

AMENDMENTS TO LB214

(Amendments to Standing Committee amendments, AM398)

Introduced by Slama, 1.

1 1. Strike section 6 and insert the following new sections:

2 Sec. 6. Section 8-143.01, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 8-143.01 (1) No bank shall extend credit to any of its executive
5 officers, directors, or principal shareholders or to any related interest
6 of such persons in an amount that, when aggregated with the amount of all
7 other extensions of credit by the bank to that person and to all related
8 interests of that person, exceeds the higher of twenty-five thousand
9 dollars or five percent of the bank's unimpaired capital and unimpaired
10 surplus unless (a) the extension of credit has been approved in advance
11 by a majority vote of the entire board of directors of the bank, a record
12 of which shall be made and kept as a part of the records of such bank,
13 and (b) the interested party has abstained from participating directly or
14 indirectly in such vote.

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

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

26 (4) A bank shall be authorized to extend credit to any of its

1 executive officers:

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

4 (b)(i) In any amount to finance or refinance the purchase,
5 construction, maintenance, or improvement of a residence of such
6 executive officer if the extension of credit is secured by a first lien
7 on the residence and the residence is owned or is expected to be owned
8 after the extension of credit by the executive officer and (ii) in the
9 case of a refinancing, only the amount of the refinancing used to repay
10 the original extension of credit, together with the closing costs of the
11 refinancing, and any additional amount thereof used for any of the
12 purposes enumerated in this subdivision are included within this category
13 of credit;

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

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

31 ~~(5)(a) Except as provided in subdivision (b) or (c) of this~~

1 ~~subsection, any executive officer shall make, on an annual basis, a~~
2 ~~written report to the board of directors of the bank of which he or she~~
3 ~~is an executive officer stating the date and amount of all loans or~~
4 ~~indebtedness on which he or she is a borrower, cosigner, or guarantor,~~
5 ~~the security therefor, and the purpose for which the proceeds have been~~
6 ~~or are to be used.~~

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

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

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

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

1 or present other unfavorable features.

2 (b) Nothing in subdivision (a) of this subsection shall prohibit any
3 extension of credit made by a bank pursuant to a benefit or compensation
4 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation
5 existed on January 1, 2023 ~~2022~~.

6 (8) For purposes of this section:

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

22 (b) Unimpaired capital and unimpaired surplus means the sum of:

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

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

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

31 (9) Any executive officer, director, or principal shareholder of a

1 bank or any other person who intentionally violates this section or who
2 aids, abets, or assists in a violation of this section is guilty of a
3 Class IV felony.

4 (10) The Director of Banking and Finance may adopt and promulgate
5 rules and regulations to carry out this section, including rules and
6 regulations defining or further defining terms used in this section,
7 consistent with the provisions of 12 U.S.C. 84 and implementing
8 Regulation O as such section and regulation existed on January 1, 2023
9 2022.

10 Sec. 54. Section 76-1007, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 76-1007 (1) The trustee or the attorney for the trustee shall give
13 written notice of the time and place of sale particularly describing the
14 property to be sold by publication of such notice, at least five times,
15 once a week for five consecutive weeks, the last publication to be at
16 least ten days but not more than thirty days prior to the sale, in some
17 newspaper having a general circulation in each county in which the
18 property to be sold, or some part thereof, is situated.

19 (2) The sale shall be held at the time and place designated in the
20 notice of sale which shall be between the hours of nine a.m. and five
21 p.m. and at (a) the premises, (b) or at the courthouse of the county in
22 which the property to be sold, or some part thereof, is situated, or (c)
23 a public building wherein one or more county offices are located within
24 the county in which the property to be sold, or some part thereof, is
25 situated.

26 (3) The notice of sale shall be sufficient if made in substantially
27 the following form:

28 Notice of Trustee's Sale

29 The following described property will be sold at public auction to
30 the highest bidder at the door of the county courthouse
31 in, County of, Nebraska, on,

- 1 20..... .
- 2 (Name of Trustee)
- 3 2. Renumber the remaining sections and correct the repealer
- 4 accordingly.