

## LEGISLATIVE BILL 220

Approved by the Governor April 20, 1979

Introduced by Kelly, 35

AN ACT to amend sections 8-110, 8-115.01, 8-116, 8-123, 8-140, and 8-152, Reissue Revised Statutes of Nebraska, 1943, relating to banks and banking; to change provisions relating to bonds as prescribed; to change provisions relating to loans to officers and employees of banks as prescribed; to authorize the location of banks outside the corporate limits of cities or villages; to change the manner of computing aggregate indebtedness; and to repeal the original sections.

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

Section 1. That section 8-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-110. The department shall require every executive officer, and all employees whom it considers necessary so to do, of each state bank to obtain a surety bond execute to such naming the bank and to the State of Nebraska, jointly, as obligees, a surety bond in an amount to be fixed by the department, which bond Such bonds shall be conditioned to protect and indemnify the bank from loss which the bank 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 or misappropriation, or any other dishonest or criminal act of or by any of its such executive officers or employees. Such bond may contain a deductible clause in an amount to be approved by the director, equating the following:--Banks having capital stock of twenty-five thousand dollars to fifty thousand dollars may maintain a deductible amount of one thousand dollars; banks whose capital stock is fifty thousand dollars to one hundred thousand dollars may maintain a deductible amount of five thousand dollars; and for each additional one hundred thousand dollars in capital stock an additional five thousand dollars in the deductible amount may be maintained. The bond shall be filed with and approved by the director and shall remain a part of the records of the department. The bond shall always be open to public inspection during the office hours of the department.

Sec. 2. That section 8-115.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-115.01. When an application required by the provisions of section 8-120 is made by a corporation for a new bank charter or for transfer of a bank charter to any location other than within the corporate limits of the city or village of its original charter or, if such bank charter is not located in a city or village, then for transfer outside the county in which it is located, notice of the filing of the application shall be published by the Department of Banking and Finance three weeks in a legal newspaper published in or of general circulation in the county where the applicant proposes to operate the bank or where the transfer is contemplated. The expense of the publication shall be paid by the applicant. A public hearing shall be held on each application. The date for hearing the application shall not be more than ninety days after filing the application and not less than thirty days after the last publication of notice, except that the Director of Banking and Finance shall take immediate action on any charter application or applications concerned without the benefit of a hearing in the case of an emergency so declared by the Governor, the Secretary of State and the Director of Banking and Finance. A move of any state bank's main office within the city, or village, or county, if not chartered within a city or village, of its original charter shall not be considered a transfer of charter within the meaning of this section, but an application for such a move must be made to the Department of Banking and Finance and be approved by the director. Upon receiving such application, the director shall give notice of such intended move by certified mail to all banks, and such other interested parties as the director shall determine, located within the corporate limits of such city or village, or within such county, whichever is applicable. Should the director receive any objection to such move within ten days of mailing such notice, he or she shall publish a notice and hold a hearing as provided in this section for the transfer of a bank outside the corporate limits of the city or village or outside the limits of the county of its original charter.

Sec. 3. That section 8-116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-116. A charter for a bank hereafter organized shall not be issued unless the corporation applying therefor shall have a surplus of not less than fifty thousand dollars or fifty per cent of its paid-up capital

stock, whichever is greater, and a paid-up capital stock as follows: In villages or counties of less than one thousand inhabitants, one hundred thousand dollars; in cities, and villages, or counties of one thousand or more and less than twenty-five thousand inhabitants, not less than one hundred fifty thousand dollars; in cities or counties of twenty-five thousand or more and less than one hundred thousand inhabitants, not less than two hundred thousand dollars; and in cities or counties of one hundred thousand or more inhabitants, not less than five hundred thousand dollars. Such corporation shall also have minimum paid-in undivided profits of not less than twenty per cent of its paid-up capital stock; Provided, the department shall have the authority to determine the minimum amount of paid-up capital stock, surplus and paid-in undivided profits required for any corporation applying for a bank charter which amounts shall not be less than the foregoing. For purposes of this section, population shall be determined by the most recent federal decennial census.

Sec. 4. That section 8-123, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-123. It shall be unlawful for two or more banks in the same city, or village, or county in this state to have or use the same name or names so nearly alike as to cause confusion in transacting business. In all cases where such similarity of names now exists, or may hereafter exist, complaint may be made to the department, and if in the judgment of the department such a similarity does exist and does create confusion in conducting the business of either or both of such banks, the department may require the junior bank in time or organization to so change or modify its name as to prevent such confusion, and the change of name so made shall be approved by the department.

Sec. 5. That section 8-140, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-140. No director, officer, or employee of any bank, no corporation in which an officer of the bank is the owner of a controlling interest, and no partnership in which an officer of the bank is a member, shall be permitted to borrow any of the funds of the bank, directly or indirectly, without first having secured the approval of the board of directors at a meeting thereof, the record of which shall be made and kept as part of the records of such bank. An active officer or employee may, with such approval, borrow from the funds of the bank an

amount not to exceed five ten thousand dollars, except that subject to the provisions of sections 8-141 and 8-152 and with the specific prior approval of the board of directors, a bank may (1) make an additional loan not exceeding fifty sixty thousand dollars to any officer or employee of the bank, if at the time the loan is made it is secured by a first lien on a dwelling which is, after making of the loan, to be owned by the officer or employee and used by him or her as a residence- and (2) may make an additional loan not exceeding twenty thousand dollars to any officer or employee of the bank to finance the education of such officer or employee's children. Such loans shall be subject to the lending limit set forth in section 8-141, Reissue Revised Statutes of Nebraska, 1943. A director who is not an officer and any honorary or inactive officer may borrow from the funds of the bank such amount as the board of directors shall approve. If any officer of any bank borrows from or if he or she be or becomes indebted to any other bank, he such officer shall make a written report to the board of directors of the bank of which he or she is an officer, stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used. Loans made prior to November 18, 1965 may be renewed or extended for a period expiring not more than five years from November 18, 1965. No person connected with the department shall be permitted to borrow money from any state bank. Any officer, director, or employee of a bank, or any examiner, or other person who shall violate the provisions of this section, or who shall aid, abet, or assist in a violation thereof, shall be guilty of a Class IV felony.

Sec. 6. That section 8-152, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-152. A bank may make loans secured by real estate or may participate with other institutions in such loans whether such participation occurs at the inception of the loan or at any time thereafter subject to the following:

(1) Such loans, when secured by a first mortgage on improved real estate which is a first lien and under the terms of which installment payments required are sufficient to amortize the entire principal of the loan within the period thereof, may be made in an amount not to exceed ninety per cent of the appraised value of the real estate offered as security and for a term not to exceed twenty-five years;

(2) Such loans, when secured by a first mortgage on improved real estate which is a first lien and under the terms of which installment payments required are sufficient to amortize forty per cent of the principal of the loan within a period of ten years from the date of the loan may be made in an amount not to exceed ninety per cent of the appraised value of the real estate offered as security and for a term not to exceed ten years;

(3) Such loans, when secured by a mortgage on improved real estate which is not a first mortgage but under the terms of which installment payments required are sufficient to amortize the entire principal of the loan within the period thereof, may be made when the aggregate of the lien being taken by the bank and the ~~record actual~~ amount of all liens prior thereto or, in the case of mortgages of record that provide for additional advances, the maximum amount that could be advanced thereunder, does not exceed eighty per cent of the appraised value of the real estate offered as security and for a term not to exceed ten years;

(4) Such loans, when secured by a first mortgage on real estate which is a first lien, may be made for not to exceed seventy-five per cent of the appraised value of the real estate offered as security and for a term not to exceed five years, whether or not provision is made for amortization of such loan;

(5) Such loans, when secured by a first mortgage on improved real estate consisting of residential real property of single family or two family residences, may be made for not to exceed ninety-five per cent of the appraised value of the real property offered as security and for a term not longer than thirty years; provided, that the loan is secured by an amortized mortgage, deed of trust or other such instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity; and provided further, that at least twenty-five per cent of the loan is insured by a financially responsible private mortgage insurance company authorized to do business in this state;

(6) Such loans may be made to finance the construction of manufacturing, commercial, or industrial structures for a period not to exceed thirty-six months or for the construction of residential or farm buildings for a term not to exceed eighteen months when there is a valid and binding agreement entered into by a financially responsible lender to advance the full amount of such loan upon the completion of construction, or when the

bank at the time of making the construction loan has entered into a commitment to make a loan under the provisions of subdivision (1), (2), (3), (4), or (5) of this section upon the completion of construction;

(7) The provisions of sections 8-711 to 8-713 are met; and

(8) Obligations shall not be subject under this section to any limitation to the extent that such obligations are secured or covered by guaranties or by commitments or agreements to take over or to purchase as follows:

(a) Real estate loans guaranteed twenty per cent or more or for which a written commitment for such guarantee has been issued by the Veterans Administration;

(b) Real estate loans insured, or for which a written commitment to insure has been issued, by the Farmers Home Administration;

(c) Real estate loans in which the Small Business Administration participates or has agreed in writing to participate on an immediate or deferred basis; or

(d) Loans in which a bank takes a real estate mortgage or other similar instrument as additional security but with repayment dependent upon other sources than the real estate security as follows: (i) The unconditional commitment of a financially responsible person to repay the loan or provide funds for the repayment of such loan within a period not to exceed three years from the date of the loan, or (ii) on collateral other than the real property.

The aggregate limitation of all loans made under the provisions of subdivisions (1), (2), (3), (4), and (5) of this section shall be the greater of one hundred per cent of paid-in capital, surplus, and undivided profits, or seventy per cent of the total of savings and time deposits, or twenty per cent of the total deposits of such bank.

Sec. 7. That original sections 8-110, 8-115.01, 8-116, 8-123, 8-140, and 8-152, Reissue Revised Statutes of Nebraska, 1943, are repealed.