

LEGISLATIVE BILL 456

Approved by the Governor April 26, 1995

Introduced by Lindsay, 9

AN ACT relating to banks and banking; to amend section 8-1507, Reissue Revised Statutes of Nebraska, and sections 8-157 and 8-1515, Revised Statutes Supplement, 1994; to change provisions relating to branch banking; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 8-157, Revised Statutes Supplement, 1994, is amended to read:

8-157. (1) Except as provided in subsections (2) through (9) of this section and section 8-122.01, the general business of every bank shall be transacted at the place of business specified in its charter.

(2)(a) With the approval of the director, any bank may maintain an attached branch bank if such branch bank is physically connected by a pneumatic tube or tubes or a walkway, a tunnel, or any other electronic, mechanical, or structural connection or attachment for the public use of the bank and is within two hundred feet of the building containing the premises specified as its place of business in its charter or any adjacent connected building housing a continuation of the operations of the bank's main office.

(b) With the approval of the director, any bank located in a Class I or Class III county may establish and maintain in Class I and Class III counties an unlimited number of detached branch banks at which all banking transactions allowed by law may be made.

(c) With the approval of the director, any bank located in a Class II county may establish and maintain not more than nine detached branch banks at which all banking transactions allowed by law may be made. Such detached branch banks shall be within the corporate limits of the city in which such bank is located, or if the bank is located within the zoning jurisdiction of a city of the primary class or is located within an unincorporated city or unincorporated area in a county which contains a city of the primary class, such detached branch banks may also be within the corporate limits of such city.

(d) With the approval of the director, any bank located in a Class IV county may establish and maintain not more than six detached branch banks at which all banking transactions allowed by law may be made. Such detached branch banks shall be within the corporate limits of the city in which such bank is located.

(e) Any detached branch bank established and maintained by a bank pursuant to an acquisition or merger under sections 8-1506 to 8-1510 or an acquisition under section 8-1515 shall not count against the number of locations of detached branch banks permitted under this subsection.

(f) For purposes of this section:

(i) Class I county shall mean a county in this state with a population of three hundred thousand or more as determined by the most recent federal decennial census;

(ii) Class II county shall mean a county in this state with a population of at least two hundred thousand and less than three hundred thousand as determined by the most recent federal decennial census;

(iii) Class III county shall mean a county in this state with a population of at least one hundred thousand and less than two hundred thousand as determined by the most recent federal decennial census; and

(iv) Class IV county shall mean a county in this state with a population of less than one hundred thousand as determined by the most recent federal decennial census.

(3) With the approval of the director, a bank may acquire another bank financial institution in Nebraska as the result of a purchase or merger so long as (a) if the acquired institution is a bank, the acquired bank financial institution has been chartered for more than eighteen months and the acquired institution and its detached branch banks branches are converted to detached branch banks of the acquiring bank or (b) in a cross-industry merger under section 8-1510 in which the acquired institution and its detached branches are converted to detached branch banks of the acquiring bank, the provisions of such section have been satisfied. Such branch banks shall not count against the number of locations of detached branch banks permitted under subdivisions (2)(c) and (2)(d) of this section. If the acquired institution is in a Class I county or in a Class III county, following a purchase or

merger pursuant to this subsection the acquiring bank may establish and maintain detached branch banks branches to the same extent that the acquired institution could have established and maintained detached branch banks branches as provided in subdivision (2)(b) of this section or section 8-345.02 if the purchase or merger had not occurred. If the acquired institution is in a Class II county and it has not established nine detached branch banks branches as permitted by subdivision (2)(c) of this section or section 8-345.02, following a purchase or merger pursuant to this subsection the acquiring bank may establish and maintain detached branch banks to the same extent that the acquired institution could have established and maintained detached branch banks branches as provided in subdivision (2)(c) of this section or section 8-345.02 if the purchase or merger had not occurred. If the acquired institution is in a Class IV county and it has not established six detached branch banks branches as permitted by subdivision (2)(d) of this section or section 8-345.02, following a purchase or merger pursuant to this subsection the acquiring bank may establish and maintain detached branch banks branches to the same extent that the acquired institution could have established and maintained detached branch banks branches as provided in subdivision (2)(d) of this section or section 8-345.02 if the purchase or merger had not occurred. Regardless of the date of acquisition of such financial institution or whether the acquired financial institution was state-chartered or federally chartered, the acquired institution shall be deemed for purposes of this subsection to have been permitted to establish and maintain detached branches solely to the extent permitted to state-chartered financial institutions under subsection (2) of this section or under section 8-345.02 at the time of establishment of a new detached branch. For purposes of this subsection, financial institution or institution means a bank, savings bank, building and loan association, or savings and loan association organized under the laws of this state or organized under the laws of the United States to do business in this state.

(4) With the approval of the director, a bank may acquire the assets and assume the deposits of a detached branch bank of another bank in Nebraska if:

(a) The acquired detached branch bank has been approved for more than eighteen months;

(b) The acquired detached branch bank is converted to a detached branch bank of the acquiring bank; and

(c) The bank from which the detached branch bank is acquired and the acquiring bank are subsidiaries of the same bank holding company or the detached branch bank to be acquired was chartered as a bank prior to becoming a detached branch bank.

All banking transactions allowed by law may be made at a detached branch bank acquired pursuant to this subsection. Such detached branch banks shall not count against the number of locations of detached branch banks permitted under subdivisions (2)(c) and (2)(d) of this section. The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the detached branch banks of the acquired bank as detached branch banks of the acquiring bank.

(5) With the approval of the director, a bank may acquire the assets and assume the deposits of a detached branch bank of another bank in Nebraska or acquire the assets and assume the deposits of an eligible savings association acquired by another bank in Nebraska pursuant to section 8-1515 if:

(a) The acquired detached branch bank or eligible savings association is converted to a detached branch bank of the acquiring bank; and

(b) The detached branch bank or the eligible savings association to be acquired was operated, established, and maintained as an eligible savings association at its existing location prior to August 9, 1989, and was maintained at such location on such date.

All banking transactions allowed by law may be made at a detached branch bank acquired pursuant to this subsection. Such detached branch banks shall not count against the number of locations of detached branch banks permitted under subdivisions (2)(c) and (2)(d) of this section. The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the detached branch banks of the acquired bank as detached branch banks of the acquiring bank. The detached branch bank or eligible savings association acquired as a detached branch bank under this subsection and section 8-1515 shall continue to be entitled to establish and maintain such branches as it could have established and maintained if such acquisition had not occurred. Regardless of the date of acquisition of such detached branch bank or eligible savings

association or whether the acquired detached branch bank or eligible savings association was state-chartered or federally chartered, the acquired detached branch bank or eligible savings association shall be deemed for purposes of this subsection to have been permitted to establish and maintain detached branches solely to the extent permitted to state-chartered financial institutions under subsection (2) of this section or under section 8-345.02 at the time of establishment of a new detached branch.

(6) With the approval of the director, a bank may acquire a branch of a savings association which is a successor to an eligible savings association if such acquisition occurs within ninety days of the date the successor savings association acquired the eligible savings association and the branch is converted to a detached branch bank of the acquiring bank. The detached branch of an eligible savings association acquired as a detached branch bank under this subsection and section 8-1515 shall continue to be entitled to establish and maintain such branches as it could have established and maintained if such acquisition had not occurred. Regardless of the date of acquisition of such detached branch of an eligible savings association or whether the acquired detached branch of an eligible savings association was state-chartered or federally chartered, the acquired detached branch of an eligible savings association shall be deemed for purposes of this subsection to have been permitted to establish and maintain detached branches solely to the extent permitted to state-chartered financial institutions under section 8-345.02 at the time of establishment of a new detached branch.

(7) With the approval of the director and subject to the limitations specified in this subsection, a single bank may establish one detached branch bank within the corporate limits of any municipality in which a financial institution has closed and ceased doing business within the preceding two years if no other financial institution operates an office within such municipality. If thirty days or less have elapsed since the financial institution ceased operation, the director shall only approve the establishment of a detached branch bank by a bank which has its place of business, as specified in its charter, in the same county as or in a contiguous county to the county in which such municipality is located. If more than thirty days have elapsed since the financial institution ceased operation, the director may approve the establishment of a detached branch bank by any bank located within Nebraska.

For purposes of this subsection:

(a) An unattended automatic teller machine shall not be deemed to be an office operated by a financial institution; and

(b) Financial institution shall mean a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, or other institution offering automatic teller machine transactions.

(8) The name given to any detached branch bank established and maintained pursuant to this section shall not be substantially similar to the name of any existing bank or branch bank which is unaffiliated with the newly created detached branch bank and is located in the same municipality. The name of such newly created detached branch bank shall be approved by the director.

(9) A bank which has a main chartered office or an approved branch bank located in the State of Nebraska may, through any of its executive officers, including executive officers licensed as such pursuant to section 8-139, or designated agents, conduct a loan closing at a location other than the place of business specified in the bank's charter or any detached branch thereof. The director may adopt and promulgate rules and regulations to implement the provisions of this section.

Sec. 2. Section 8-1507, Reissue Revised Statutes of Nebraska, is amended to read:

8-1507. Pursuant to section 8-1506, the Department of Banking and Finance may permit cross-industry acquisition of any failing financial institution or permit acquisition and operation of such financial institution as a bank subsidiary by a bank holding company when the department determines the acquisition of any of the financial institutions is necessary because its capital is impaired, it is conducting its business in an unsafe or unauthorized manner, or it is endangering the interests of depositors or savers. If the acquiring institution is a bank, it may continue to operate such financial institution in its original form notwithstanding its denomination as a bank subsidiary. Acquisitions by any financial institution under sections 8-1506 to 8-1510 shall be deemed to be of the same nature as an acquisition of a state-chartered bank and shall follow such rules or regulations established by the Director of Banking and Finance for acquisition of state-chartered banks by a bank holding company. The failing institution

acquired under this section shall continue to be entitled to establish and maintain such branches as it could have established and maintained if such acquisition had not occurred. Regardless of the date of acquisition of such failing institution or whether the acquired failing institution was state-chartered or federally chartered, the acquired failing institution shall be deemed for purposes of this section to have been permitted to establish and maintain detached branches solely to the extent permitted to state-chartered financial institutions under subsection (2) of section 8-157 or under section 8-345.02 at the time of establishment of a new detached branch.

Sec. 3. Section 8-1515, Revised Statutes Supplement, 1994, is amended to read:

8-1515. (1) With the approval of the director, a bank may acquire an eligible savings association and convert the eligible savings association into a detached branch bank of the acquiring bank if (a) the eligible savings association was established and maintained at its existing location prior to August 9, 1989, and was maintained at such location on such date and (b) the acquiring bank purchases or assumes all or any part of the assets or liabilities of the eligible savings association or agrees to act as the paying agent of the Federal Deposit Insurance Corporation or Resolution Trust Corporation with respect to the deposit liabilities of the eligible savings association.

(2) With the approval of the director, a bank may acquire a branch of a savings association which is a successor to an eligible savings association if such acquisition occurs within ninety days of the date the successor savings association acquired the eligible savings association and the branch is converted to a detached branch bank of the acquiring bank.

(3) For purposes of this section and section 8-157, eligible savings association shall mean the main office, any or all branches of the main office, or the main office and any or all branches of the main office of any federally chartered or state-chartered savings bank, building and loan association, or savings and loan association the deposits of which are insured by the Federal Deposit Insurance Corporation (a) with respect to which any adjudication or other official determination of any court of competent jurisdiction, the director, the appropriate federal banking agency, or any other public authority has resulted in the appointment of a conservator, receiver, or other legal custodian or (b) which fails to meet the minimum capital requirements applicable to it as established by law or regulation promulgated by its principal federal or state regulator. The determination of whether any federally chartered or state-chartered savings bank, building and loan association, or savings and loan association has failed to meet the minimum capital requirements applicable to it shall be made without regard to whether it has been granted any forbearance or other relief from any statutory, regulatory, or other capital requirements by any federal or state regulator, whether the institution has submitted to any such regulator a plan to meet applicable capital requirements or standards over time, or whether any such capital plan has been approved by a federal or state regulator.

(4) For purposes of this section and section 8-157, a detached branch acquired under this section shall be entitled to establish and maintain branches to the same extent that it could have established and maintained branches if the acquisition had not occurred. Regardless of the date of acquisition of such detached branch or whether the acquired eligible savings association or the detached branch was state-chartered or federally chartered, the acquired eligible savings association or detached branch shall be deemed for purposes of this subsection to have been permitted to establish and maintain detached branches solely to the extent permitted to state-chartered financial institutions under section 8-345.02 at the time of establishment of a new detached branch.

Sec. 4. Original section 8-1507, Reissue Revised Statutes of Nebraska, and sections 8-157 and 8-1515, Revised Statutes Supplement, 1994, are repealed.