

LEGISLATIVE BILL 332

Approved by the Governor April 6, 1987

Introduced by Conway, 17; Pirsch, 10; Hannibal, 4;
Goodrich, 20; Abboud, 12

AN ACT relating to banks and banking; to amend sections 8-815 and 8-821, Reissue Revised Statutes of Nebraska, 1943, and sections 8-1511 to 8-1513, Revised Statutes Supplement, 1986; to define and redefine terms; to provide for fees for loan service costs as prescribed; to provide for the acquisition of newly established banks by thrift institutions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 8-815, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) Department shall mean the Department of Banking and Finance, ~~of the State of Nebraska,~~

(2) Bank shall mean the banks, trust companies, and cooperative credit associations, 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 sections 8-816 and 8-817;

(4) Unregistered bank shall mean any bank which has not registered under sections 8-816 and 8-817; or the registration of which is not in effect because of action taken under section 8-827; and

(5) Personal loan 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 per cent per annum. Personal loan shall include loans for the purchase of mobile homes even though the loan is not repayable within one hundred forty-five months. Personal loan 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

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

Sec. 2. That section 8-821, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-821. In addition to the charges permitted by section 8-820, no further amount or exaction shall be directly or indirectly contracted for or received, except:

(1) Lawful fees actually and necessarily paid to a public officer for filing, recording, or releasing an instrument securing the loan;

(2) Taxable costs to which the bank is adjudged to be entitled in judicial proceedings instituted to collect the loan;

(3) Premiums paid for insurance policies covering tangible personal property securing the loan. Such insurance shall be only in such amount and nature as is customary and reasonable, having regard to all the circumstances of the loan, and the premium shall not exceed standard rates. If insurance is procured by or through the bank, an executed copy of the insurance policy or certificate of insurance shall be delivered to the borrower within fifteen days;

(4) The actual costs of nonfiling insurance;

(5) Premiums paid for credit life, sickness and accident insurance policies, or either; and

(6) Charges permitted by section 8-822; and

(7) Fees agreed to by the parties for loan service costs for exceeding authorized limits, replacing lost cards, returning checks, or delinquency on the account.

Sec. 3. That section 8-1511, Revised Statutes Supplement, 1986, be amended to read as follows:

8-1511. As used in sections ~~8-1512 and 8-1511~~ to 8-1513, ~~and this section~~; unless the context otherwise requires:

(1) Affiliated bank or thrift institution shall mean (a) if the bank or thrift institution is a subsidiary of a state bank, or national banking association, or thrift institution, the parent bank or thrift institution as the case may be and (b) if the bank or thrift institution is a subsidiary of a bank or thrift institution holding company, the principal banking subsidiary of the holding company which is a

bank or thrift institution as the case may be;

(2) Association of banks or thrift institutions shall mean two or more banks or thrift institutions formed for the purpose of acquiring and holding all or substantially all of the voting stock of one newly established bank pursuant to sections 8-1512 and 8-1513;

(3) Bank or banking corporation shall mean the principal office of (a) any national bank doing business in this state, (b) any corporation which is chartered to conduct a bank in this state as provided in Chapter 8, article 1, (c) any association of banks, (d) a bank holding company as defined in section 8-902, or (e) a bank holding company as defined in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841, et seq., or a subsidiary thereof, with bank subsidiaries whose operations are principally conducted in a state other than Nebraska; and

(4) Qualifying association shall mean an association, corporation, partnership, or other entity which at all times maintains an office in this state at which it employs at least fifty persons in this state and which pursuant to contract or otherwise offers at least the following services to banks: (a) The distribution, as agent for a bank, of credit cards or transaction cards; or other devices designed and effective to access a prearranged revolving credit plan account with such bank; (b) the preparation of periodic statements of amounts due under such account; (c) the receipt from credit card or transaction card holders of amounts paid on or with respect to such accounts; and (d) the maintenance of financial records reflecting the status of such accounts from time to time;

(5) Thrift institution shall mean (a) any corporation which is chartered as a building and loan association, savings and loan association, savings bank, credit union, or cooperative credit association under the laws of the United States, any other state, or the District of Columbia and whose operations are principally conducted outside of Nebraska, (b) any holding company of a thrift institution with subsidiaries whose operations are principally conducted outside of Nebraska, or (c) any association of thrift institutions; and

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

Sec. 4. That section 8-1512, Revised Statutes Supplement, 1986, be amended to read as follows:

8-1512. Notwithstanding any other provisions of law and subject to the provisions of this section and to the approval of the Director of Banking and Finance, any bank or thrift institution, as defined in section 8-1511, may acquire and hold all or substantially all of the voting stock of one newly established bank located in this state when and so long as the following conditions are satisfied:

(1) The bank whose stock is to be acquired is a newly established bank that shall be limited to one banking office and the bank may not acquire, establish, share, or maintain any additional banking office or remote service unit in this state whether by merger, consolidation, or otherwise, and the services of the bank shall be limited to the solicitation, processing, and matters relating to the making of loans instituted by credit card or ~~other type of~~ transaction card;

(2) The bank whose stock is to be acquired is limited to accepting deposits only from affiliated banks or thrift institutions not domiciled in the State of Nebraska and has or will have on the date of commencement of banking business in this state a minimum capital stock and paid-in surplus of two million five hundred thousand dollars;

(3) The bank whose stock is to be acquired (a) employs on the date of commencement of its banking business in this state or will employ within one year of such date not less than fifty persons in this state in its business or (b) has contracted with a qualifying association to provide for the processing of its credit card or transaction card operations; and

(4) The bank whose stock is to be acquired is operating 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 banking institutions located in this state, except that the bank to be acquired may be operated in a manner likely to attract and retain customers with whom such bank, the acquiring bank or thrift institution, or nonbanking the subsidiary of the acquiring bank or thrift institution has or has had business relations.

Sec. 5. That section 8-1513, Revised Statutes Supplement, 1986, be amended to read as follows:

8-1513. (1) Any bank or thrift institution, as defined in section 8-1511, proposing any acquisition pursuant to section 8-1512 shall file an application with the Director of Banking and Finance for approval to make the acquisition. The application shall contain such information as the director may by regulation

require and shall specifically acknowledge the applicant's agreement to be bound by the conditions set forth in section 8-1512. In addition, the application shall designate a resident of this state as the applicant's agent for the service of any paper, notice, or legal process upon the applicant in connection with the matters arising out of the laws of this state and shall be accompanied by a filing fee in the amount of five thousand dollars for the use of this state.

(2) In determining whether to approve an acquisition by a bank or thrift institution, as defined in section 8-1511, of any voting stock of a newly established bank located in this state, the director shall consider: (a) The financial and managerial resources of such bank or thrift institution; (b) whether the acquisition may result in undue concentration of resources or substantial lessening of competition; and (c) whether the convenience and benefit to the public outweigh any adverse competitive effects.

(3) Any approval granted to a bank or thrift institution, as defined in section 8-1511, by the director is subject to such reasonable conditions as the director deems necessary and to the director's continuing authority to ascertain such bank's financial institution's compliance with the provisions of the laws of this state and the conditions of approval.

(4) Whenever the director determines after notice and hearing that any bank or thrift institution, as defined in section 8-1511, is not in compliance with the laws of this state or the conditions of approval, the director shall order such bank or thrift institution to divest itself of all stock of the bank acquired pursuant to sections 8-1512 and 8-1513, and such bank or thrift institution shall be liable for a penalty of ten thousand dollars per day from the date such divestiture is ordered until it is completed.

Sec. 6. That original sections 8-815 and 8-821, Reissue Revised Statutes of Nebraska, 1943, and sections 8-1511 to 8-1513, Revised Statutes Supplement, 1986, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.