

LEGISLATIVE BILL 996

Approved by the Governor March 17, 1988

Introduced by Banking, Commerce & Insurance Committee,
Remmers, 1, Chairperson; Haberman, 44;
Conway, 17; Goodrich, 20; Wehling, 48;
Lynch, 13; Schmit, 23

AN ACT relating to banks and banking; to amend sections 8-163 and 8-165, Reissue Revised Statutes of Nebraska, 1943, section 8-164, Revised Statutes Supplement, 1986, and sections 8-126 and 8-148, Revised Statutes Supplement, 1987; to change residency requirements for members of the board of directors; to provide for the purchase of stock as prescribed; to change provisions relating to dividends and withdrawals; to define a term; and to repeal the original sections.

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

Section 1. That section 8-126, Revised Statutes Supplement, 1987, be amended to read as follows:

8-126. A majority of the members of the board of directors of any bank transacting business under sections 8-101 to 8-1,121 shall be residents of have their residences in this state or within twenty-five miles of the bank's main office. Reasonable efforts shall be made to acquire members of the boards of directors from the county in which such bank is located. Every director shall be the owner of at least one share of the paid-up capital stock in his or her own name and right. Directors of banks shall be persons of good moral character, known integrity, business experience, and responsibility. No person shall act as such member of the board of directors of any bank until such bank applies for and obtains approval from the Department of Banking and Finance.

Sec. 2. That section 8-148, Revised Statutes Supplement, 1987, be amended to read as follows:

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, after August 30, 1987, 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 section 8-149, the shares of any corporation, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith. Such stock so purchased or acquired shall, within six months from the time of its purchase, 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 so sold or disposed of as the Director of Banking and Finance shall require. 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 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, ~~or~~ Federal National Mortgage Association stock, or Federal Agricultural Mortgage Corporation stock. Such bank shall not obligate more than five percent of its capital surplus, undivided profits, and unencumbered reserves for such stock.

Sec. 3. That section 8-163, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-163. 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. ~~No ; and no~~ dividend shall be made by any bank ~~to~~ in an amount greater than the net profits on hand; ~~less the losses and bad debts without the written permission of the director.~~ As used in this section, net profits on hand shall mean 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. 4. That section 8-164, Revised Statutes Supplement, 1986, be amended to read as follows:

8-164. The board of directors of any bank may quarterly or semiannually declare a dividend ~~out of net profits~~ on its capital stock, but only under the following conditions:

(1) All bad debts, required to be charged off by either the 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 ~~the same 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. 5. That section 8-165, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-165. Any losses sustained by any bank in excess of its undivided profits shall be charged to its surplus fund. Its surplus fund shall thereafter be reimbursed from the earnings, and no dividends shall thereafter be declared or paid by any such bank, without the written permission of the director, in excess of one-half of its net earnings until such surplus fund shall be fully restored to its former amount, ~~or an amount equal to its capital.~~

Sec. 6. That original sections 8-163 and 8-165, Reissue Revised Statutes of Nebraska, 1943, section 8-164, Revised Statutes Supplement, 1986, and sections 8-126 and 8-148, Revised Statutes Supplement, 1987, are repealed.