter arose, or to which it may have been transferred, and he or she may perform any such act in chambers with the same effect as in open court.

Sec. 103. Section 8-1,106, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,106 The director, within twenty days after the declaration of insolvency of a bank, shall file with the clerk of the district court of the county in which the main office of such bank is located, a list setting forth the name and address of each of the creditors of such bank as shown by the books thereof or who are known by the director to be creditors, and within thirty days after filing the list of creditors, he or she shall also file an order fixing the time and place for filing claims against such bank. The time fixed for filing claims shall not be more than sixty days nor less than thirty days from the date of the filing of the order, and within seven days after the filing of such order, the director shall mail to each known creditor of such bank a copy of the order and a blank form for proof of claim. The director shall also post a copy of the order on the door of the bank, and within two weeks from the date of the order he or she shall cause notice to be given by publication, in such newspapers as he or she may direct, once each week for two successive weeks, calling on all persons who may have claims against the bank to present them to the director within the time and the place provided for in the order and to make proof thereof. Such claims shall be sworn to by the creditor or his or her representative. Any claim, other than claims for deposits and exchange, not presented and filed within the time fixed by such order shall be forever barred. Claims for deposits or exchange as shown by the books of the bank presented after the expiration of the time fixed in the order for filing claims may be allowed by the director upon a showing being made by the creditor, within six months from the date of the expiration of the time for filing claims as fixed by the order, that he or she did not have knowledge of the closing of the bank and did not receive notice within time to permit the filing of his or her claim before the time fixed for filing claims had expired.

Sec. 104. Section 8-1,107, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,107 (1) Upon the expiration of the time fixed for presentation of claims, the director shall thoroughly investigate all claims and file with the clerk of the district court of the county in which the main office of the insolvent said bank is located a complete list of all claims against which he or she knows of no defense and which, in his or her judgment, are valid, designating their priority of payment, together with a list of the claims which, in his judgment, are invalid. He or she shall also file an order allowing or rejecting such claims as classified.

(2) When the director reclassifies or rejects a claim, which rejection shall be made when he or she doubts the legality justice of a claim, he or she shall serve written notice of such reclassification or rejection upon the claimant by either registered or certified mail and file, with the clerk of the district court of the county in which the main office of the bank is located, an affidavit of the service of such notice, which affidavit shall be prima facie evidence of such service. Such notice shall state the time and place for the filing by claimant of his or her objections to the classification, reclassification, or rejection of his or her claim.

Sec. 105. Section 8-1,108, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,108 Any person objecting to the classification of his or her claim and the order based thereon must, within thirty days of the filing of the classification and order with the clerk of the district court, begin an action in that court asking to reclassify his or her claim and to set aside the order of the director. Notice of this action shall be given by the service of a copy of the petition therein upon the director, who shall, within thirty days of such service, file his or her answer or other pleading. The court shall then set the matter for hearing at the earliest convenient date and shall try and determine the issues and ~~determine the same~~ according to the usual procedure in matters of equity.

Sec. 106. Section 8-1,109, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,109 Upon the allowance of a claim against an insolvent bank, the director shall, upon request of the claimant, issue and deliver to the claimant a certificate of indebtedness showing the amount of the claim, the date of the allowance thereof, and whether such claim is one having priority of payment or is a general claim. Any assignment of a claim or certificate of indebtedness shall be filed with the director and shall not be binding until so filed. Upon payment of any distribution dividend on a claim, evidenced by a certificate of indebtedness, such certificate shall be presented and an endorsement of such payment shall be made on the certificate thereon.

Sec. 107. Section 8-1,110, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,110 The claims of depositors for deposits not otherwise secured and claims of holders of exchange shall have priority over all other claims, except federal, state, county, and municipal taxes. Such claims ~~, and subject to such~~

~~taxes shall, at the time of the declaration of insolvency of a bank, be a first lien on all the assets of the bank from which they are due. No and thus in liquidation, but no claim to priority shall be allowed which is based upon any evidence of indebtedness in the hands of or originally issued to any stockholder, officer, or employee of such bank and which represents money obtained by such stockholder, officer, or employee from himself, herself, or some other person, firm, corporation, or bank in lieu of or for the purpose of effecting a loan of funds to such failed bank.~~

Sec. 108. Section 8-1,111, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,111 When a bank whose deposits are insured by the Federal Deposit Insurance Corporation becomes insolvent, neither the deposits in the bank therein nor the exchange of such bank thereof shall be deemed to be otherwise secured by reason of such insurance for purposes of section 8-1,110.

Sec. 109. Section 8-1,112, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,112 At any time after the expiration of the date fixed for the presentation of claims, the district court may by order, upon the application of the director, ~~by order~~ authorize the director to declare out of the funds remaining in his or her hands, after the payment of expenses, one or more distributions dividends, and at the earliest possible date the director shall declare a final distribution dividend as may be directed by the district court of the county in which the main principal office of such bank is located.

Sec. 110. Section 8-1,113, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,113 The director shall from time to time allocate to the various banks in liquidation the expenses of the department by reason of such liquidation, other than the compensation and expense of the special deputy or assistant in charge and the fees for legal services directly incident to the bank in liquidation. The director shall, ~~and~~ certify to the various district courts of the counties in which the banks in process of liquidation are located the amount of the expenses so allocated, which shall be taxed and paid as costs in the liquidation.

Sec. 111. Section 8-1,115, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,115 The director shall from time to time make and file with the clerk of the district court of the county in which the main office of the insolvent bank is located, a report of his or her acts of liquidation of each insolvent bank. He or she shall, upon the completion of the liquidation, file a final report, notice of which shall be given as the court may direct, and on hearing thereon and approval thereof by the court such liquidation shall be declared closed and the corporation dissolved. The director shall then cancel the ~~certificate and~~ charter issued to such bank pursuant to section ~~sections 8-121 and 8-122~~.

Sec. 112. Section 8-1,116, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,116 After the department has taken possession of any bank under the Nebraska Banking Act, the stockholders of the bank thereof may repair its credit, restore or substitute its reserves, and otherwise place it in safe condition. Such, ~~but such~~ bank shall not be permitted to reopen its business until the director department, after careful investigation of its affairs, is of the opinion that its stockholders have complied with the law, that the bank's credit and funds are in all respects repaired, that its reserves are restored or are sufficiently substituted, and that it should be permitted again to reopen for business, at which time whereupon the director department may issue written permission for resumption of business under its charter.

Sec. 113. Section 8-1,117, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,117 If the capital of a bank becomes impaired, whether the department has shall or shall not have taken possession of the bank or not, and if ~~, whenever~~ stockholders representing eighty-five percent or more of the common capital stock of the bank, with a view of restoring the impaired capital, shall, with the approval of the department, authorize the board of directors of the bank to levy and collect assessments on the common capital stock in such amount as the board of directors they may determine necessary for such purpose, the board of directors shall levy the assessments so authorized and shall notify all common stockholders of record of the assessments thereof by either registered or certified mail. If any common stockholder fails shall fail to pay his or her assessment within three weeks from the date of mailing such notice, the pro rata amount of such assessment shall be a lien upon his or her common capital stock, and the board of directors shall immediately forthwith sell such shares of common capital stock at public or private sale without further notice and apply the proceeds of the sale thereof to the payment of such assessment. Any balance, ~~and the balance, if any,~~ shall be paid to the delinquent shareholder. Nothing in this section shall be construed to authorize the levy and collections of assessments on the preferred capital stock of the bank.

Sec. 114. Section 8-1,118, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,118 If the director, with a view to restoring the solvency of any bank which the department has taken possession charge of pursuant to law, approves ~~shall approve~~ a contract or plan whereby the bank is permitted to receive deposits and pay checks and do a limited banking business, entered into between the unsecured depositors and unsecured creditors representing eighty-five

percent or more of the total amount of deposits and unsecured claims of such bank on the one hand and the bank or its board of directors on the other, all other depositors and unsecured creditors shall be held subject to such agreement to the same extent and with the same effect as if they had joined in the execution of the agreement thereof, and their claims shall be treated in all other respects as if they had joined in the execution of such agreement in the event such bank is permitted to reopen for business as limited by such contract. All deposits received after the adoption of such plan and the assets of the bank created thereby, and before the restoration of the bank to solvency, shall be a trust fund for the security and the repayment of the deposits so received and shall not be subject to the payment of any deposit, debt, claim, or demand of the bank previously created. Such money and assets shall be kept and invested in the manner directed by the director. Section 8-138 does not apply to banks operating under this section. Any county, city, village, township, or school district through its governing body, and the state through the Governor, may enter into such contract except when the funds of such county, city, village, township, or school district are adequately secured. Whenever a bank is permitted to operate under the provisions of this section, such bank shall pay all costs incurred by the department in the approval of such plan, including examiners' expenses, attorneys' fees, and clerk hire, and incurred in special examinations required by the director.

Sec. 115. Section 8-1,119, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,119 Where no other punishment is provided in the Nebraska Banking Act, any person violating any provision of the provisions of the act is shall be guilty of a Class III misdemeanor.

Sec. 116. Section 8-1,124, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,124 As used in sections 8-1,124 to 8-1,129, unless the context otherwise requires:

(1) Emergency means any condition or occurrence, actual or threatened, which interferes physically with the conduct of normal business operations at one or more or all of the offices of a financial institution, or which poses an imminent or existing threat to the safety or security of persons or property, or both, including, but not limited to, fire, flood, earthquake, hurricane, wind, rain, snow storm, labor dispute and strike, power failure, transportation failure, interruption of a communication facility, shortage of fuel, housing, food, transportation, or labor, robbery or attempted robbery, actual or threatened enemy attack, epidemic or other catastrophe, riot, civil commotion, and any other act of lawlessness or violence, actual or threatened;

(2) Financial institution means a bank, savings bank, building and loan association, savings and loan association, credit union, or trust company, or any office thereof, chartered by the department;

(3) Office means any place at which a financial institution transacts its business or conducts operations related to its business; and

(4) Officers means the person or persons designated by the board of directors, supervisory committee, or other governing body of a financial institution, to act for such financial institution in an emergency or, in the absence of any such designation or of such officer or officers, the president or any other officer in charge of such financial institution or of such office or offices.

~~(1) Director shall mean the Director of Banking and Finance;~~

~~(2) Bank shall mean commercial banks, or any office or facility thereof, and, to the extent that the provisions of sections 8-1,124 to 8-1,129 are not inconsistent with and do not infringe upon paramount federal law, national banks;~~

~~(3) Officers shall mean the person or persons designated by the board of directors, board of trustees, or other governing body of a bank, to act for such bank to carry out the provisions of sections 8-1,124 to 8-1,129 or, in the absence of any such designation or of such officer or officers, the president or any other officer in charge of such bank or of such office or offices;~~

~~(4) Office shall mean any place at which a bank transacts its business or conducts operations related to its business; and~~

~~(5) Emergency shall mean any condition or occurrence which may interfere physically with the conduct of normal business operations at one or more or all of the offices of a bank, or which poses an imminent or existing threat to the safety or security of persons or property, or both, including but not limited to fire, flood, earthquake, hurricanes, wind, rain, snow storms, labor disputes and strikes, power failures, transportation failures, interruption of communication facilities, shortages of fuel, housing, food, transportation or labor, robbery or attempted robbery, actual or threatened enemy attack, epidemics or other catastrophes, riots, civil commotions, and other acts of lawlessness or violence, actual or threatened.~~

Sec. 117. Section 8-1,125, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,125 (1) Whenever the director is of the opinion that an emergency exists, or is impending, in this state or in any part of this state, he or she may, by proclamation, authorize any financial institution bank located in the such affected area to close any or all of its offices. In addition, if the director is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular financial institution bank, or a particular office of such financial institution thereof, but not banks located in the area generally, he or she may authorize the particular financial

institution bank or office of the financial institution so affected to close. Any office so closed shall remain closed until the director proclaims that the emergency has ended, or until such time as the officers of the financial institution bank determine that one or more offices, ~~therefore~~ closed because of the emergency, should reopen, whichever occurs first, and, in either event, for such further time thereafter as may reasonably be required to reopen.

(2)(a) Whenever the director authorizes a financial institution to close pursuant to subsection (1) of this section or to remain closed pursuant to section 8-1,126, he or she, in writing, may further authorize the financial institution to open a temporary office at a designated location for the period of time during which the financial institution or office is to remain closed, subject to extensions requested by the financial institution and authorized by the director, except that in no event may the director authorize a temporary office to operate for a total period of longer than thirty months.

(b) The director may authorize a financial institution to open a temporary office after consideration of (i) the ability of the financial institution to conduct its business in the area where the financial institution or the office of the financial institution was closed without opening a temporary office and (ii) the proximity of the financial institution or office of the financial institution to the proposed temporary office.

(c) The director may authorize a mobile branch to operate as a temporary office for any closed office of a financial institution other than its main office.

(d) The director may orally authorize a financial institution to open a temporary office to operate for a period no longer than four business days.

Sec. 118. Section 8-1,126, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,126 Whenever the officers of a financial institution bank are of the opinion that an emergency exists, or is impending, which affects, or may affect, one or more or all of a financial institution's bank's offices, they shall have the authority, in the reasonable and proper exercise of their discretion, to determine not to open any one or more or all of such offices on any business or banking day or, if having opened, to close any one or more or all of such offices during the continuation of such emergency, even if the director has not issued and does not issue a proclamation of emergency. Any such closed office may remain closed until such time as the officers determine that the emergency has ended, and for such further time thereafter as may reasonably be required to reopen. ~~In ; Provided, in~~ no case shall such office remain closed for more than forty-eight consecutive hours, excluding other legal holidays, without requesting the approval of the director pursuant to section 8-1,125.

Sec. 119. Section 8-1,127, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,127 The officers of a financial institution bank may close any one or all of the financial institution's bank's offices on any day, designated by proclamation of the President of the United States or the Governor, as a day or days of mourning, rejoicing, or other special observance.

Sec. 120. Section 8-1,128, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,128 A financial institution bank closing an office pursuant to the authority granted under section 8-1,126 shall give as prompt notice of its action as conditions will permit and by any means available, to the director, ~~or in the case of a national bank, to the Comptroller of the Currency.~~

Sec. 121. Section 8-1,129, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,129 (1) Any day on which a financial institution bank, or any one or more of its offices, is closed during all or any part of its normal business banking hours pursuant to the authorization granted under sections 8-1,124 to 8-1,129 shall be, with respect to such financial institution bank or, if not all of its offices are closed, with respect to any office or offices which are closed, a legal holiday for all purposes with respect to any financial institution banking business of any character. No liability, or loss of rights of any kind, on the part of any financial institution bank, or director, officer, or employee thereof, shall accrue or result by virtue of any closing authorized by sections 8-1,124 to 8-1,129.

(2) ~~Sections~~ The provisions of sections 8-1,124 to 8-1,129 shall be construed and applied as being in addition to, and not in substitution for or limitation of, any other law of this state or of the United States authorizing the closing of a financial institution bank or excusing delay by a financial institution bank in the performance of its duties and obligations because of emergencies or conditions beyond its control or otherwise.

Sec. 122. Section 8-1,131, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,131 (1) ~~All banks chartered under the laws of Nebraska are qualified to act as trustee or custodian under within the provisions of the federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the bank or in other banks. If any such retirement plan, within the judgment of the bank, constitutes a qualified plan under the federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code and the regulations promulgated thereunder at the~~

time the trust was established and accepted by the bank, and is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the bank may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No bank, in respect to savings made under this subsection, shall be required to segregate such savings from other liabilities of the bank. The bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subsection.

(2)(a) All banks ~~chartered under the laws of Nebraska~~ are qualified to act as trustee or custodian of a medical savings account created within the provisions of section 220 of the Internal Revenue Code and a health savings account created within the provisions of section 223 of the Internal Revenue Code. If any such medical savings account or health savings account, within the judgment of the bank, constitutes a medical savings account under section 220 of the Internal Revenue Code or a health savings account under section 223 of the Internal Revenue Code and the regulations promulgated thereunder at the time the trust was established and accepted by the bank, and is subsequently determined not to be such a medical savings account or health savings account, in whole or in part, the bank may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the account holder. No bank, in respect to savings made under this subsection, shall be required to segregate such savings from other liabilities of the bank. The bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subsection.

(b) Except for judgments against the medical savings account holder or health savings account holder or his or her dependents for qualified medical expenses as defined under section 223(d)(2) of the Internal Revenue Code, funds credited to a medical savings account or health savings account below twenty-five thousand dollars are not susceptible to levy, execution, judgment, or other operation of law, garnishment, or other judicial enforcement and are not an asset or property of the account holder for purposes of bankruptcy law.

Sec. 123. Section 8-1,133, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,133 Any bank may engage, directly or indirectly, in the business of leasing personal property subject to rules and regulations as may be adopted and promulgated by ~~of the director~~ Department of Banking and Finance.

Sec. 124. Section 8-1,134, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,134 (1) Whenever the ~~director~~ Director of Banking and Finance has reason to believe that a violation of any provision of Chapter 8 or of the Credit Union Act or any rule and ~~regulation~~, or order of the ~~director~~ Department of Banking and Finance has occurred, he or she may cause a written complaint to be served upon the alleged violator. The complaint shall specify the statutory provision or rule and ~~regulation~~, or order alleged to have been violated and the facts alleged to constitute a violation thereof and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final as to any person named in the order unless such person requests, in writing, a hearing before the director no later than ten days after the date such order is served. In lieu of such order, the director may require that the alleged violator appear before the director at a time and place specified in the notice and answer the charge complained of. The notice shall be delivered to the alleged violator or violators in accordance with subsection (4) of this section not less than ten days before the time set for the hearing.

(2) The director shall provide an opportunity for a fair hearing to the alleged violator at the time and place specified in the notice or any modification of the notice. On the basis of the evidence produced at the hearing, the director shall make findings of fact and conclusions of law and enter such order as in his or her opinion will best further the purposes of Chapter 8 or the Credit Union Act and the rules and ~~regulations~~, and orders of the ~~director~~ department. Written notice of such order shall be given to the alleged violator and to any other person who appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the director, such person shall transmit a record of the hearing together with findings of fact and conclusions of law to the director. The director, prior to entering his or her order on the basis of such record, shall provide opportunity to the parties to submit for his or her consideration exceptions to the findings or conclusions and supporting reasons for such exceptions. The order of the director shall become final and binding on all parties unless appealed to the district court of Lancaster County as provided in section 8-1,135. As part of such order, the director may impose a fine, in addition to the costs of the investigation, upon a person found to have violated any provision of Chapter 8, the Credit Union Act, or the rules and ~~regulations~~, or orders of the ~~director~~ department. The fine shall not exceed ten thousand dollars per violation for the first offense and twenty-five thousand dollars per violation for a second or subsequent offense involving a violation of the same provision of Chapter 8, the Credit Union Act, the rules and regulations of the ~~director~~ department, or the same order of the ~~director~~ department. The fines and costs shall be in addition to all other penalties imposed by the laws of this state. The director shall collect the fines and costs and remit them, ~~shall be collected by the director, and shall be~~

~~remitted to the State Treasurer. The State Treasurer shall credit the costs~~
~~Costs shall be credited to the Financial Institution Assessment Cash Fund,~~
~~and distribute the fines in accordance with Article VII, section 5, of the~~
~~Constitution of Nebraska shall be credited to the permanent school fund.~~ If a person fails to pay the fine or costs of the investigation, a lien in the amount of the fine and costs shall be imposed upon all of the assets and property of such person in this state and may be recovered by an action suit by the director. The lien shall attach to the real property of such person when notice of the lien is filed and indexed against the real property in the office of the register of deeds in the county where the real property is located. The lien shall attach to any other property of such person when notice of the lien is filed against the property in the manner prescribed by law.

(3) Whenever the director finds that an emergency exists requiring immediate action to protect the safety and soundness of the financial institutions chartered by ~~under the supervision and control of the department,~~ the director may, without notice or hearing, issue an order reciting the existence of an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (2) of this section, the order shall be effective immediately. Any person to whom such order is directed shall comply immediately, but on application to the director shall be afforded a hearing as soon as possible and not later than ten days after such application by the affected person. On the basis of the hearing, the director shall continue the order in effect, revoke it, or modify it. This subsection shall not apply to a determination of necessary acquisition made by the department pursuant to sections 8-1506 to 8-1510.

(4) Except as otherwise expressly provided, any notice, order, or other instrument issued by or under authority of the director shall be served on any person affected thereby either personally or by certified mail, return receipt requested. Proof of service shall be filed with ~~in~~ the office of the director.

Every certificate or affidavit of service made and filed as provided in this subsection shall be prima facie evidence of the facts stated in the certificate or affidavit, and a certified copy shall have the same force and effect as the original.

(5) Any hearing provided for in this section may be conducted by the director, or by any member of the department acting on ~~in his or her behalf of the director,~~ or the director may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the director at any time and place. A verbatim record of the proceedings of such hearings shall be taken and filed with the director, together with findings of fact and conclusions of law made by the director or hearing officer. The director may subpoena witnesses, and any witness who is subpoenaed shall receive the same fees as in civil actions in the district court and mileage as provided in section 81-1176. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the district court of Lancaster County shall have jurisdiction, upon application of the director, to issue an order requiring such person to appear and testify or produce evidence as the case may require. Failure to obey such order of the court may be punished by such court as contempt.

If requested to do so by any party concerned with such hearing, the full stenographic notes, or tapes of an electronic transcribing device, of the testimony presented at such hearing shall be taken and filed. The stenographer shall, upon the payment of the stenographer's fee allowed by the court, furnish a certified transcript of all or any part of the stenographer's notes to any party to the action requiring and requesting such notes.

(6) The director may close to the public the hearing, or any portion of the hearing, provided for in this section when he or she finds that the closure is (a) necessary to protect any person, ~~or any financial institution or entity under the department's jurisdiction,~~ against unwarranted injury or (b) in the public interest. The director shall close no more of the public hearing than is necessary to attain the objectives of this subsection.

Sec. 125. Section 8-1,135, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,135 Any person aggrieved by a final order of the director ~~Director of Banking and Finance~~ made pursuant to section 8-1,134 may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 126. Section 8-1,136, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,136 Whenever it appears to the director ~~Director of Banking and Finance~~ that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Chapter 8 or the Credit Union Act, he or she may bring an action in the name of the director and the department ~~Department of Banking and Finance~~ in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with the provisions of Chapter 8 or the Credit Union Act. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant's assets. The director shall not be required to post a bond.

Sec. 127. Section 8-1,137, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,137 The director ~~Director of Banking and Finance~~ may refer such evidence as may be available concerning violations of the Nebraska Criminal Code or of any rule and ~~7~~ regulation, ~~7~~ or order under Chapter 8 or under the

Credit Union Act to the Attorney General or the proper county attorney. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted, if appropriate, without delay.

Sec. 128. Section 8-1,138, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,138 (1) Any person who violates any of the provisions of a final order issued by the ~~director~~ Director of Banking and Finance shall be liable to any person or entity who suffers damage proximately caused by such violation.

(2) Any person who knowingly violates any final order issued by the ~~director~~ Director of Banking and Finance pursuant to section 8-1,134 is shall be guilty of a Class I misdemeanor.

Sec. 129. Section 8-1,139, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,139 An officer, director, agent, or employee of a bank, trust company, building and loan association, savings and loan association cooperative credit union, credit union, or other similar entity which is chartered, licensed, regulated, or examined by the ~~department~~ Department of Banking and Finance who willfully misapplies any of the money, funds, or credits of any such entity or any money, funds, assets, or securities entrusted to the care or custody of such entity or the custody or care of any such officer, director, agent, or employee is shall be guilty of a Class IV felony.

Sec. 130. Section 8-1,140, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-1,140 Notwithstanding any of the other provisions of the Nebraska Banking Act or any other Nebraska statute, any bank incorporated under the laws of this state and organized under the provisions of the act, or under the laws of this state as they existed prior to May 9, 1933, shall directly, or indirectly through a subsidiary or subsidiaries, have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2017 ~~2016~~, by a federally chartered bank doing business in Nebraska, including the exercise of all powers and activities that are permitted for a financial subsidiary of a federally chartered bank. Such rights, powers, privileges, benefits, and immunities shall not relieve such bank from payment of state taxes assessed under any applicable laws of this state.

Sec. 131. Section 8-206, Reissue Revised Statutes of Nebraska, is amended to read:

8-206 A trust company created under the Nebraska Trust Company Act shall have power:

(1) To receive trust funds for investment or in trust upon such terms and conditions as may be agreed upon and to purchase, hold, and lease fireproof and burglar-proof and other vaults and safes from which revenue may be derived;

(2) To accept and execute all such trusts as may be committed to it by any corporation, person, or persons, act as assignee, receiver, trustee, and depositor, and accept and execute all such trusts as may be committed or referred to it by order, judgment, or decree of any court of record;

(3) To take, accept, and hold by the order, judgment, or decree of any such court or by gift, grant, assignment, transfer, devise, or bequest any real or personal property in trust, to care for, manage, and convey the same in accordance with such trusts, and to execute and perform any and all such trusts;

(4) To act as attorney in fact for any person or corporation, public or private;

(5) To act either by itself or jointly with any natural person or persons or with any other trust company or state or national bank doing business in this state as administrator of the estate of any deceased person, as personal representative, or as conservator or guardian of the estate of any incapacitated person;

(6) To act as trustee for any person or of the estate of any deceased person under the appointment of any court of record having jurisdiction of the estate of such person;

(7) To act as agent or in an agency capacity for any person or entity, public or private;

(8) To loan money upon real estate and upon collateral security when the collateral would of itself be a legal investment for such corporation;

(9) To buy, hold, own, and sell securities issued or guaranteed by the United States Government or any authorized agency thereof, including any corporation or enterprise wholly owned directly or indirectly by the United States, or with the authority to borrow directly from the United States treasury, or securities secured by obligations of any of the foregoing, securities of any state or political subdivision thereof which possesses general powers of taxation, stock, warrants, bills of exchange, notes, mortgages, banker's acceptances, certificates of deposit in institutions whose accounts are insured by the Federal Deposit Insurance Corporation, securities issued pursuant to the Nebraska Business Development Corporation Act, and other investment securities, negotiable and nonnegotiable, except stock or other securities of any corporation organized under the Nebraska Trust Company Act;

(10) To purchase, own, or rent real estate needed in the conduct of the business and to erect thereon buildings deemed expedient and necessary, the cost of such real estate and buildings not to exceed one hundred percent of the paid-up capital stock, except as otherwise approved in writing by the director, and to purchase, own, and improve such other real estate as it may be required to bid in under foreclosure or in payment of other debts;

(11) To borrow money, to execute and issue its notes payable at a future date, and to pledge its real estate, mortgages, or other securities therefor. With the approval of the Director of Banking and Finance, any trust company may at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate and subject to the claims of trustors and beneficiaries of estates and trusts and may be subordinated and subject to the claims of other creditors. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of the trust company and shall not be held liable for assessments to restore impairments in the capital of the trust company as may be from time to time determined by the director; and

(12) To perform all acts and exercise all powers connected with, belonging to or incident to, or necessary for the full and complete exercise and discharge of the rights, powers, and responsibilities granted in the Nebraska Trust Company Act, and all provisions of the act shall be liberally construed. None of the powers hereby granted shall extend to or be construed to authorize any such corporation to accept deposits or conduct the business of banking as defined in the Nebraska Banking Act.

Sec. 132. Section 8-207, Reissue Revised Statutes of Nebraska, is amended to read:

8-207 Courts of this state may appoint a trust company receiver, assignee, trustee, guardian, conservator, personal representative, custodian, or special administrator. When a trust company is so appointed and an oath is required to be made, whether in order to qualify or for any other purpose, the president, vice president, secretary, or trust officer may, on behalf of the trust company, make and subscribe the required oath.

Sec. 133. Section 8-318, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-318 (1)(a) Shares of stock in any association, or in any federal savings and loan association incorporated under the provisions of the federal Home Owners' Loan Act of 1933, with its principal office and place of business in this state, may be subscribed for, held, transferred, surrendered, withdrawn, and forfeited and payments thereon received and receipted for by any person, regardless of age, in the same manner and with the same binding effect as though such person were of the age of majority, except that a minor or his or her estate shall not be bound on his or her subscription to stock except to the extent of payments actually made thereon.

(b) Whenever a share account is accepted by any building and loan association in the name of any person, regardless of age, the deposit may be withdrawn by the shareholder by any of the following methods:

(i) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the shareholder and constitutes a valid release in discharge to the building and loan association for all payments so made; or

(ii) Electronic means through:

(A) Preauthorized direct withdrawal;

(B) An automatic teller machine;

(C) A debit card;

(D) A transfer by telephone;

(E) A network, including the Internet; or

(F) Any electronic terminal, computer, magnetic tape, or other electronic means.

(c) This section shall not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as it existed on January 1, ~~2016~~ 2017, and shall not affect the legal relationships between a minor and any person other than the building and loan association.

(2) All trustees, guardians, personal representatives, administrators, and conservators appointed by the courts of this state may invest and reinvest in, acquire, make withdrawals in whole or in part, hold, transfer, or make new or additional investments in or transfers of shares of stock in any (a) building and loan association organized under the laws of the State of Nebraska or (b) federal savings and loan association incorporated under the provisions of the federal Home Owners' Loan Act of 1933, having its principal office and place of business in this state, without an order of approval from any court.

(3) Trustees created solely by the terms of a trust instrument may invest in, acquire, hold, and transfer such shares, and make withdrawals, in whole or in part, therefrom, without any order of court, unless expressly limited, restricted, or prohibited therefrom by the terms of such trust instrument.

(4) All building and loan associations referred to in this section are qualified to act as trustee or custodian within the provisions of the federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the association or in other associations. If any such retirement plan, within the judgment of the association, constitutes a qualified plan under the federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code, and the regulations promulgated thereunder at the time the trust was established and accepted by the association, is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the

association may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No association, in respect to savings made under this section, shall be required to segregate such savings from other assets of the association. The association shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

Sec. 134. Section 8-355, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-355 Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute, except as provided in section 8-345.02, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, ~~2017~~ 2016, by a federal savings and loan association doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such association from payment of state taxes assessed under any applicable laws of this state.

Sec. 135. Section 8-601, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-601 The Director of Banking and Finance may employ deputies, examiners, attorneys, and other assistants as may be necessary for the administration of the provisions and purposes of the Credit Union Act, Delayed Deposit Services Licensing Act, Interstate Branching and Merger Act, Interstate Trust Company Office Act, Nebraska Bank Holding Company Act of 1995, Nebraska Banking Act, Nebraska Installment Loan Act, Nebraska Installment Sales Act, Nebraska Money Transmitters Act, Nebraska Trust Company Act, and Residential Mortgage Licensing Act; Chapter 8, articles ~~1, 2, 3, 5, 6, 7, 8, 9, 13, 14, 15, 16, 19, 20, 21, 23, 24, and 25; Chapter 21, article 17;~~ and Chapter 45, articles 1 and 2, 3, 7, 9, and 10. The director may levy upon financial institutions, namely, the banks, trust companies, building and loan associations, savings and loan associations, savings banks, and credit unions, organized under the laws of this state, and holding companies, if any, of such financial institutions, an assessment each year based upon the asset size of the financial institution, except that in determining the asset size of a holding company, the assets of any financial institution or holding company otherwise assessed pursuant to this section and the assets of any nationally chartered financial institution shall be excluded. The assessment shall be a sum determined by the director in accordance with section 8-606 and approved by the Governor.

Sec. 136. Section 8-602, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-602 The Director of Banking and Finance shall charge and collect fees for certain services rendered by the Department of Banking and Finance according to the following schedule:

(1) For filing and examining articles of incorporation, articles of association, and bylaws, except credit unions, one hundred dollars, and for credit unions, fifty dollars;

(2) For filing and examining an amendment to articles of incorporation, articles of association, and bylaws, except credit unions, fifty dollars, and for credit unions, fifteen dollars;

(3) For issuing to banks, credit card banks, trust companies, and building and loan associations a charter, authority, or license to do business in this state, a sum which shall be determined on the basis of one dollar and fifty cents for each one thousand dollars of authorized capital, except that the minimum fee in each case shall be two hundred twenty-five dollars;

(4) For issuing an executive officer's or loan officer's license, fifty dollars at the time of the initial license and fifteen dollars on or before January 15 each year thereafter, except credit unions for which the fee shall be twenty-five dollars at the time of the initial license and fifteen dollars on or before January 15 each year thereafter;

(5) For affixing certificate and seal, five dollars;

(6) For making substitution of securities held by it and issuing a receipt, fifteen dollars;

(7) For issuing a certificate of approval to a credit union, ten dollars;

(8) For investigating the applications required by sections 8-117, 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the cost of such examination, investigation, and inspection, including all legal expenses and the cost of any hearing transcript, with a minimum fee under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201 of one thousand dollars. The department may require the applicant to procure and give a surety bond in such principal amount as the department may determine and conditioned for the payment of the fees provided in this subdivision;

~~(9) For registering a statement of intention to engage in the business of making personal loans pursuant to section 8-816, fifty dollars;~~

~~(9)~~ (10) For the handling of pledged securities as provided in sections 8-210 and 8-2727 at the time of the initial deposit of such securities, one dollar and fifty cents for each thousand dollars of securities deposited and a like amount on or before January 15 each year thereafter. The fees shall be paid by the entity pledging the securities;

~~(10)~~ (11) For investigating an application to move its location within the city or village limits of its original license or charter for banks, trust companies, and building and loan associations, two hundred fifty dollars;

~~(11)~~ ~~(12)~~ For investigating an application under subdivision (6) of section 8-115.01, five hundred dollars;

~~(12)~~ ~~(13)~~ For investigating an application for approval to establish or acquire a branch pursuant to section 8-157 or 8-2103 or to establish a mobile branch pursuant to section 8-157, two hundred fifty dollars;

~~(13)~~ ~~(14)~~ For investigating a notice of acquisition of control under subsection (1) of section 8-1502, five hundred dollars;

~~(14)~~ ~~(15)~~ For investigating an application for a cross-industry merger under section 8-1510, five hundred dollars;

~~(15)~~ ~~(16)~~ For investigating an application for a merger of two state banks, a merger of a state bank and a national bank in which the state bank is the surviving entity, or an interstate merger application in which the Nebraska state chartered bank is the resulting bank, five hundred dollars;

~~(16)~~ ~~(17)~~ For investigating an application or a notice to establish a branch trust office, five hundred dollars;

~~(17)~~ ~~(18)~~ For investigating an application or a notice to establish a representative trust office, five hundred dollars;

~~(18)~~ ~~(19)~~ For investigating an application to establish a credit union branch under section 21-1725.01, two hundred fifty dollars;

~~(19)~~ ~~(20)~~ For investigating an applicant under section 8-1513, five thousand dollars; and

~~(20)~~ ~~(21)~~ For investigating a request to extend a conditional bank charter under section 8-117, one thousand dollars.

Sec. 137. Section 8-603, Reissue Revised Statutes of Nebraska, is amended to read:

8-603 The assessments referred to in sections 8-605 and 8-606, examination fees, investigation fees, filing fees, registration fees, licensing fees, and all other fees and money, except fines, collected by or paid to the Director of Banking and Finance under any of the laws specified in section 8-601, shall be remitted to the State Treasurer for credit to the Financial Institution Assessment Cash Fund. Fines collected by the director under such laws shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 138. Section 8-701, Reissue Revised Statutes of Nebraska, is amended to read:

8-701 For purposes of sections 8-701 to 8-709, banking institution means shall be construed to mean any bank, stock savings bank, mutual savings bank, building and loan association, or savings and loan association, which is now or may hereafter be organized under the laws of this state.

Sec. 139. Section 8-702, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-702 (1) ~~Any~~ ~~Except as provided in subsection (2) of this section,~~ any banking institution organized under the laws of this state shall, before a charter may be issued, enter into such contracts, incur such obligations, and generally do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to obtain membership in the Federal Deposit Insurance Corporation and provide for insurance of deposits in the banking institution. Any banking institution may take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges which may at any time be available or inure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers, or liquidators by virtue of those provisions of section 8 of the Federal Banking Act of 1933 (section 12B of the Federal Reserve Act, as amended) which establish the Federal Deposit Insurance Corporation and provide for the insurance of deposits or of any other provisions of that or of any other act or resolution of Congress to aid, regulate, or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor. Any banking institution may also subscribe for and acquire any stock, debentures, bonds, or other types of securities of the Federal Deposit Insurance Corporation and comply with the lawful regulations and requirements from time to time issued or made by such corporation.

~~(2)(a) A banking institution which has not complied with subsection (1) of this section and which was in operation on September 4, 2005, may continue to operate if it provides notice to depositors and holders of savings certificates, certificates of indebtedness, or other similar instruments that such deposits or instruments are not insured. Such notice shall be given (i) on the date any such deposit, savings certificate, certificate of indebtedness, or similar instrument is created for deposits made and instruments created on or after October 1, 1984, and (ii) annually on October 1 thereafter as follows: AS PROVIDED BY THE LAWS OF THE STATE OF NEBRASKA YOU ARE HEREBY NOTIFIED THAT YOUR DEPOSIT, SAVINGS CERTIFICATE, CERTIFICATE OF INDEBTEDNESS, OR OTHER SIMILAR INSTRUMENT IS NOT INSURED. Any advertising conducted by such banking institution shall in each case state: THE DEPOSITS, SAVINGS CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, OR SIMILAR INSTRUMENTS OF THIS INSTITUTION ARE NOT INSURED. The banking institution shall also display such notice in one or more prominent places in all facilities in which the institution operates. All such notices and statements shall be given in large or contrasting type in such a manner that such notices shall be conspicuous. Each willful failure to give the notice prescribed in subdivision (2)(a) of this section shall constitute a Class II misdemeanor. All officers and directors of any such banking institution shall be jointly and severally responsible for the issuance of the notices described in subdivision (2)(a) of this section in the form and manner described. The banking institution shall annually by November 1 file proof of~~

~~compliance with subdivision (2)(a) of this section with the Department of Banking and Finance.~~

~~(b) Any banking institution described in subdivision (a) of this subsection that employs mortgage loan originators, as defined in section 45-702, shall register such employees with the Nationwide Mortgage Licensing System and Registry, as defined in section 45-702, by furnishing the following information concerning the employees' identities to the Nationwide Mortgage Licensing System and Registry:~~

~~(i) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information, for a state and national criminal history background check; and~~

~~(ii) Personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil, or criminal findings by any governmental jurisdiction.~~

~~(2) (3) The charter of any banking institution which fails to maintain membership in the Federal Deposit Insurance Corporation comply with the provisions of this section shall be automatically forfeited and such banking institution shall be liquidated and dissolved, either voluntarily by its board of directors under the supervision of the department or involuntarily by the department as in cases of insolvency, except that such charter shall not be automatically forfeited for failure to comply with subdivision (2)(b) of this section if the banking institution cures such violation within sixty days after receipt of notice of such violation from the Department of Banking and Finance. Any banking institution whose charter is automatically forfeited under the provisions of this subsection which continues to engage in the business for which it had been chartered after such forfeiture, as well as the directors and officers thereof, is guilty of a Class III felony shall be subject to the penalties provided by law for illegally engaging in the business of banking.~~

Sec. 140. Section 8-815, Reissue Revised Statutes of Nebraska, is amended to read:

8-815 As used in sections 8-815 to 8-829, unless the context otherwise requires:

(1) Department means ~~shall mean~~ the Department of Banking and Finance;

(2) Bank means ~~shall mean~~ the banks and trust companies organized under the laws of this state, and national banking associations doing business in this state and shall include national banking associations;

(3) Registered bank ~~shall mean any bank which has in effect a registration under section 8-816;~~

(4) Unregistered bank ~~shall mean any bank which has not registered under section 8-816 or the registration of which is not in effect because of action taken under section 8-827;~~

(3) (5) Personal loan means ~~shall mean~~ a loan, and the contract evidencing the same, which is repayable, pursuant to a contract or understanding, in two or more equal or unequal installments, and within one hundred forty-five months, but shall not include any loan on which the interest does not exceed sixteen percent per annum. Personal loan includes ~~shall include~~ loans for the purchase of mobile homes even though the loan is not repayable within one hundred forty-five months. Personal loan includes ~~shall include~~ loans or advances initiated by credit card or other type of transaction card, including, but not limited to, those loan transactions initiated through electronic impulse; and

(4) (6) Transaction card means ~~shall mean~~ a device or means used to access a prearranged revolving credit plan account.

Sec. 141. Section 8-820, Reissue Revised Statutes of Nebraska, is amended to read:

8-820 Subject to the provisions of sections 8-815 to 8-829, any registered bank may contract for and receive, on any personal loan, charges at a rate not exceeding nineteen percent simple interest per year. In the case of loans initiated by credit card or other type of transaction card, the rate may be any amount agreed to by the parties. Any ~~registered bank or~~ bank acquired pursuant to sections 8-1512 and 8-1513 may also charge commercially reasonable fees for service and use of a credit card or other type of transaction card on a per transaction and monthly or annual basis. For purposes of this section, section 85 of the National Bank Act, 12 U.S.C. 85, and section ~~sections 521 and 522~~ of the Depository Institutions Deregulation and Monetary Control Act of 1980, 12 U.S.C. ~~1730g and 1831d~~, all interest, charges, fees, and other amounts permitted under sections 8-815 to 8-829 for loans initiated by credit card or other type of transaction card shall be deemed to be, and may be charged and collected as, interest by the bank, and all other terms and conditions of the agreement between the bank and the borrower that are not prohibited by such sections shall be deemed material to the determination of interest. Notwithstanding the provisions of this section, in the case of loans not initiated by credit card or other type of transaction card, a bank may charge a minimum fee of up to seven dollars and fifty cents in lieu of interest on personal loans and reasonable loan service costs as defined in subdivision (2) of section 45-101.02. Such loan service costs shall not be construed as interest.

Sec. 142. Section 8-822, Reissue Revised Statutes of Nebraska, is amended to read:

8-822 (1) Charges under section 8-820 shall be computed by application of the rate charged to the outstanding principal balance for the number of days actually elapsed without adding any additional charges, except that at the time

the loan is made charges may be computed as a percentage per month of unpaid principal balances for the number of days elapsed on the assumption that the unpaid principal balance will be reduced, as provided in the loan contract, and such charges may be included in the scheduled installments. In the case of loans initiated by credit card or other type of transaction card, charges may be computed in any other manner agreed to by the parties and may include compounding of fees and charges.

~~(2) For any loan contract entered into prior to October 1, 1981, the provisions of this subsection may be used or the provisions of subsection (3) of this section may be used. If the loan is repaid in whole or in part prior to the due date unearned charges shall be refunded or credited to the borrower in full, but such refund need not be made until final payment of the loan contract. Such refund shall be at least as great a proportion of the total charges as the sum of the remaining monthly balances of the principal and interest combined scheduled to follow the date of prepayment bears to the sum of all the monthly balances of principal and interest combined originally scheduled by the contract. For the purpose of computing the refund, any prepayment in full made on or before the fifteenth day following an installment date shall be deemed to have been made on the installment date immediately preceding the date of prepayment in full, and any prepayment in full made after such fifteenth day shall be deemed to have been made on the installment date immediately following the date of prepayment in full. No refund shall be required for any partial prepayment. No refund of less than one dollar need be made.~~

~~(2) If a~~ (3) For any loan contract entered into on or after October 1, 1981, the provisions of this subsection shall apply. If the loan is prepaid in full by cash, a new loan, or otherwise after the first installment due date, the borrower shall receive a rebate of an amount which shall be not less than the amount obtained by applying to the unpaid principal balances as originally scheduled or, if deferred, as deferred, for the period following prepayment, according to the actuarial method, the annual percentage rate previously stated to the borrower pursuant to the federal Consumer Credit Protection Act. The licensee may round the annual percentage rate to the nearest one-half of one percent if such procedure is not consistently used to obtain a greater yield than would otherwise be permitted. Any default and deferment charges which are due and unpaid may be deducted from any rebate. No rebate shall be required for any partial prepayment. No rebate of less than one dollar need be made. Acceleration of the maturity of the contract shall not in itself require a rebate. If judgment is obtained before the final installment date the contract balance shall be reduced by the rebate which would be required for prepayment in full as of the date judgment is obtained.

~~(3) (4)~~ The charges retained by the bank may be increased to the extent that delinquency charges are computed on earned charges in accordance with the next succeeding sentence. Delinquency charges on any scheduled installment or portion thereof, if contracted for, may be taken, or in lieu thereof, interest after maturity on each such installment not exceeding the highest permissible interest rate.

Sec. 143. Section 8-826, Reissue Revised Statutes of Nebraska, is amended to read:

8-826 (1) The department shall:

(a) ~~(1)~~ Be responsible for obtaining proper administration of sections 8-815 to 8-829 and take or cause to be taken such lawful steps as may be necessary and appropriate for the enforcement thereof; and

~~(2) Have authority to make regulations, in addition to and not inconsistent with the provisions of sections 8-815 to 8-829, for the administration thereof and obtaining compliance therewith; and~~

(b) ~~(3)~~ Arrange for investigation and examination of the papers and records, pertaining to loans made under section 8-820, for the purpose of discovering violations of sections 8-815 to 8-829 or securing information lawfully required under it.

(2) The Director of Banking and Finance may adopt and promulgate rules and regulations to carry out and obtain compliance with sections 8-815 to 8-829.

Sec. 144. Section 8-828, Reissue Revised Statutes of Nebraska, is amended to read:

8-828 Nothing contained in sections 8-815 to ~~8-826~~ 8-827 shall be construed as preventing a registered bank from purchasing or discounting from established business concerns any commercial, negotiable or installment paper, or as preventing any such bank from accepting from, or requiring such persons selling or offering to discount such instruments to execute, contracts guaranteeing the ultimate collection of all of such items so sold or discounted or requiring such persons to assume the burden of making collections of the individual items so sold as agent of the bank.

Sec. 145. Section 8-1401, Revised Statutes Cumulative Supplement, 2016, is amended to read:

8-1401 (1) No person organized under the Credit Union Act, the Nebraska Banking Act, the Nebraska Industrial Development Corporation Act, the Nebraska Model Business Corporation Act, the Nebraska Nonprofit Corporation Act, the Nebraska Professional Corporation Act, the Nebraska Trust Company Act, or Chapter 8, article 3, or otherwise authorized to conduct business in Nebraska or organized under the laws of the United States, shall be required to disclose any records or information, financial or otherwise, that it deems confidential concerning its affairs or the affairs of any person with which it is doing business to any person, party, agency, or organization, unless:

(a) The disclosure relates to a lawyers trust account and is required to be made to the Counsel for Discipline of the Nebraska Supreme Court pursuant to a rule adopted by the Nebraska Supreme Court;

(b) The disclosure is governed by rules for discovery promulgated pursuant to section 25-1273.01;

(c) The disclosure is made pursuant to section 8-1404;

(d) The request for disclosure is made by a law enforcement agency regarding a crime, a fraud, or any other unlawful activity in which the person to whom the request for disclosure is made is or may be a victim of such crime, fraud, or unlawful activity;

(e) The request for disclosure is made by a governmental agency which is a duly constituted supervisory regulatory agency of the person to whom the request for disclosure is made and the disclosure relates to examinations, audits, investigations, or inquiries of such persons;

(f) The request for disclosure is made pursuant to subpoena issued under the laws of this state by a governmental agency exercising investigatory or adjudicative functions with respect to a matter within the agency's jurisdiction;

(g) The production of records is pursuant to a written demand of the Tax Commissioner under section 77-375;

(h) There is first presented to such person a subpoena, summons, or warrant issued by a court of competent jurisdiction;

(i) A statute by its terms or rules and regulations adopted and promulgated thereunder requires the disclosure, other than by subpoena, summons, warrant, or court order;

(j) There is presented to such person an order of a court of competent jurisdiction setting forth the exact nature and limits of such required disclosure and a showing that all persons to be affected by such order have had reasonable notice and an opportunity to be heard upon the merits of such order;

(k) The request for disclosure relates to information or records regarding the balance due, monthly payments due, payoff amounts, payment history, interest rates, due dates, or similar information for indebtedness owed by a deceased person when the request is made by a person having an ownership interest in real estate or personal property which secures such indebtedness owed to the person to whom the request for disclosure is made; or

(l) There is first presented to such person the written permission of the person about whom records or information is being sought authorizing the release of the requested records or information.

(2) Any person who makes a disclosure of records or information as required by this section shall not be held civilly or criminally liable for such disclosure in the absence of malice, bad faith, intent to deceive, or gross negligence.

(3) This section does not prohibit:

(a) The disclosure of records or information to a certified public accountant while engaged to perform an independent audit;

(b) The disclosure of records or information or the making of reports pursuant to a statute which, by its terms or rules and regulations adopted and promulgated thereunder, permits the disclosure or reports; or

(c) The disclosure, in the regular course of business, of records or information for the purpose of conducting due diligence pursuant to a proposed purchase or sale of a person subject to the provisions of this section or of the assets or liabilities of such a person.

Sec. 146. Section 8-2401, Reissue Revised Statutes of Nebraska, is amended to read:

8-2401 A credit card bank may be formed under the Nebraska Banking Act if all of the following conditions are met:

(1) A credit card bank shall not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties;

(2) A credit card bank may not accept any savings or time deposits of less than one hundred thousand dollars, except that savings or time deposits of any amount may be accepted from affiliated financial institutions;

(3) The services of a credit card bank shall be limited to the solicitation, processing, and making of loans instituted by credit card or transaction card and matters relating or incidental thereto;

(4) A credit card bank shall not make commercial loans;

(5) A credit card bank shall, on the date of commencement of banking business in this state, have a minimum capital stock and paid-in surplus of two million five hundred thousand dollars;

(6) A credit card bank shall (a) employ on the date of commencement of its banking business in this state or within one year after such date not less than fifty persons in this state in its business or (b) contract with a qualifying association as defined in subdivision (4) of section 8-1511 to provide for the processing of its credit card or transaction card operations;

(7) A credit card bank shall maintain only one office that accepts deposits;

(8) A credit card bank may maintain one or more processing centers in this state;

(9) A credit card bank shall operate in a manner and at a location that is not likely to attract customers from the general public in this state to the substantial detriment of existing financial institutions as defined in section 2 of this act 8-101 located in this state; and

(10) A credit card bank shall provide for the insurance of deposits as

described in subsection (1) of section 8-702.

Sec. 147. Section 9-701, Revised Statutes Cumulative Supplement, 2016, is amended to read:

9-701 (1) For purposes of this section:

(a) Financial institution means a bank, savings bank, building and loan association, or savings and loan association, whether chartered by the United States, the Department of Banking and Finance, or a foreign state agency as defined in section 2 of this act ~~8-101~~; or any other similar organization which is covered by federal deposit insurance;

(b) Gift enterprise means a contest, game of chance, savings promotion raffle, or game promotion which is conducted within the state or throughout the state and other states in connection with the sale of consumer or trade products or services solely as business promotions and in which the elements of chance and prize are present. Gift enterprise does not include any scheme using the game of bingo or keno; any non-telecommunication-related, player-activated electronic or electromechanical facsimile of any game of chance; or any slot machine of any kind. A gift enterprise shall not utilize pickle cards as defined in section 9-315. Promotional game tickets may be utilized subject to the following:

(i) The tickets utilized shall be manufactured or imprinted with the name of the operator on each ticket;

(ii) The tickets utilized shall not be manufactured with a cost per play printed on them; and

(iii) The tickets utilized shall not be substantially similar to any type of pickle card approved by the Department of Revenue pursuant to section 9-332.01;

(c) Operator means any person, firm, corporation, financial institution, association, governmental entity, or agent or employee thereof who promotes, operates, or conducts a gift enterprise. Operator does not include any nonprofit organization or any agent or employee thereof, except that operator includes any credit union chartered under state or federal law or any agent or employee thereof who promotes, operates, or conducts a gift enterprise; and

(d) Savings promotion raffle means a contest conducted by a financial institution or credit union chartered under state or federal law or any agent or employee thereof in which a chance of winning a designated prize is obtained by the deposit of a specified amount of money in a savings account or other savings program if each entry has an equal chance of winning.

(2) Any operator may conduct a gift enterprise within this state in accordance with this section.

(3) An operator shall not:

(a) Design, engage in, promote, or conduct a gift enterprise in connection with the promotion or sale of consumer products or services in which the winner may be unfairly predetermined or the game may be manipulated or rigged;

(b) Arbitrarily remove, disqualify, disallow, or reject any entry;

(c) Fail to award prizes offered;

(d) Print, publish, or circulate literature or advertising material used in connection with such gift enterprise which is false, deceptive, or misleading; or

(e) Require an entry fee, a payment or promise of payment of any valuable consideration, or any other consideration as a condition of entering a gift enterprise or winning a prize from the gift enterprise, except that a contest, game of chance, or business promotion may require, as a condition of participation, evidence of the purchase of a product or service as long as the purchase price charged for such product or service is not greater than it would have been without the contest, game of chance, or business promotion. For purposes of this section, consideration shall not include (i) filling out an entry blank, (ii) entering by mail with the purchase of postage at a cost no greater than the cost of postage for a first-class letter weighing one ounce or less, (iii) entering by a telephone call to the operator of or for the gift enterprise at a cost no greater than the cost of postage for a first-class letter weighing one ounce or less. When the only method of entry is by telephone, the cost to the entrant of the telephone call shall not exceed the cost of postage for a first-class letter weighing one ounce or less for any reason, including (A) whether any communication occurred during the call which was not related to the gift enterprise or (B) the fact that the cost of the call to the operator was greater than the cost to the entrant allowed under this section, or (iv) the deposit of money in a savings account or other savings program, regardless of the interest rate earned by such account or program.

(4) An operator shall disclose to participants all terms and conditions of a gift enterprise.

(5)(a) The Department of Revenue may adopt and promulgate rules and regulations necessary to carry out the operation of gift enterprises.

(b) Whenever the department has reason to believe that a gift enterprise is being operated in violation of this section or the department's rules and regulations, it may bring an action in the district court of Lancaster County in the name of and on behalf of the people of the State of Nebraska against the operator of the gift enterprise to enjoin the continued operation of such gift enterprise anywhere in the state.

(6)(a) Any person, firm, corporation, association, or agent or employee thereof who engages in any unlawful acts or practices pursuant to this section or violates any of the rules and regulations promulgated pursuant to this section ~~is shall~~ be guilty of a Class II misdemeanor.

(b) Any person, firm, corporation, association, or agent or employee thereof who violates any provision of this section or any of the rules and regulations promulgated pursuant to this section shall be liable to pay a civil penalty of not more than one thousand dollars imposed by the district court of Lancaster County for each such violation which shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. Each day of continued violation shall constitute a separate offense or violation for purposes of this section.

(7) A financial institution or credit union may limit the number of chances that a participant in a savings promotion raffle may obtain for making the required deposits but shall not limit the number of deposits.

(8) In all proceedings initiated in any court or otherwise under this section, the Attorney General or appropriate county attorney shall prosecute and defend all such proceedings.

(9) This section shall not apply to any activity authorized and regulated under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

Sec. 148. Section 21-1770, Reissue Revised Statutes of Nebraska, is amended to read:

21-1770 The chief executive officer or the credit committee may apply to the department on forms supplied by the department for the licensing of one or more loan officers in order to delegate to such loan officers the power to approve loans and disburse loan funds up to the limits and according to policies established by the credit committee, if any, and in the absence of a credit committee, the board of directors. Such application shall include information deemed necessary by the department and shall be signed by the entire credit committee, if any, and in the absence of a credit committee, the entire board of directors, as well as the new loan officer seeking a license. No person shall act in the capacity of loan officer for more than thirty days until approved by the department unless the credit union has elected to opt out of licensing loan officers on forms supplied by the department.

Sec. 149. Section 21-17,115, Revised Statutes Cumulative Supplement, 2016, is amended to read:

21-17,115 Notwithstanding any of the other provisions of the Credit Union Act or any other Nebraska statute, any credit union incorporated under the laws of the State of Nebraska and organized under the provisions of the act shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, ~~2016~~ 2017, by a federal credit union doing business in Nebraska on the condition that such rights, powers, privileges, benefits, and immunities shall not relieve such credit union from payment of state taxes assessed under any applicable laws of this state.

Sec. 150. Section 28-612, Reissue Revised Statutes of Nebraska, is amended to read:

28-612 (1) A person commits a Class IV felony if he or she:

(a) Willfully and knowingly subscribes to, makes, or causes to be made any false statement or entry in the books of an organization; or

(b) Knowingly subscribes to or exhibits false papers with the intent to deceive any person or persons authorized to examine into the affairs of any such organization; or

(c) Makes, states, or publishes any false statement of the amount of the assets or liabilities of any such organization; or

(d) Fails to make true and correct entry in the books and records of such organization of its business and transactions in the manner and form prescribed by the Department of Banking and Finance; or

(e) Mutilates, alters, destroys, secretes, or removes any of the books or records of such organization, without the consent of the Director of Banking and Finance.

(2) As used in this section, organization means:

(a) Any trust company transacting a business under the Nebraska Trust Company Act;

(b) Any association organized for the purpose set forth in section 8-302;

(c) Any bank as defined in section 2 of this act ~~8-101~~; or

(d) Any credit union transacting business in this state under the Credit Union Act.

Sec. 151. Section 30-2602.02, Reissue Revised Statutes of Nebraska, is amended to read:

30-2602.02 (1) A person, except for a financial institution as that term is defined in ~~subdivision (12) of section 2 of this act 8-101~~ or its officers, directors, employees, or agents or a trust company, who has been nominated for appointment as a guardian or conservator shall obtain a national criminal history record check through a process approved by the State Court Administrator and a report of the results and file such report with the court at least ten days prior to the appointment hearing date, unless waived or modified by the court (a) for good cause shown by affidavit filed simultaneously with the petition for appointment or (b) in the event the protected person requests an expedited hearing under section 30-2630.01.

(2) An order appointing a guardian or conservator shall not be signed by the judge until such report has been filed with the court and reviewed by the judge. Such report, or the lack thereof, shall be certified either by affidavit or by obtaining a certified copy of the report. No report or national criminal history record check shall be required by the court upon the application of a petitioner for an emergency temporary guardianship or emergency temporary

conservatorship. The court may waive the requirements of this section for good cause shown.

Sec. 152. Section 30-2640, Reissue Revised Statutes of Nebraska, is amended to read:

30-2640 For estates with a net value of more than ten thousand dollars, the bond for a conservator shall be in the amount of the aggregate capital value of the personal property of the estate in the conservator's control plus one year's estimated income from all sources minus the value of securities and other assets deposited under arrangements requiring an order of the court for their removal. The bond of the conservator shall be conditioned upon the faithful discharge of all duties of the trust according to law, with sureties as the court shall specify. The court, in lieu of sureties on a bond, may accept other security for the performance of the bond, including a pledge of securities or a mortgage of land owned by the conservator. For good cause shown, the court may eliminate the requirement of a bond or decrease or increase the required amount of any such bond previously furnished. The court shall not require a bond if the protected person executed a written, valid power of attorney that specifically nominates a guardian or conservator and specifically does not require a bond. The court shall consider as one of the factors of good cause, when determining whether a bond should be required and the amount thereof, the protected person's choice of any attorney in fact or alternative attorney in fact. No bond shall be required of any financial institution, as that term is defined in ~~subdivision (12) of section 2 of this act 8-101~~, or any officer, director, employee, or agent of the financial institution serving as a conservator, or any trust company serving as a conservator. The Public Guardian shall not be required to post bond.

Sec. 153. Section 45-335, Revised Statutes Cumulative Supplement, 2016, is amended to read:

45-335 For purposes of the Nebraska Installment Sales Act, unless the context otherwise requires:

(1) Goods means all personal property, except money or things in action, and includes goods which, at the time of sale or subsequently, are so affixed to realty as to become part thereof whether or not severable therefrom;

(2) Services means work, labor, and services of any kind performed in conjunction with an installment sale but does not include services for which the prices charged are required by law to be established and regulated by the government of the United States or any state;

(3) Buyer means a person who buys goods or obtains services from a seller in an installment sale;

(4) Seller means a person who sells goods or furnishes services to a buyer under an installment sale;

(5) Installment sale means any transaction, whether or not involving the creation or retention of a security interest, in which a buyer acquires goods or services from a seller pursuant to an agreement which provides for a time-price differential and under which the buyer agrees to pay all or part of the time-sale price in one or more installments and within one hundred forty-five months, except that installment contracts for the purchase of mobile homes may exceed such one-hundred-forty-five-month limitation. Installment sale does not include a consumer rental purchase agreement defined in and regulated by the Consumer Rental Purchase Agreement Act;

(6) Installment contract means an agreement entered into in this state evidencing an installment sale except those otherwise provided for in separate acts;

(7) Cash price or cash sale price means the price stated in an installment contract for which the seller would have sold or furnished to the buyer and the buyer would have bought or acquired from the seller goods or services which are the subject matter of the contract if such sale had been a sale for cash instead of an installment sale. It may include the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, and improvements and may include taxes to the extent imposed on the cash sale;

(8) Basic time price means the cash sale price of the goods or services which are the subject matter of an installment contract plus the amount included therein, if a separate identified charge is made therefor and stated in the contract, for insurance, registration, certificate of title, debt cancellation contract, debt suspension contract, electronic title and lien services, guaranteed asset protection waiver, and license fees, filing fees, an origination fee, and fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying any security related to the credit transaction or any charge for nonfiling insurance if such charge does not exceed the amount of fees and charges prescribed by law which would have been paid to public officials for filing, perfecting, releasing, and satisfying any security related to the credit transaction and less the amount of the buyer's downpayment in money or goods or both;

(9) Time-price differential, however denominated or expressed, means the amount, as limited in the Nebraska Installment Sales Act, to be added to the basic time price;

(10) Time-sale price means the total of the basic time price of the goods or services, the amount of the buyer's downpayment in money or goods or both, and the time-price differential;

(11) Sales finance company means a person purchasing one or more installment contracts from one or more sellers. Sales finance company includes,

but is not limited to, a financial institution or installment loan licensee, if so engaged;

(12) Department means the Department of Banking and Finance;

(13) Director means the Director of Banking and Finance;

(14) Financial institution has the same meaning as in section 2 of this act 8-101;

(15) Debt cancellation contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to cancel all or part of a buyer's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt cancellation contract may be separate from or a part of other loan documents. The term debt cancellation contract does not include loan payment deferral arrangements in which the triggering event is the buyer's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

(16) Debt suspension contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to suspend all or part of a buyer's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt suspension contract may be separate from or a part of other loan documents. The term debt suspension contract does not include loan payment deferral arrangements in which the triggering event is the buyer's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

(17) Guaranteed asset protection waiver means a waiver that is offered, sold, or provided in accordance with the Guaranteed Asset Protection Waiver Act;

(18) Licensee means any person who obtains a license under the Nebraska Installment Sales Act;

(19) Person means individual, partnership, limited liability company, association, financial institution, trust, corporation, and any other legal entity;

(20) Breach of security of the system means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of the information maintained by the Nationwide Mortgage Licensing System and Registry, its affiliates, or its subsidiaries;

(21) Nationwide Mortgage Licensing System and Registry means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage bankers, installment loan companies, and other state-regulated financial services entities and industries; and

(22)(a) Control in the case of a corporation means (i) direct or indirect ownership of or the right to control twenty-five percent or more of the voting shares of the corporation or (ii) the ability of a person or group acting in concert to elect a majority of the directors or otherwise effect a change in policy.

(b) Control in the case of any other entity means (i) the power, directly or indirectly, to direct the management or policies of the entity, (ii) the contribution of twenty-five percent or more of the capital of the entity, or (iii) the right to receive, upon dissolution, twenty-five percent or more of the capital of the entity.

Sec. 154. Section 45-902, Reissue Revised Statutes of Nebraska, is amended to read:

45-902 For purposes of the Delayed Deposit Services Licensing Act:

(1) Check means any check, draft, or other instrument for the payment of money;

(2) Delayed deposit services business means any 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, whether express or implied;

(3) Director means the Director of Banking and Finance or his or her designee;

(4) Financial institution has the same meaning as in section 2 of this act 8-101;

(5) Licensee means any person licensed under the Delayed Deposit Services Licensing Act; and

(6) Person means an individual, proprietorship, association, joint venture, joint stock company, partnership, limited partnership, limited liability company, business corporation, nonprofit corporation, or any group of individuals however organized.

Sec. 155. Section 45-919, Reissue Revised Statutes of Nebraska, 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 or other person;

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

(f) 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; or

(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.

(2) 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 2 of this act ~~8-101~~ 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.

Sec. 156. Section 45-1002, Revised Statutes Cumulative Supplement, 2016, is amended to read:

45-1002 (1) For purposes of the Nebraska Installment Loan Act:

(a) Applicant means a person applying for a license under the act;

(b) Breach of security of the system means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of the information maintained by the Nationwide Mortgage Licensing System and Registry, its affiliates, or its subsidiaries;

(c) Department means the Department of Banking and Finance;

(d) Debt cancellation contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to cancel all or part of a borrower's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt cancellation contract may be separate from or a part of other loan documents. The term debt cancellation contract does not include loan payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

(e) Debt suspension contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to suspend all or part of a borrower's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt suspension contract may be separate from or a part of other loan documents. The term debt suspension contract does not include loan payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

(f) Director means the Director of Banking and Finance;

(g) Financial institution has the same meaning as in section 2 of this act ~~8-101~~;

(h) Guaranteed asset protection waiver means a waiver that is offered, sold, or provided in accordance with the Guaranteed Asset Protection Waiver Act;

(i) Licensee means any person who obtains a license under the Nebraska Installment Loan Act;

(j)(i) Mortgage loan originator means an individual who for compensation or gain (A) takes a residential mortgage loan application or (B) offers or negotiates terms of a residential mortgage loan.

(ii) Mortgage loan originator does not include (A) any individual who is not otherwise described in subdivision (i)(A) of this subdivision and who performs purely administrative or clerical tasks on behalf of a person who is described in subdivision (i) of this subdivision, (B) a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan

originator, or (C) a person or entity solely involved in extensions of credit relating to time-share programs as defined in section 76-1702;

(k) Nationwide Mortgage Licensing System and Registry means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage bankers, installment loan companies, and other state-regulated financial services entities and industries;

(l) Person means individual, partnership, limited liability company, association, financial institution, trust, corporation, and any other legal entity; and

(m) Real property means an owner-occupied single-family, two-family, three-family, or four-family dwelling which is located in this state, which is occupied, used, or intended to be occupied or used for residential purposes, and which is, or is intended to be, permanently affixed to the land.

(2) Except as provided in subsection (3) of section 45-1017 and subsection (4) of section 45-1019, no revenue arising under the Nebraska Installment Loan Act shall inure to any school fund of the State of Nebraska or any of its governmental subdivisions.

(3) Loan, when used in the Nebraska Installment Loan Act, does not include any loan made by a person who is not a licensee on which the interest does not exceed the maximum rate permitted by section 45-101.03.

(4) Nothing in the Nebraska Installment Loan Act applies to any loan made by a person who is not a licensee if the interest on the loan does not exceed the maximum rate permitted by section 45-101.03.

Sec. 157. Section 45-1103, Reissue Revised Statutes of Nebraska, is amended to read:

45-1103 For purposes of the Guaranteed Asset Protection Waiver Act:

(1) Borrower means a debtor, retail buyer, or lessee under a finance agreement;

(2) Creditor means:

(a) The lender in a loan or credit transaction involving a motor vehicle;

(b) The lessor in a lease transaction involving a motor vehicle;

(c) Any retail seller of motor vehicles that provides credit to retail buyers of such motor vehicles if such entities comply with the provisions of the act; or

(d) The assignees of any of the foregoing to whom the credit obligation is payable;

(3) Creditor's designee means a person other than the creditor that performs administrative or operational functions pursuant to a guaranteed asset protection waiver program;

(4) Finance agreement means a loan, credit transaction, lease, or retail installment sales contract for the purchase or lease of a motor vehicle;

(5) Financial institution has the same meaning as in section 2 of this act 8-101;

(6) Free-look period means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the contract without penalty, fees, or costs to the borrower. This period of time must not be shorter than thirty days;

(7) Guaranteed asset protection waiver means a contractual agreement wherein a creditor or the creditor's designee agrees, for a separate charge, to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss as determined by the insurer issuing the motor vehicle insurance policy subject to the terms of the waiver or unrecovered theft as determined by the insurer issuing the motor vehicle insurance policy subject to the terms of the waiver of the motor vehicle, which agreement must be part of, or a separate addendum to, the finance agreement. If a borrower does not have motor vehicle insurance, the creditor or the creditor's designee will accept a report prepared pursuant to insurance industry standards by a qualified inspector declaring the motor vehicle a total loss or a law enforcement report declaring the motor vehicle an unrecovered theft. Nothing in the act shall be construed to require the waiver to pay more than the amount that would have been paid if the borrower had motor vehicle insurance at the time of loss;

(8) Motor vehicle means self-propelled or towed vehicles designed for personal or commercial use, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal watercraft, and motorcycle, boat, camper, and personal watercraft trailers; and

(9) Person includes an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

Sec. 158. Section 49-1497, Reissue Revised Statutes of Nebraska, is amended to read:

49-1497 (1) For purposes of section 49-1496, financial institution means:

(a) A bank or banking corporation as defined in section 2 of this act 8-101;

(b) A federal bank or branch bank;

(c) An insurance company providing a loan on an insurance policy;

(d) A small loan company;

(e) A state or federal savings and loan association or credit union; or

(f) The federal government or any political subdivision thereof.

(2) The res or the income of an irrevocable trust of a member of the individual's immediate family is not required to be reported pursuant to

section 49-1496.

Sec. 159. Transactions validly entered into before the operative date of this section, and the rights, duties, and interests flowing from such transactions, remain valid and may be terminated, completed, or enforced as required or permitted by any statute amended or repealed by this legislative bill as though such amendment or repeal had not occurred.

Sec. 160. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132, 133, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 161, and 163 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 161. Original sections 8-101.01, 8-102, 8-104, 8-105, 8-106, 8-107, 8-109, 8-110, 8-111, 8-112, 8-113, 8-114, 8-116.01, 8-118, 8-119, 8-120, 8-122, 8-124, 8-124.01, 8-125, 8-126, 8-127, 8-129, 8-130, 8-132, 8-133, 8-137, 8-138, 8-139, 8-141, 8-143, 8-143.01, 8-144, 8-145, 8-147, 8-148, 8-148.01, 8-148.02, 8-148.04, 8-148.05, 8-148.07, 8-148.08, 8-150, 8-152, 8-158, 8-160, 8-161, 8-163, 8-164, 8-166, 8-167, 8-168, 8-169, 8-170, 8-171, 8-173, 8-174, 8-175, 8-177, 8-178, 8-179, 8-180, 8-182, 8-183, 8-183.04, 8-183.05, 8-184, 8-185, 8-186, 8-187, 8-188, 8-189, 8-190, 8-191, 8-192, 8-193, 8-194, 8-195, 8-196, 8-197, 8-198, 8-199, 8-1,100, 8-1,101, 8-1,102, 8-1,103, 8-1,104, 8-1,105, 8-1,106, 8-1,107, 8-1,108, 8-1,109, 8-1,110, 8-1,111, 8-1,112, 8-1,113, 8-1,115, 8-1,116, 8-1,117, 8-1,118, 8-1,119, 8-1,124, 8-1,125, 8-1,126, 8-1,127, 8-1,128, 8-1,129, 8-1,131, 8-1,133, 8-1,134, 8-1,135, 8-1,136, 8-1,137, 8-1,138, 8-1,139, 8-206, 8-207, 8-603, 8-701, 8-815, 8-820, 8-822, 8-826, 8-828, 8-2401, 21-1770, 28-612, 30-2602.02, 30-2640, 45-902, 45-919, 45-1103, and 49-1497, Reissue Revised Statutes of Nebraska, and sections 8-101, 8-103, 8-108, 8-116, 8-117, 8-128, 8-135, 8-153, 8-157, 8-157.01, 8-162.02, 8-167.01, 8-318, 8-601, 8-602, 8-702, 8-1401, 9-701, 45-335, and 45-1002, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 162. Original sections 8-1,140, 8-355, and 21-17,115, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 163. The following sections are outright repealed: Sections 8-121, 8-151, 8-1,120, 8-1,121, 8-816, 8-819, and 8-827, Reissue Revised Statutes of Nebraska.

Sec. 164. Since an emergency exists, this act takes effect when passed and approved according to law.