

## LEGISLATIVE BILL 332

Approved by the Governor May 9, 1979

Introduced by Banking, Commerce and Insurance Committee,  
DeCamp, 40, Chm.; Schmit, 23; Merz, 1;  
Murphy, 17; Fitzgerald, 14

AN ACT relating to insurance; to provide certain requirements for all lines insurers; to define terms; and to repeal section 44-201.01, Reissue Revised Statutes of Nebraska, 1943.  
Be it enacted by the people of the State of Nebraska,

Section 1. As used in this act, unless the context otherwise requires:

(1) An all lines insurer shall mean an insurer authorized to write more than one kind of insurance included in a life insurance class of insurance and one or more kinds of insurance included in a property and liability class of insurance;

(2) Life insurance class of insurance shall mean the kinds of insurance specified in subdivisions (2), (3), and (9) of section 44-201, Revised Statutes Supplement, 1978; and

(3) Property and liability class of insurance shall mean the kinds of insurance specified in subdivisions (1), (3) to (8), (10), (12), and (13) of section 44-201, Revised Statutes Supplement, 1978, except that, with respect to any particular all lines insurer, the kind of insurance described in subdivision (3) of section 44-201, Revised Statutes Supplement, 1978, may be included in either the life insurance class of insurance or property and liability class of insurance, but shall not be included in both classes or, without the approval of the department, transferred from one class to another.

Sec. 2. An all lines insurer shall maintain a minimum surplus to policyholders, as defined in section 44-222, Revised Statutes Supplement, 1978, of at least one million dollars in the form of capital, if a stock insurance company, or in the form of surplus, if a mutual insurance company, in accordance with sections 44-214 and 44-219, Revised Statutes Supplement, 1978, respectively. Such an insurer shall not be subject to section 4 of this act so long as its surplus to policyholders exceeds such minimum. Whenever the surplus to policyholders of such an insurer falls below such minimum, it shall be deemed to be an impaired insurer and shall automatically be subject to the provisions of section 4 of this act.

Sec. 3. Each kind of insurance written by an all lines insurer which is included in the life insurance class of insurance or the property and liability class of insurance shall be accounted for separately in life and accident and health annual statement blanks and fire and casualty annual statement blanks, respectively. Nothing in this section shall prohibit the writing of combination policy forms by an all lines insurer combining any kind or kinds of insurance included in the life insurance class of insurance with any kind or kinds of insurance included in the property and liability class of insurance, but the allocable and separately stated premiums for each kind of insurance shall be accounted for separately according to its classification.

Sec. 4. In the event of impairment or insolvency of an all lines insurer, the excess of the liabilities of one class of insurance over the accumulated assets attributable to that class of insurance may be charged as necessary against the assets of the other class only to the extent that assets attributable to such other class exceed the amount of reserves and other liabilities of such other class.

Sec. 5. All requirements, limitations, and restrictions of Chapter 44 which apply to specific kinds of insurance or to companies identified by the specific kinds of insurance transacted by them shall apply to such companies and to all persons or agents thereof with respect to such specific kind of insurance only to the extent transacted or conducted by such companies notwithstanding the fact that companies authorized under this section are formed or authorized to transact kinds of insurance included in both the life insurance and property and casualty classes of insurance. If any provision of this act conflicts with any other provisions of Chapter 44, the provisions of this act shall prevail.

Sec. 6. The department shall promulgate such rules and regulations as may be necessary to carry out the provisions of this act.

Sec. 7. That section 44-201.01, Reissue Revised Statutes of Nebraska, 1943, is repealed.

## LEGISLATIVE BILL 334

Approved by the Governor April 17, 1979

Introduced by Banking, Commerce and Insurance Committee,  
DeCamp, 40, Chmn.; Brennan, 9; Merz, 1;  
Fitzgerald, 14; Schmit, 23

AN ACT amend sections 8-403 and 8-407.01, Reissue Revised Statutes of Nebraska, 1943, and sections 8-403.01, 8-403.02, and 8-410, Revised Statutes Supplement, 1978, relating to banks and banking; to provide an additional application requirement; to change the time for setting a hearing and for issuing a license; to change requirements for issuing a license; to require undivided profits as prescribed; to provide cash reserve requirements as prescribed; to change provisions relating to payment of certificates of indebtedness before maturity as prescribed; to provide duties; to restrict certain loans as prescribed; and to repeal the original sections.

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

Section 1. That section 8-403, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-403. Every industrial loan and investment company hereafter organized, prior to the commencement of any business except its own organization, shall:

(1) File its articles of incorporation in the office of the Secretary of State and in the office of the county clerk in the county of its principal place of business and pay the filing fees therefor in the amount required of other corporations;

(2) Pay to the department the fee prescribed by section 8-602 for investigation of the application, and also pay the actual cost of an examination to determine the financial condition of the applicant if the department should deem such examination necessary; and

(3) File an application with the department in writing under oath and in the form prescribed by the department, which application shall show (a) the name and address of the applicant and the name and place of residence of each of the incorporators and of each director, (b) the amount of the applicant's capital and surplus which shall not be less than the minimum required

by the provisions of section 8-403.01, (c) the par value of the stock, (d) the applicant's place of transacting business, (e) copy of articles of incorporation and by-laws of the applicant, (f) a complete and detailed statement of the proposed plan of business, (g) a statement that at least twenty per cent of the amount stated in subdivision (b) of this section has been paid in to the corporation by its stockholders, and (g) (h) such other information as the department may require.

Sec. 2. That section 8-403.01, Revised Statutes Supplement, 1978, be amended to read as follows:

8-403.01. The department shall investigate the facts set forth in the application, shall set a date for hearing said application, ~~not less than four weeks nor more than six weeks from the date of filing of the application,~~ and shall publish once each week for three consecutive weeks a notice in a legal newspaper published in or of general circulation in the county where the applicant intends to transact its business. 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. The notice shall set forth the filing of the application and the date and place of hearing thereon, at which time and place any interested party or its representatives may appear and be heard in favor of or in opposition to the approval of the application. If the department shall find (1) that not less than two-thirds of the capital stock is owned by bona fide residents of this state, (2) that the proposed board of directors and management possesses financial responsibility, experience, character and general fitness for successful management of the institution, (3) that the public necessity, convenience and advantage of the community in which the business of the applicant is to be conducted will be served thereby, (4) that the applicant has capital and surplus in the amounts required by section ~~8-403~~ 8-403.02, either in cash or in securities of a value equal to cash, and (5) that all conditions of sections 8-401 to 8-417 have been complied with, the department shall, within ten days from the conclusion of such hearing, upon payment of 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, surplus, and undivided profits have been paid in as determined by the department, issue and deliver to the applicant a license to conduct its business at the place indicated as an industrial loan and investment company.

With the approval of the director, and a showing of the applicability of the criteria set forth in

subdivisions (1) to (5) of this section, any industrial loan and investment company may maintain auxiliary offices within the same county where any such industrial loan and investment company shall be licensed. The services of such auxiliary offices shall be limited to the making of loans authorized for industrial loan and investment companies, receiving interest, principal and charge payments thereon, and issuing and redeeming certificates of indebtedness.

Sec. 3. That section 8-403.02, Revised Statutes Supplement, 1978, be amended to read as follows:

8-403.02. The aggregate amount of the paid-up capital stock of any industrial loan and investment company hereafter organized shall be not less than one hundred thousand dollars in cities and villages having a population of less than twenty-five hundred inhabitants; not less than one hundred fifty thousand dollars in cities having a population of twenty-five hundred and less than twenty-five thousand inhabitants; not less than two hundred thousand dollars in cities having a population of twenty-five thousand and less than one hundred thousand inhabitants; not less than five hundred fifty thousand dollars in cities having a population of one hundred thousand or more inhabitants. In addition to the required capital stock, a surplus fund in an amount equal to fifty per cent of the aggregate amount of the capital stock shall be subscribed at the time the subscription list of common stockholders is made up. Such company shall also have minimum paid-in undivided profits of not less than twenty per cent of its paid-up capital.

Sec. 4. That section 8-407.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-407.01. Industrial loan and investment companies shall maintain a cash reserve as provided in section 5 of this act of three per cent on paid-up certificates and ten per cent on installment certificates. Fifty per cent of the cash reserve may be carried in obligations of the United States government or any agency thereof at their market value.

Sec. 5. The cash reserve referred to in section 8-407.01 shall consist of cash on hand and balances due from solvent banks approved by the Department of Banking and Finance. Cash shall include lawful money of the United States and cash items in process of collection through any solvent bank. Cash items shall mean checks or drafts received and presented for payment on the next

business day after receipt. Process of collection shall mean to present for payment within twenty-four hours of receipt. Any item returned not collected shall be excluded from cash items in process of collection. When any industrial loan and investment company shall fail to maintain the cash reserve as set forth in section 8-407.01, the Department of Banking and Finance shall assess such company an assessment on the deficiency at a rate of eight per cent per annum for the days deficient plus five dollars per day of such deficiency. The Director of Banking and Finance may waive the five dollars per day assessment. Such assessment may be collected in the manner prescribed for the collection of fees for the examination of such companies.

Sec. 6. That section 8-410, Revised Statutes Supplement, 1978, be amended to read as follows:

8-410. Corporations organized under the provisions of sections 8-401 to 8-417 may borrow from the general public and issue therefor certificates of indebtedness. The department shall regulate the form, terms, and content of certificates of indebtedness. Such certificates of indebtedness shall be of two classes: Paid-up certificates and installment certificates. Paid-up certificates shall be issued in fixed denominations and shall be repayable at fixed future dates. Installment certificates shall be issued in passbook or other form and under such terms as the corporation may determine and shall evidence the original amount advanced by the holder thereof and be subject to the right of the holder to add further sums at such times as the holder may desire, and the balance therein may be withdrawn by the holder thereof, in whole or in part, at any time upon request, subject to the right of the corporation to require at least thirty days' notice of any such withdrawal. Different rates of interest may be paid on certificates of indebtedness with different amounts or with different maturities. By regulation the department may provide for interest rates in excess of six per cent per annum. Paid-up certificates of indebtedness shall not be paid before maturity thereof except that in an emergency when it is necessary to prevent hardship to the certificate holder, the corporation, in its discretion, may pay such certificate or a portion thereof before maturity. Before such payment is made the certificate holder shall sign a written statement to be kept in the files of the corporation that an emergency exists and that he is in need of money represented by the certificate of indebtedness before the maturity date, stating the definite amount needed. The certificate of indebtedness may then be paid before maturity to the extent required

to meet such need, but the certificate holder shall forfeit ~~up-to-but-not-more-than~~ an amount equal to three months' accrued--and--unpaid interest on the amount withdrawn. If the amount withdrawn has remained on deposit for three months or less, all interest shall be forfeited. When a portion of a certificate of indebtedness is paid before maturity, the certificate shall be canceled and a new certificate shall be issued for the unpaid portion of the indebtedness, with the same terms, rate, date, and maturity as the original certificate of indebtedness. Certificates of indebtedness shall be in such form as the department by general rule shall prescribe, not inconsistent with the provisions of sections 3-401 to 3-417, and no other or different form shall be used. If upon presentation of a certificate of indebtedness for payment on or after the maturity date the issuer without just cause fails to make payment thereof, the department may take possession of its business and affairs and may liquidate same. Corporations organized under the provisions of sections 3-401 to 3-417, may also borrow money from and rediscount paper with banks and other corporate lenders and pledge collateral as security thereto: Provided, that the combined indebtedness of any industrial loan and investment company arising from the issuance of all certificates of indebtedness and the money borrowed from banks and other corporate lenders shall at no time exceed the limit prescribed by section 3-413. Notwithstanding section 3-413, any industrial loan and investment company may borrow on its bills payable secured by direct or indirect obligations of the United States government or secured by obligations guaranteed by agencies of the United States government without limitation, but no such company shall, without the written consent of the Director of Banking and Finance, transfer, as collateral to its obligation, assets with a face value of more than one and one half times the amount of such obligation. Any transfer of assets of an industrial loan and investment company in violation of the provisions of this section shall be void as against creditors of such industrial loan and investment company.

Sec. 7. No director, officer, or employee of an industrial loan and investment company, no corporation in which an officer of the industrial loan and investment company is the owner of a controlling interest, and no partnership in which an officer of the industrial loan and investment company is a member, shall borrow any of the funds of the industrial loan and investment company, directly or indirectly, without first having secured the approval of the board of directors of such industrial loan and investment company. The approval shall be made at a meeting of the board and a record of such approval

shall be made and kept as part of the records of such company. The amount of any loan shall be limited as provided in section 8 of this act and section 8-409, Revised Statutes Supplement, 1978.

Sec. 8. An active officer or employee may borrow from the funds of the industrial loan and investment company:

(1) Ten thousand dollars or less for personal use;

(2) Twenty thousand dollars or less for financing the education of his or her children; and

(3) Sixty thousand dollars or less if at the time the loan is made it is secured by a first lien on a dwelling which is to be owned by such officer or employee and used by him or her as a residence.

Sec. 9. A director who is not an officer and any honorary or inactive officer may borrow from the funds of an industrial loan and investment company such amount as the board of directors shall approve.

Sec. 10. If an officer of an industrial loan and investment company borrows from, or is or becomes indebted to, any other financial institution, he or she shall make a written report to the board of directors of the industrial loan and investment company of which he or she is an officer. The report shall state 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.

Sec. 11. Loans made prior to the effective date of this act may be renewed or extended for a period of not more than five years from such date.

Sec. 12. Any officer, director, or employee of an industrial loan and investment company, or any other person who shall violate sections 7 to 11 of this act, or who shall aid, abet, or assist in such violation shall be guilty of a Class IV felony.

Sec. 13. That original sections 8-403 and 8-407.01, Reissue Revised Statutes of Nebraska, 1943, and sections 8-403.01, 8-403.02, and 8-410, Revised Statutes Supplement, 1978, are repealed.