LEGISLATIVE BILL 957

Approved by the Governor April 19, 2002

Introduced by Landis, 46

AN ACT relating to banking and finance; to amend sections 8-115.01, 8-120, 8-122, 8-157, 8-178, 21-1732, 21-1736, 21-17,109, 72-1266, 72-1268.03, 76-252, and 76-1014.01, Reissue Revised Statutes of Nebraska, sections 8-183.03, 8-1123, 8-1401, 8-1402, 21-1701, 45-337, 45-703, 52-1601, 72-1262, 72-1263, 72-1264, and 76-1002, Revised Statutes Supplement, 2000, and sections 8-1,140, 8-355, 8-1111, 10-126, 21-17,115, and 45-1026, Revised Statutes Supplement, 2001; to change provisions relating to bank charters, applications for charters, and branch banking; to revise powers of state-chartered banks, building and loan associations, and credit unions; to change provisions relating to securities transactions exempt from registration, exemptions from bond redemption requirements, credit unions, department powers, installment sales, mortgage bankers, installment loan contracts, the master lien list, disclosures under the Nebraska Capital Expansion Act, mortgages, and trust deeds; to refund certain fees as prescribed; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 8-115.01, Reissue Revised Statutes of Nebraska, is amended to read:

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, 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~~ When an application required by section 8-120 is made by a corporation, the following procedures shall be followed:

(1) Except as provided for in subdivision (2) of this section, when application is made for a new bank charter, a public hearing shall be held on each application. Notice of the filing of the application shall be published by the department for three weeks in a legal newspaper published in or of general circulation in the county where the applicant proposes to operate the bank. The date for hearing the application shall be not less than thirty days after the last publication of notice of hearing and not more than ninety days after filing the application unless the applicant agrees to a later date. Notice of the filing of the application shall be sent by the department by certified mail to all financial institutions located in the county where the applicant proposes to operate;

(2) When application is made for a new bank charter and the director

determines, in his or her discretion, that the conditions of subdivision (3) of this section are met, then the public hearing requirement of subdivision (1) of this section shall only be required if, (a) after publishing a notice of the proposed application in a newspaper of general circulation in the county where the main office of the applicant is to be located and (b) after giving notice by certified mail to all financial institutions located within such county, the director receives a substantive objection to the application within fifteen days after the first day of publication;

(3) The director shall consider the following in each application before the public hearing requirement of subdivision (1) of this section may be waived:

(a) Whether the experience, character, and general fitness of the applicant and of the applicant's officers and directors is such as to warrant belief that the applicant will operate the business honestly, fairly, and efficiently;

(b) Whether the length of time that the applicant or a majority of the applicant's officers, directors, and shareholders have been involved in the business of banking in this state has been for a minimum of five consecutive years; and

(c) Whether the condition of financial institutions currently owned by the applicant, the applicant's holding company, if any, or the applicant's officers, directors, or shareholders is such as to indicate that a hearing on the current application would not be necessary;

(4) When application is made for transfer of a bank charter and move of the main office of a bank 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, the director shall hold a hearing on the matter if he or she determines, in his or her discretion, that the condition of the applicant warrants a hearing. If the director determines that the condition of the applicant does not warrant a hearing, the director shall (a) publish a notice of the filing of the application in a newspaper of general circulation in the county where the proposed main office and charter of the applicant would be located and (b) give notice of such application by certified mail to all financial institutions located within the county where the proposed main office and charter would be located and to such other interested parties as the director may determine. If the director receives any substantive objection to the proposed relocation within fifteen days after the first day of publication, he or she shall hold a hearing on the application. Notice of a hearing held pursuant to this subdivision shall be published for two consecutive weeks in a newspaper of general circulation in the county where the main office would be located. The date for hearing the application shall be not less than thirty days after the last publication of notice of hearing and not more than ninety days after the filing of the application unless the applicant agrees to a later date. When the persons making application for transfer of a main office and charter are officers or directors of the bank, there is a rebuttable presumption that such persons are parties of integrity and responsibility;

(5) When application is made for a move of any bank's main office within the city, village, or county, if not chartered within a city or village, of its original charter, the director shall publish notice of the proposed move in a newspaper of general circulation in the county where the main office of the applicant is located and shall give notice of such intended move by certified mail to all financial institutions located within the county where such bank is located. If the director receives a substantive objection to such move within fifteen days after publishing and mailing such notice, he or she shall publish an additional notice and hold a hearing as provided in subdivision (1) of this section;

(6) The expense of any publication required by this section shall be paid by the applicant; and

(7) Notwithstanding any provision of this section, the director 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.

Sec. 2. Section 8-120, Reissue Revised Statutes of Nebraska, is amended to read:

8-120. Every corporation organized for and desiring to conduct a bank or to conduct a bank for purposes of a merger with an existing bank, shall make under oath and transmit to the department a complete detailed application, giving (1) the name of the proposed bank; (2) a certified copy of the articles of incorporation; (3) the names of the stockholders; (4) the county, city, or village and the exact location therein in which such bank is

proposed to be located; (5) the nature of the proposed banking business; (6) the proposed amounts of paid-up capital stock, surplus, and undivided profits, and the items of actual cash and property, as reported and approved at a meeting of the stockholders, to be included in such amounts; and (7) a statement that at least twenty percent of the amounts stated in subdivision (6) of this section have in fact been paid in to the corporation by its stockholders. In the case of a merger, the existing bank which is to be merged into shall complete an application and meet the requirements of this section. This section also applies when application is made for transfer of a bank charter and move of a bank's main office 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.

Sec. 3. Section 8-122, Reissue Revised Statutes of Nebraska, is amended to read:

8-122. (1) After the examination and approval by the department of the application required by section 8-120, if the department upon investigation and after ~~the~~ any public hearing on the application held pursuant to section 8-115.01 shall be satisfied that the stockholders and officers of the corporation applying for such charter are parties of integrity and responsibility, that the requirements of section 8-702 have been met, and that the public necessity, convenience, and advantage will be promoted by permitting such corporation to engage in business as a bank, the department shall, upon the payment of the 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 in accordance with section 8-116, issue to such corporation a charter to transact the business of a bank in this state provided for in its articles of incorporation.

(a) In the case of a bank organized to merge with an existing bank, there shall be a rebuttable presumption that the public necessity, convenience, and advantage will be met by the merger of the two banks, except that such presumption shall not apply when the new bank that is formed by the merger is at a different location than that of the former existing bank. Any application for merger under this subdivision shall be subject to section 8-1516.

(b) In the case of an applicant which has agreed to acquire substantially all of the assets and liabilities of a cooperative credit association having more than one hundred members, a finding that the public necessity, convenience, and advantage will be promoted by permitting such applicant to engage in business as a bank shall not be required. The department may require an applicant which has agreed to acquire substantially all of the assets and liabilities of a cooperative credit association to provide to each member of the association the following preferential rights: (i) To subscribe to capital stock of the applicant in proportion to such member's equity interest in the association and (ii) to subscribe to capital stock of the applicant which was not subscribed to under subdivision (1)(b)(i) of this section as may be agreed upon by the applicant and the association.

(2) On payment of the required fees and the receipt of the charter, such corporation may begin to conduct a bank.

Sec. 4. Section 8-157, Reissue Revised Statutes of Nebraska, is amended to read:

8-157. (1) Except as provided in subsections (2) through (11) of this section and sections 8-122.01 and 8-2104, 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)(i) With the approval of the director, any bank located in a Class II county may establish and maintain not more than the number of detached branch banks permitted under subdivision (2)(c)(ii) of this section at which all banking transactions allowed by law may be made.

(ii)(A) If the bank is located within the corporate limits of a city, such bank may establish and maintain not more than twelve such detached

branch banks and such detached branch banks shall be within the corporate limits of the city.

(B) 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 bank may establish and maintain not more than nine such detached branch banks and such detached branch banks may also be within the corporate limits of such city if the bank was in existence at such location prior to April 4, 1996.

(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 be subject to the limitations as to location and number of locations of detached branch banks contained in subdivisions (b), (c), and (d) of this subsection.

(f) With the approval of the director, any bank or any detached branch bank which was chartered as a financial institution prior to being converted to a detached branch bank may establish and maintain a mobile branch bank at which all banking transactions allowed by law may be made. Such mobile branch bank may consist of one or more vehicles which may transact business only within the corporate limits of the city in which such bank or detached branch bank which was chartered as a financial institution prior to being converted to a detached branch bank is located, except that (i) a mobile branch bank of a bank or detached branch bank which was chartered as a financial institution prior to being converted to a detached branch bank located in a Class I or Class III county, may transact business anywhere in Class I and III counties and (ii) a mobile branch bank of a bank or detached branch bank which was chartered as a financial institution prior to being converted to a detached branch bank located in a Class II county and within the zoning jurisdiction of a city of the primary class or within an unincorporated city or unincorporated area in a county which contains a city of the primary class may transact business within the corporate limits of such city if the bank or detached branch bank which was chartered as a financial institution prior to being converted to a detached branch bank was in existence at such location prior to April 4, 1996.

(g) For purposes of this section:

(i) Class I county means 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 means 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 means 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 means 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 financial institution in Nebraska as the result of a purchase or merger pursuant to section 8-1516. Any detached branch banks established and maintained by a bank pursuant to a purchase or merger under section 8-1516 shall not be subject to the limitations as to location and number of locations of detached branch banks contained in subdivisions (2)(b), (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 a mobile branch bank and detached branches to the same extent that the acquired institution could have established and maintained a mobile branch bank and detached branches as provided in subdivisions (2)(b) and (2)(f) 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 a mobile branch bank and twelve or nine detached branches as permitted by subdivision (2)(c)(ii)(A) or (2)(c)(ii)(B) of this section, respectively, and subdivision (2)(f) of this section or section 8-345.02, following a purchase or merger pursuant to this subsection the acquiring bank may establish and maintain a mobile branch bank and detached branch banks to the same extent that the acquired institution could have established and maintained a mobile branch bank and detached

branches as provided in subdivisions (2)(c) and (2)(f) 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 a mobile branch bank and six detached branches as permitted by subdivisions (2)(d) and (2)(f) of this section or section 8-345.02, following a purchase or merger pursuant to this subsection the acquiring bank may establish and maintain a mobile branch bank and detached branches to the same extent that the acquired institution could have established and maintained a mobile branch bank and detached branches as provided in subdivisions (2)(d) and (2)(f) 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 a mobile branch bank and 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 mobile branch bank or 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 of another financial institution in Nebraska if:

(a) The acquired detached branch has been established, maintained, and operated for more than eighteen months; and

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

All banking transactions allowed by law may be made at a detached branch acquired pursuant to this subsection. Such detached branches shall not be subject to the limitations as to location and number of locations of detached branch banks contained in subdivisions (2)(b), (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 the mobile branch bank and all of the detached branch banks of the acquired bank as a mobile branch bank and detached branch banks of the acquiring bank.

For purposes of this subsection, financial 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.

(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 be subject to the limitations as to location and number of locations of detached branch banks contained in subdivisions (2)(b), (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 the mobile branch bank and all of the detached branch banks of the acquired bank as a mobile branch bank and 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 a mobile branch bank and 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 mobile branch bank or 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 a mobile branch bank and 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 a mobile branch bank and 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 mobile branch bank or 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 means a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, trust company, 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.

(10) A bank which has a main chartered office or approved branch office located in the State of Nebraska may, upon notification to the department, establish savings account programs at any elementary or secondary school, whether public or private, located in the same city or village as the main chartered office or branch office of the bank, or, if the main office of the bank is located in an unincorporated area of a county, at any school located in the same unincorporated area. The savings account programs shall be limited to the establishment of individual student accounts and the receipt of deposits for such accounts.

(11) Upon receiving an application for a ~~detached~~ branch bank to be established pursuant to subdivision (2)(b), (2)(c), or (2)(d) of this section, to establish a mobile branch bank pursuant to subdivision (2)(f) of this section, to acquire a detached branch of another financial institution pursuant to subsection (4) of this section, to acquire a detached branch bank of another bank pursuant to subsection (5) of this section, to acquire a branch of a savings association pursuant to subsection (6) of this section, to establish a detached branch bank pursuant to subsection (7) of this section, or to move the location of an established branch bank within the corporate limits of the same city, the director shall hold a public hearing on the matter if he or she determines, in his or her discretion, that the condition of the applicant bank warrants a hearing. If the director determines that the condition of the bank does not warrant a hearing, the director shall (a)

publish a notice of the filing of the application in a newspaper of general circulation in the county where the proposed branch or mobile branch would be located, the expense of which shall be paid by the applicant bank, and (b) give notice of such application ~~for a detached branch bank~~ by certified mail to all financial institutions located within the county where the proposed ~~detached~~ branch bank or mobile branch would be located, and to such other interested parties as the director may determine. If the director receives any substantive objection to the proposed ~~detached~~ branch bank or mobile branch bank within fifteen days after publication or mailing of such notice, he or she shall hold a hearing on the application. Notice of a hearing held pursuant to this subsection shall be published for two consecutive weeks in a newspaper of general circulation in the county where the proposed branch would be located. The date for hearing the application shall not be more than ninety days after the filing of the application and not less than thirty days after the last publication of notice of hearing.

Sec. 5. Section 8-178, Reissue Revised Statutes of Nebraska, is amended to read:

8-178. Any national banking association located and doing business within the State of Nebraska which follows the procedure prescribed by the laws of the United States may convert into a state bank or merge or consolidate with a state bank upon a vote of the holders of at least two-thirds of the capital stock of such state bank when the resulting state bank meets the requirements of the state law as to the formation of a new state bank.

The public hearing requirement of subdivision (1) of section 8-115.01 shall only be required if (1) after publishing a notice of the proposed conversion in a newspaper of general circulation in the county where the main office of the national bank is located, the expense of which shall be paid by the applicant bank, the director receives an objection to the conversion within fifteen days after such publication~~,~~ or (2) in the discretion of the director, the condition of the bank warrants a hearing.

Sec. 6. Section 8-183.03, Revised Statutes Supplement, 2000, is amended to read:

8-183.03. (1) To obtain a state bank charter, a savings association shall meet the requirements of state law as to the formation of a new state bank. The public hearing requirement of subdivision (1) of section 8-115.01 shall only be required if (a) after publishing a notice of the proposed conversion in a newspaper of general circulation in the county where the main office of the converting savings association is located, the expense of which shall be paid by the applicant savings association, the director receives a substantive objection to the conversion within fifteen days after such publication~~,~~ or (b) in the discretion of the director, the condition of the savings association warrants a hearing.

(2) If the savings association is a federal association, compliance with the procedure for conversion to a state bank prescribed by the laws of the United States, if any, shall be demonstrated to the director.

(3) When the persons requesting the conversion of the savings association are officers or directors of the savings association, there shall be a rebuttable presumption that such persons are parties of integrity and responsibility.

(4) If the main office of the resulting state bank is to be at the same location as the main office of the converting savings association, the director shall recognize that the public necessity, convenience, and advantage of the community will be met by permitting the resulting bank to engage in business.

(5) The director may make an examination of the applicant savings association prior to his or her decision on the application for a state bank charter. The cost of such examination shall be paid by the applicant savings association.

Sec. 7. Section 8-1,140, Revised Statutes Supplement, 2001, is amended to read:

8-1,140. Notwithstanding any of the other provisions of the Nebraska Banking Act or any other Nebraska statute, any bank incorporated under the laws of this state and organized under the provisions of the act, or under the laws of this state as they existed prior to May 9, 1933, shall directly, or indirectly through a subsidiary or subsidiaries, have all the rights, powers, privileges, benefits, and immunities which may be exercised as of ~~March 2, 2001~~ the operative date of this section, by a federally chartered bank doing business in Nebraska, including the exercise of all powers and activities that are permitted for a financial subsidiary of a federally chartered bank. Such rights, powers, privileges, benefits, and immunities shall not relieve such bank from payment of state taxes assessed under any

applicable laws of this state.

Sec. 8. Section 8-355, Revised Statutes Supplement, 2001, is amended to read:

8-355. Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute, except as provided in section 8-345.02, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of ~~March 2, 2001~~ the operative date of this section, by a federal savings and loan association doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such association from payment of state taxes assessed under any applicable laws of this state.

Sec. 9. Section 8-1111, Revised Statutes Supplement, 2001, is amended to read:

8-1111. Except as provided in this section, sections 8-1103 to 8-1109 shall not apply to any of the following transactions:

(1) Any isolated transaction, whether effected through a broker-dealer or not;

(2)(a) Any nonissuer transaction by a registered agent of a registered broker-dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least ninety days if, at the time of the transaction:

(i) The issuer of the security is actually engaged in business and not in the organization stage or in bankruptcy or receivership and is not a blank check, blind pool, or shell company whose primary plan of business is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person or persons;

(ii) The security is sold at a price reasonably related to the current market price of the security;

(iii) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security;

(iv) A nationally recognized securities manual designated by rule and regulation or order of the director or a document filed with the Securities and Exchange Commission which is publicly available through the Electronic Data Gathering and Retrieval System (EDGAR) contains:

(A) A description of the business and operations of the issuer;

(B) The names of the issuer's officers and the names of the issuer's directors, if any, or, in the case of a non-United-States issuer, the corporate equivalents of such persons in the issuer's country of domicile;

(C) An audited balance sheet of the issuer as of a date within eighteen months or, in the case of a reorganization or merger when parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet; and

(D) An audited income statement for each of the issuer's immediately preceding two fiscal years, or for the period of existence of the issuer if in existence for less than two years, or, in the case of a reorganization or merger when the parties to the reorganization or merger had such audited income statement, a pro forma income statement; and

(v) The issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934 or designated for trading on the National Association of Securities Dealers Automated Quotation System (NASDAQ), unless:

(A) The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940;

(B) The issuer of the security has been engaged in continuous business, including predecessors, for at least three years; or

(C) The issuer of the security has total assets of at least two million dollars based on an audited balance sheet as of a date within eighteen months or, in the case of a reorganization or merger when parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet; or

(b) Any nonissuer transaction in a security by a registered agent of a registered broker-dealer if:

(i) The issuer of the security is actually engaged in business and not in the organization stage or in bankruptcy or receivership and is not a blank check, blind pool, or shell company whose primary plan of business is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person or persons; and

(ii) The security is senior in rank to the common stock of the issuer both as to payment of dividends or interest and upon dissolution or

liquidation of the issuer and such security has been outstanding at least three years and the issuer or any predecessor has not defaulted within the current fiscal year or the three immediately preceding fiscal years in the payment of any dividend, interest, principal, or sinking fund installment on the security when due and payable;

(3) Any nonissuer transaction effected by or through a registered agent of a registered broker-dealer pursuant to an unsolicited order or offer to buy, but the director may by rule or regulation require that the customer acknowledge upon a specified form that the sale was unsolicited and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters;

(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust or by an agreement for the sale of real estate or chattels if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, are offered and sold as a unit. Such exemption shall not apply to any transaction in a bond or other evidence of indebtedness secured by a real estate mortgage or deed of trust or by an agreement for the sale of real estate if the real estate securing the evidences of indebtedness are parcels of real estate the sale of which requires the subdivision in which the parcels are located to be registered under the Interstate Land Sales Full Disclosure Act, ~~82 Stat. 590 et seq.,~~ 15 U.S.C. 1701 et seq., as the act existed on ~~April 5, 2001~~ the operative date of this section;

(6) Any transaction by an executor, personal representative, administrator, sheriff, marshal, receiver, guardian, or conservator;

(7) Any transaction executed by a bona fide pledgee without any purpose of evading the Securities Act of Nebraska;

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, to an individual accredited investor, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity. For purposes of this subdivision, the term "individual accredited investor" means (a) any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer, (b) any manager of a limited liability company that is the issuer of the securities being offered or sold, (c) any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his or her purchase, exceeds one million dollars, or (d) any natural person who had an individual income in excess of two hundred thousand dollars in each of the two most recent years or joint income with that person's spouse in excess of three hundred thousand dollars in each of those years and has a reasonable expectation of reaching the same income level in the current year;

(9) Any transaction pursuant to an offering in which sales are made to not more than fifteen persons, other than those designated in subdivisions (8), (11), and (17) of this section, in this state during any period of twelve consecutive months if (a) the seller reasonably believes that all the buyers are purchasing for investment, (b) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer except to a registered agent of a registered broker-dealer, (c) a notice generally describing the terms of the transaction and containing a representation that the conditions of this exemption are met is filed by the seller with the director within thirty days after the first sale for which this exemption is claimed, except that failure to give such notice may be cured by an order issued by the director in his or her discretion, and (d) no general or public advertisements or solicitations are made;

(10) Any offer or sale of a preorganization certificate or subscription if (a) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (b) the number of subscribers does not exceed ten, and (c) no payment is made by any subscriber;

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety days of their issuance, if (a) no commission or other remuneration, other than a standby commission, is paid or given directly or indirectly for soliciting any security holder in this state or (b) the issuer first files a notice specifying the terms of the offer and the director does not by order disallow

the exemption within the next five full business days;

(12) Any offer, but not a sale, of a security for which registration statements have been filed under both the Securities Act of Nebraska and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either the Securities Act of Nebraska or the Securities Act of 1933;

(13) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by the stockholders for the distribution other than the surrender of a right to a cash dividend when the stockholder can elect to take a dividend in cash or stock;

(14) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets;

(15) Any transaction involving the issuance for cash of any evidence of ownership interest or indebtedness by an agricultural cooperative formed as a corporation under section 21-1301 or 21-1401 if the issuer has first filed a notice of intention to issue with the director and the director has not by order, mailed to the issuer by certified or registered mail within ten business days after receipt thereof, disallowed the exemption;

(16) Any transaction in this state not involving a public offering when (a) there is no general or public advertising or solicitation, (b) no commission or remuneration is paid directly or indirectly for soliciting any prospective buyer, except to a registered agent of a registered broker-dealer or registered issuer-dealer, (c) a notice generally describing the terms of the transaction and containing a representation that the conditions of this exemption are met is filed by the seller with the director within thirty days after the first sale for which this exemption is claimed, except that failure to give such notice may be cured by an order issued by the director in his or her discretion, (d) a filing fee of two hundred dollars is paid at the time of filing the notice, and (e) any such transaction is effected in accordance with rules and regulations adopted and promulgated by the director relating to this section when the director finds in adopting and promulgating such rules and regulations that the applicability of sections 8-1104 to 8-1107 is not necessary or appropriate in the public interest or for the protection of investors. For purposes of this subdivision, not involving a public offering means any offering in which the seller has reason to believe that the securities purchased are taken for investment and in which each offeree, by reason of his or her knowledge about the affairs of the issuer or otherwise, does not require the protections afforded by registration under sections 8-1104 to 8-1107 in order to make a reasonably informed judgment with respect to such investment;

(17) The issuance of any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer except to a registered agent of a registered broker-dealer; ~~and if the director is notified in writing within thirty days after the inception of the plan or, with respect to plans which were in effect prior to August 18, 1965, but closed on that date, within thirty days after they are reopened. Failure to provide such notice may be cured by an order issued by the director in his or her discretion,~~

(18) Any interest in a common trust fund or similar fund maintained by a bank or trust company organized and supervised under the laws of any state or a bank organized under the laws of the United States for the collective investment and reinvestment of funds contributed to such common trust fund or similar fund by the bank or trust company in its capacity as trustee, personal representative, administrator, or guardian and any interest in a collective investment fund or similar fund maintained by the bank or trust company for the collective investment of funds contributed to such collective investment fund or similar fund by the bank or trust company in its capacity as trustee or agent which interest is issued in connection with an employee's savings, pension, profit-sharing, or similar benefit plan or a self-employed person's retirement plan, if a notice generally describing the terms of the collective investment fund or similar fund is filed by the bank or trust company with the director within thirty days after the establishment of the fund. Failure to give the notice may be cured by an order issued by the director in his or her discretion;

(19) Any transaction in which a United States Series EE Savings Bond is given or delivered with or as a bonus on account of any purchase of any item or thing;

(20) Any transaction in this state not involving a public offering by a Nebraska issuer selling solely to Nebraska residents, when (a) any such transaction is effected in accordance with rules and regulations adopted and promulgated by the director relating to this section when the director finds in adopting and promulgating such rules and regulations that the applicability of sections 8-1104 to 8-1107 is not necessary or appropriate in the public interest or for the protection of investors, (b) no commission or remuneration is paid directly or indirectly for soliciting any prospective buyer, except to a registered agent of a registered broker-dealer or registered issuer-dealer, (c) a notice generally describing the terms of the transaction and containing a representation that the conditions of this exemption are met is filed by the seller with the director no later than twenty days prior to any sales for which this exemption is claimed, except that failure to give such notice may be cured by an order issued by the director in his or her discretion, (d) a filing fee of two hundred dollars is paid at the time of filing the notice, and (e) there is no general or public advertising or solicitation; or

(21) Any offer or sale of any viatical settlement contract or any fractionalized or pooled interest therein in a transaction that meets all of the following criteria:

(a) Sales of such securities are made only to the following purchasers:

(i) A natural person who, either individually or jointly with the person's spouse, (A) has a minimum net worth of two hundred fifty thousand dollars and had taxable income in excess of one hundred twenty-five thousand dollars in each of the two most recent years and has a reasonable expectation of reaching the same income level in the current year or (B) has a minimum net worth of five hundred thousand dollars. Net worth shall be determined exclusive of home, home furnishings, and automobiles;

(ii) A corporation, partnership, or other organization specifically formed for the purpose of acquiring securities offered by the issuer in reliance upon this exemption if each equity owner of the corporation, partnership, or other organization is a person described in subdivision (21) of this section;

(iii) A pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or an individual retirement account, if the investment decisions made on behalf of the trust, plan, or account are made solely by persons described in subdivision (21) of this section; or

(iv) An organization described in section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01, or a corporation, Massachusetts or similar business trust, or partnership with total assets in excess of five million dollars according to its most recent audited financial statements;

(b) The amount of the investment of any purchaser, except a purchaser described in subdivision (a)(ii) of this subdivision, does not exceed five percent of the net worth, as determined by this subdivision, of that purchaser;

(c) Each purchaser represents that the purchaser is purchasing for the purchaser's own account or trust account, if the purchaser is a trustee, and not with a view to or for sale in connection with a distribution of the security;

(d)(i) Each purchaser receives, on or before the date the purchaser remits consideration pursuant to the purchase agreement, the following information in writing:

(A) The name, principal business and mailing addresses, and telephone number of the issuer;

(B) The suitability standards for prospective purchasers as set forth in subdivision (a) of this subdivision;

(C) A description of the issuer's type of business organization and the state in which the issuer is organized or incorporated;

(D) A brief description of the business of the issuer;

(E) If the issuer retains ownership or becomes the beneficiary of the insurance policy, an audit report from an independent certified public accountant together with a balance sheet and related statements of income, retained earnings, and cash flows that reflect the issuer's financial position, the results of the issuer's operations, and the issuer's cash flows as of a date within fifteen months before the date of the initial issuance of the securities described in this subdivision. The financial statements shall be prepared in conformity with generally accepted accounting principles. If the date of the audit report is more than one hundred twenty days before the date of the initial issuance of the securities described in this subdivision, the issuer shall provide unaudited interim financial statements;

(F) The names of all directors, officers, partners, members, or trustees of the issuer;

(G) A description of any order, judgment, or decree that is final as to the issuing entity of any state, federal, or foreign governmental agency or administrator, or of any state, federal, or foreign court of competent jurisdiction (I) revoking, suspending, denying, or censuring for cause any license, permit, or other authority of the issuer or of any director, officer, partner, member, trustee, or person owning or controlling, directly or indirectly, ten percent or more of the outstanding interest or equity securities of the issuer, to engage in the securities, commodities, franchise, insurance, real estate, or lending business or in the offer or sale of securities, commodities, franchises, insurance, real estate, or loans, (II) permanently restraining, enjoining, barring, suspending, or censuring any such person from engaging in or continuing any conduct, practice, or employment in connection with the offer or sale of securities, commodities, franchises, insurance, real estate, or loans, (III) convicting any such person of, or pleading nolo contendere by any such person to, any felony or misdemeanor involving a security, commodity, franchise, insurance, real estate, or loan, or any aspect of the securities, commodities, franchise, insurance, real estate, or lending business, or involving dishonesty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property, or (IV) holding any such person liable in a civil action involving breach of a fiduciary duty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property. This subdivision does not apply to any order, judgment, or decree that has been vacated or overturned or is more than ten years old;

(H) Notice of the purchaser's right to rescind or cancel the investment and receive a refund;

(I) A statement to the effect that any projected rate of return to the purchaser from the purchase of a viatical settlement contract or any fractionalized or pooled interest therein is based on an estimated life expectancy for the person insured under the life insurance policy; that the return on the purchase may vary substantially from the expected rate of return based upon the actual life expectancy of the insured that may be less than, may be equal to, or may greatly exceed the estimated life expectancy; and that the rate of return would be higher if the actual life expectancy were less than, and lower if the actual life expectancy were greater than, the estimated life expectancy of the insured at the time the viatical settlement contract was closed;

(J) A statement that the purchaser should consult with his or her tax advisor regarding the tax consequences of the purchase of the viatical settlement contract or any fractionalized or pooled interest therein; and

(K) Any other information as may be prescribed by rule of the director; and .

(ii) The purchaser receives in writing at least five business days prior to closing the transaction:

(A) The name, address, and telephone number of the issuing insurance company and the name, address, and telephone number of the state or foreign country regulator of the insurance company;

(B) The total face value of the insurance policy and the percentage of the insurance policy the purchaser will own;

(C) The insurance policy number, issue date, and type;

(D) If a group insurance policy, the name, address, and telephone number of the group and, if applicable, the material terms and conditions of converting the policy to an individual policy, including the amount of increased premiums;

(E) If a term insurance policy, the term and the name, address, and telephone number of the person who will be responsible for renewing the policy if necessary;

(F) That the insurance policy is beyond the state statute for contestability and the reason therefor;

(G) The insurance policy premiums and terms of premium payments;

(H) The amount of the purchaser's money that will be set aside to pay premiums;

(I) The name, address, and telephone number of the person who will be the insurance policyowner and the person who will be responsible for paying premiums;

(J) The date on which the purchaser will be required to pay premiums and the amount of the premium, if known; and

(K) Any other information as may be prescribed by rule of the director;

(e) The purchaser may rescind or cancel the purchase for any reason by giving written notice of rescission or cancellation to the issuer or the issuer's agent within (i) fifteen calendar days after the date the purchaser

remits the required consideration or receives the disclosure required under subdivision (d)(i) of this subdivision and (ii) five business days after the date the purchaser receives the disclosure required by subdivision (d)(ii) of this subdivision. No specific form is required for the rescission or cancellation. The notice is effective when personally delivered, deposited in the United States mail, or deposited with a commercial courier or delivery service. The issuer shall refund all the purchaser's money within seven calendar days after receiving the notice of rescission or cancellation;

(f) A notice of the issuer's intent to sell securities pursuant to this subdivision, signed by a duly authorized officer of the issuer and notarized, together with a filing fee of two hundred dollars, is filed with the Department of Banking and Finance before any offers or sales of securities are made under this subdivision. Such notice shall include:

(i) The issuer's name, the issuer's type of organization, the state in which the issuer is organized, the date the issuer intends to begin selling securities within or from this state, and the issuer's principal business;

(ii) A consent to service of process; and

(iii) An audit report of an independent certified public accountant together with a balance sheet and related statements of income, retained earnings and cash flows that reflect the issuer's financial position, the results of the issuer's operations, and the issuer's cash flows as of a date within fifteen months before the date of the notice prescribed in this subdivision. The financial statements shall be prepared in conformity with generally accepted accounting principles and shall be examined according to generally accepted auditing standards. If the date of the audit report is more than one hundred twenty days before the date of the notice prescribed in this subdivision, the issuer shall provide unaudited interim financial statements;

(g) No commission or remuneration is paid directly or indirectly for soliciting any prospective purchaser, except to a registered agent of a registered broker-dealer or registered issuer-dealer; and

(h) At least ten days before use within this state, the issuer files with the department all advertising and sales materials that will be published, exhibited, broadcast, or otherwise used, directly or indirectly, in the offer or sale of a viatical settlement contract in this state.

The director may by order deny or revoke the exemption specified in subdivision (2) of this section with respect to a specific security. Upon the entry of such an order, the director shall promptly notify all registered broker-dealers that it has been entered and of the reasons therefor and that within fifteen business days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested within fifteen business days of the issuance of the order and none is ordered by the director, the order shall automatically become a final order and shall remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing to all interested persons, shall enter his or her written findings of fact and conclusions of law and may affirm, modify, or vacate the order. No such order may operate retroactively. No person may be considered to have violated the provisions of the Securities Act of Nebraska by reason of any offer or sale effected after the entry of any such order if he or she sustains the burden of proof that he or she did not know and in the exercise of reasonable care could not have known of the order. In any proceeding under the act, the burden of proving an exemption from a definition shall be upon the person claiming it.

Sec. 10. The director shall refund, on a pro rata basis, fees paid by any investment adviser, federal covered adviser, or investment adviser representative charged and collected by the Department of Banking and Finance as a result of the amendment of subdivision (4)(c) of section 8-1103 by Laws 2001, LB 53. The amount to be refunded shall equal one-twelfth of the annual fee paid by such investment adviser, federal covered adviser, or investment adviser representative for each month between January and the month in which a registration or filing fee was paid.

Sec. 11. Section 8-1123, Revised Statutes Supplement, 2000, is amended to read:

8-1123. Sections 8-1101 to 8-1123 and section 10 of this act shall be known and may be cited as the Securities Act of Nebraska.

Sec. 12. Section 8-1401, Revised Statutes Supplement, 2000, is amended to read:

8-1401. (1) No person or corporation or association organized under Chapter 8, article 1, 2, 3, or 4, the Credit Union Act, the Nebraska Depository Institution Guaranty Corporation Act, the Nebraska Nonprofit Corporation Act, the Business Corporation Act, the Nebraska Professional

Corporation Act, or the Nebraska Industrial Development Corporation Act, or otherwise authorized to conduct business in Nebraska or organized under the laws of the United States, shall be required to disclose any records or information, financial or otherwise, that it deems confidential concerning its affairs or the affairs of any person or corporation with which it is doing business to any person, party, agency, or organization, unless (a) the disclosure relates to a lawyers trust account and is required to be made to the Counsel for Discipline of the Nebraska Supreme Court pursuant to a rule adopted by the Nebraska Supreme Court or (b) there ~~shall first be~~ is presented to such person, corporation, or association a court order of a court of competent jurisdiction setting forth the exact nature and limits of such required disclosure and a showing that all persons or organizations to be affected by such order have had reasonable notice and an opportunity to be heard upon the merits of such order. The requesting party shall pay the costs of providing such records or information pursuant to section 8-1402. This section shall not apply to any duly constituted supervisory regulatory agency of such person, corporation, or association, to the production of records pursuant to a written demand of the Tax Commissioner under section 77-375, to disclosures governed by rules for discovery adopted and promulgated pursuant to section 25-1273.01, or to such cases for which specific disclosures are specifically required by other sections of the statutes heretofore or hereafter enacted, except that the Department of Banking and Finance shall be subject to the payment of cost provision of this section when making inquiries that are beyond those normally made in conducting examinations and inquiries for the purpose of determining the safety and soundness of a financial institution, but shall not be subject to the disclosure and reasonable notice provisions of this section when making reasonable inquiries of any person, corporation, or association for the purpose of enforcing any of the laws over which the department has jurisdiction.

(2) Any person, corporation, or association which makes a disclosure of records or information as required by subsection (1) of this section shall not be held civilly or criminally liable for such disclosure in the absence of malice, bad faith, intent to deceive, or gross negligence.

Sec. 13. Section 8-1402, Revised Statutes Supplement, 2000, is amended to read:

8-1402. If any person, corporation, or association covered by section 8-1401 is required by court order, by lawful subpoena, summons, or warrant, or by written demand pursuant to subsection (2) of section 77-375 or, after receiving the written permission of the person, corporation, or association about whom records or information is being sought, voluntarily consents to provide records or information in its possession, it shall be paid by the requesting person, party, agency, or organization for the service. The requesting person, party, agency, or organization shall pay five dollars per hour per person for the time actually spent on the service or, if such person, corporation, or association can show that its actual expense in providing the records or information was greater than five dollars per hour per person, it shall be paid the actual cost of providing the records or information. No person, corporation, or association has an obligation to provide any records or information pursuant to section 8-1401, other than pursuant to a court order, a lawful subpoena, summons, or warrant, or a written demand pursuant to subsection (2) of section 77-375, until assurances are received that the costs due under this section will be paid.

Sec. 14. Section 10-126, Revised Statutes Supplement, 2001, is amended to read:

10-126. (1) All bonds of indebtedness, issued after September 7, 1947, by any county, precinct, city, village, school district, drainage district, or irrigation district or any other municipal corporation or governmental subdivision of the state shall be redeemable at the option of the governmental subdivision or municipal corporation issuing such bonds at any time on or after five years from the date of issuance, except that this provision shall not apply to (a) bonds of public power districts, public power and irrigation districts, metropolitan utilities districts, cities of the metropolitan and primary classes, and housing authorities of any city or village, (b) issues of revenue bonds exceeding one million dollars of cities of the first and second classes and of villages, ~~or~~ (c) issues of bonds exceeding ten million dollars of any school district of one thousand or more students in membership as provided in the fall school district membership report pursuant to subsection (4) of section 79-528 immediately preceding the issuance of bonds, or (d) bonds issued by the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges. Bonds of a district created under Chapter 31 or 39 shall in addition, after annexation of the district by any municipality, be redeemable

at the option of the annexing municipality at any time after annexation of such district if at the time of redemption at least five years have elapsed from date of issuance. Such condition shall be plainly set forth in all bonds of any governmental subdivision of the state or municipal corporation hereafter issued to which it applies.

(2) The issuer, except districts organized under Chapter 31 or 39, of any such bonds of indebtedness, when the total amount of bonds at par value authorized as a single issue is five hundred thousand dollars or more, may agree to pay a call premium of not to exceed four percent of the par value for the redemption of such bonds. Districts organized under Chapter 31 or 39 may agree to pay a call premium of not to exceed two percent of the par value of such bonds when a single issue is five hundred thousand dollars or more, and bonds of such districts shall have no other bond redemption call or prepayment restrictions except as provided in this section. Bonds listed in subdivisions (1)(a) through ~~(1)(c)~~ (1)(d) of this section may contain such provisions with respect to their redemption as the public power district, public power and irrigation district, metropolitan utilities district, city, village, housing authority, ~~or~~ school district, Board of Regents, or Board of Trustees shall provide.

(3) All bonds issued which do not provide a special procedure for calling and prepayments shall be called by a resolution passed by the governing body of the obligor, which resolution shall designate the bond or bonds to be prepaid by stating the date of the bonds, the purpose for which the bonds were issued, the bond numbers of the bonds so called, and the date set for prepayment. The issuer of any bonds which are required by this section to be issued subject to an option of redemption shall, at least thirty days prior to the date set for prepayment of such bonds, send notice by mail of the call to each holder of the called bonds as shown in its records. A true copy of the resolution shall be filed by the obligor with the paying agent on or before the call date.

(4) If the obligor deposits sufficient funds with the paying agent to pay the called bonds and accrued interest to date of call in full on or before the call date, the bonds shall cease to be a liability of the obligor, otherwise the call shall be revoked, and the bonds continue in effect the same as though no call had been made.

Sec. 15. Section 21-1701, Revised Statutes Supplement, 2000, is amended to read:

21-1701. Sections 21-1701 to 21-17,116 and section 17 of this act shall be known and may be cited as the Credit Union Act.

Sec. 16. Section 21-1732, Reissue Revised Statutes of Nebraska, is amended to read:

21-1732. (1) The director may adopt and promulgate rules and regulations to carry out the Credit Union Act.

(2) The director may issue a cease and desist order when (a) the director has determined from competent and substantial evidence that a credit union is engaged in or has engaged in an unsafe or unsound practice or is violating or has violated a material provision of any law, rule, regulation, or any condition imposed in writing by the director or any written agreement made with the director or (b) the director has reasonable cause to believe a credit union is about to engage in an unsafe or unsound practice or is violating or has violated a material provision of any law, rule, regulation, or any condition imposed in writing by the director or any written agreement made with the director or the director has reasonable cause to believe a credit union is about to violate a material provision of any law, rule, regulation, or any condition imposed in writing by the director or any written agreement made with the director.

(3) The director may restrict the making of loans by a credit union and the withdrawal from and the deposit to share accounts of a credit union when he or she finds circumstances that make such restriction necessary for the protection of the shareholders.

(4) The director may suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any official who has committed any violation of a law, rule, regulation, or cease and desist order, who has engaged in or participated in any unsafe or unsound practice in connection with a credit union, or who has committed or engaged in any act, omission, or practice which constitutes a breach of that person's fiduciary duty as an official, when the director has determined that such action or actions have resulted or will result in substantial financial loss or other damage that will seriously prejudice the interest of the credit union members.

(5) The director shall ~~hold a public hearing on any application brought before the department for formal consideration. He or she may also~~

~~hold a public hearing on amendments to a credit union's articles of association or bylaws which are brought before the department~~ consider applications brought before the department pursuant to section 17 of this act.

(6) The director may subpoena witnesses, compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with any subject relating to a duty upon or a power vested in the director.

Sec. 17. (1) Upon receiving an application to establish a new credit union, a public hearing shall be held on each application. Notice of the filing of the application shall be published by the department for three weeks in a legal newspaper published in or of general circulation in the county where the applicant proposes to operate the credit union. The expense of the publication shall be paid by the applicant. The date for hearing the application shall be not less than thirty days after the last publication of notice of hearing and not more than ninety days after filing the application unless the applicant agrees to a later date. Notice of the filing of the application shall be sent by the department by certified mail to all financial institutions located in the county where the applicant proposes to operate.

(2) When application is made to establish a branch of a credit union, the director shall hold a hearing on the matter if he or she determines, in his or her discretion, that the condition of the applicant credit union warrants a hearing. If the director determines that the condition of the credit union does not warrant a hearing, the director shall (a) publish a notice of the filing of the application in a newspaper of general circulation in the county where the proposed branch would be located, the expense of which shall be paid by the applicant credit union, and (b) give notice of such application by certified mail to all financial institutions located within the county where the proposed credit union branch would be located and to such other interested parties as the director may determine. If the director receives any substantive objection to the proposed credit union branch within fifteen days after publication or mailing of such notice, he or she shall hold a hearing on the application. Notice of a hearing held pursuant to this subsection shall be published for two consecutive weeks in a newspaper of general circulation in the county where the proposed branch would be located, the expense of which shall be paid by the applicant credit union. The date for hearing the application shall be not less than thirty days after the last publication of notice of hearing and not more than ninety days after the filing of the application unless the applicant agrees to a later date.

(3) The director may, in his or her discretion, hold a public hearing on amendments to a credit union's articles of association or bylaws which are brought before the department.

Sec. 18. Section 21-1736, Reissue Revised Statutes of Nebraska, is amended to read:

21-1736. (1) The director shall examine or cause to be examined each credit union ~~at least once a year~~ as often as deemed necessary. Each credit union and all of its officials and agents shall give the director or any of the examiners appointed by him or her free and full access to all books, papers, securities, and other sources of information relative to such credit union. For purposes of the examination, the director may subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.

(2) The department shall forward a report of the examination to the chairperson of the board of directors within ninety calendar days after completion. The report shall contain comments relative to the management of the affairs of the credit union and the general condition of its assets. Within ninety calendar days after the receipt of such report, the members of the board of directors and the members of the supervisory and credit committees shall meet to consider the matters contained in the report.

(3) The director may require special examinations of and special financial reports from a credit union or a credit union service organization in which a credit union loans, invests, or delegates substantially all managerial duties and responsibilities when he or she determines that such examinations and reports are necessary to enable the director to determine the safety of a credit union's operations or its solvency. The cost to the department of such special examinations shall be borne by the credit union being examined.

(4) The director may accept, in lieu of any examination of a credit union authorized by the laws of this state, a report of an examination made of a credit union by the National Credit Union Administration or may examine any such credit union jointly with such federal agency. The director may make available to the National Credit Union Administration copies of reports of any examination or any information furnished to or obtained by the director in any

examination.

Sec. 19. Section 21-17,109, Reissue Revised Statutes of Nebraska, is amended to read:

21-17,109. (1) Any credit union organized under the Credit Union Act may, with the approval of the department, merge or consolidate with one or more other credit unions organized under the act or under the laws of the United States, if the credit unions merging or consolidating possess coinciding common bonds of association.

(2) When two or more credit unions merge or consolidate, one shall be designated as the continuing credit union or a totally new credit union shall be organized. If the latter procedure is followed, the new credit union shall be organized under the Credit Union Act or under the laws of the United States. All participating credit unions other than the continuing or new credit union shall be designated as merging credit unions.

(3) Any merger or consolidation of credit unions shall be done according to a plan of merger or consolidation. After approval by the boards of directors of all participating credit unions, the plan shall be submitted to the department for preliminary approval. If the plan includes the organization of a new credit union, all documents required pursuant to section 21-1724 shall be submitted as a part of the plan. In addition, each participating credit union shall submit the following information:

(a) The time and place of the meeting of the boards of directors at which the plan of merger or consolidation was agreed upon;

(b) The vote of the directors in favor of the adoption of the plan; and

(c) A copy of a resolution or other action by which the plan was agreed upon.

The department shall grant preliminary approval if the plan has been approved properly by the boards of directors and if the documentation required to organize a new credit union, if any, complies with section 21-1724. The director, in his or her discretion, may order a hearing be held if he or she determines that the condition of the acquiring credit union warrants a hearing or that the plan of merger would be unfair to the merging credit union.

(4) After the department grants preliminary approval, each merging credit union shall, unless waived by the department, conduct a membership vote on its participation in the plan. The vote shall be conducted either at a special meeting called for that purpose or by mail ballot. If a majority of the members voting approve the plan, the credit union shall submit a record of that fact to the department indicating the vote by which the members approved the plan and either the time and place of the membership meeting or the mailing date and closing date of the mail ballot.

(5) The department may waive any voting requirements described in the Credit Union Act for any credit union upon the determination that it is in the best interests of the membership or that the credit union is insolvent or in imminent danger of becoming insolvent.

(6) The director shall grant final approval of the plan of merger or consolidation after determining that the requirements of subsections (1) through (4) of this section have been met in the case of each merging credit union. If the plan of merger or consolidation includes the organization of a new credit union, the department must approve the organization of the new credit union under section 21-1724 as part of the approval of the plan of merger or consolidation. The department shall notify all participating credit unions of the plan.

(7) Upon final approval of the plan by the department, all property, property rights, and members' interests in each merging credit union shall vest in the continuing or new credit union as applicable without deed, obligations, and other instruments of transfer, and all debts, obligations, and liabilities of each merging credit union shall be deemed to have been assumed by the continuing or new credit union. The rights and privileges of the members of each participating credit union shall remain intact. If a person is a member of more than one of the participating credit unions, the person shall be entitled to only a single set of membership rights in the continuing or new credit union.

(8) Notwithstanding any other provision of law, the department may authorize a merger or consolidation of a credit union which is insolvent or which is in danger of insolvency with any other credit union or may authorize a credit union to purchase any of the assets of or assume any of the liabilities of any other credit union which is insolvent or which is in danger of insolvency, if the department is satisfied that:

(a) An emergency requiring expeditious action exists with respect to such credit union;

(b) Other alternatives for such credit union are not reasonably

available; and

(c) The public interest would best be served by the approval of such merger, consolidation, purchase, or assumption.

(9) Notwithstanding any other provision of law, the director may authorize an institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or any derivative thereof, to purchase any assets of or assume any liabilities of a credit union which is insolvent or in danger of insolvency, except that prior to exercising this authority the director shall attempt to effect a merger or consolidation with, or purchase or assumption by, another credit union as provided in subsection (8) of this section.

(10) For purposes of the authority contained in subsection (9) of this section, insured share accounts of each credit union may, upon consummation of the purchase or assumption, be converted to insured deposits or other comparable accounts in the acquiring institution, and the department and the National Credit Union Share Insurance Fund shall be absolved of any liability to the credit union's members with respect to those accounts.

Sec. 20. Section 21-17,115, Revised Statutes Supplement, 2001, is amended to read:

21-17,115. Notwithstanding any of the other provisions of the Credit Union Act or any other Nebraska statute, any credit union incorporated under the laws of the State of Nebraska and organized under the provisions of the act shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of ~~March 2, 2001~~ the operative date of this section, by a federal credit union doing business in Nebraska on the condition that such rights, powers, privileges, benefits, and immunities shall not relieve such credit union from payment of state taxes assessed under any applicable laws of this state.

Sec. 21. Section 45-337, Revised Statutes Supplement, 2000, is amended to read:

45-337. (1) The amount, if any, included for insurance, which may be purchased by the holder of the contract, shall not exceed the applicable premium rates chargeable in accordance with filings, if any, with the Department of Insurance. If dual interest insurance on the goods is purchased by the holder it shall, within thirty days after execution of the installment contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages, and all the terms and conditions of the contract or contracts of insurance.

(2) If any insurance is canceled or the premium adjusted during the term of the installment contract, any refund of the insurance premium plus the unearned time-price differential thereon received by the holder shall be credited by the holder to the last maturing installment of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

(3) If any insurance is canceled due to the payment of all sums for which the buyer is liable under an installment contract, the holder of the installment contract shall, upon receipt of payment of all sums due, send notice to the buyer within fifteen business days of the name, address, and telephone number of the insurance company which issued the insurance contract or the party responsible for any refund, and notice that the buyer may be eligible for a refund. A copy of such notice shall be retained by the holder of the installment contract. This subsection does not apply if the holder of the loan contract previously credited the refund of the insurance premium to the loan contract or otherwise refunded the insurance premium to the buyer.

(4) The holder may also purchase nonfiling insurance and charge a reasonable fee. The fee shall not exceed the amount of fees and charges prescribed by law which would have been paid to public officials for filing, perfecting, releasing, and satisfying any lien or security interest in the goods or services.

Sec. 22. Section 45-703, Revised Statutes Supplement, 2000, is amended to read:

45-703. (1) Except as provided in section 45-704, the following shall be exempt from the Mortgage Bankers Registration and Licensing Act:

(a) Any financial institution;

(b) Any registered bank holding company;

(c) Any insurance company organized under the laws of this state and subject to regulation by the Department of Insurance;

(d) Any person licensed to practice law in this state who is not actively and principally engaged in the business of negotiating mortgage loans when such person renders services in the regular course of his or her practice

as an attorney at law;

(e) Any person licensed in this state as a real estate broker or real estate salesperson pursuant to section 81-885.02 who is not actively and principally engaged in the business of negotiating mortgage loans when such person renders services as a real estate broker or real estate salesperson;

(f) Any individual acting solely as an employee of a mortgage banker licensed or registered pursuant to the act or exempt from the act;

(g) Any individual acting solely as an agent of a mortgage banker licensed or registered pursuant to the act or exempt from the act if there is a written agency contract between the individual and the licensee which provides that, with respect to the mortgage banking business, the individual acts exclusively for the licensee as an agent;

(h) Any holding company of a financial institution other than a registered bank holding company;

(i) Any wholly owned subsidiary of an organization listed in subdivisions (a) through (c) of this subsection if the listed organization maintains a place of business in Nebraska; and

(j) Any insurance company organized or chartered under the laws of any other state if the insurance company has a place of business in Nebraska.

(2) It shall not be necessary to negate any of the exemptions provided in this section in any complaint, information, indictment, or other writ or proceedings brought under the act, and the burden of establishing the right to any exemption shall be upon the person claiming the benefit of such exemption.

Sec. 23. Section 45-1026, Revised Statutes Supplement, 2001, is amended to read:

45-1026. (1) The following types of insurance or one or more of the following types of insurance may be written in connection with loans made by licensees under the Nebraska Installment Loan Act:

(a) Fire, theft, windstorm, or comprehensive, including fire, theft, and windstorm, fifty dollars or more deductible collision, and bodily injury liability and property damage liability upon motor vehicles;

(b) Fire and extended-coverage insurance upon real ~~and tangible personal~~ property;

(c) Fire and extended-coverage insurance upon tangible personal property, limited to the principal amount of the loan;

(d) Involuntary unemployment or job protection insurance. In the event of a renewal of a loan contract, this type of insurance shall be canceled and a refund of the unearned premium credited or made before new insurance of this type may be rewritten. Such insurance shall not be required as a condition precedent to the making of such loan; and

~~(d)~~ (e) Life, health, and accident insurance or any of them, except that the amount of such insurance shall not exceed the total amount to be repaid under the loan contract and the term shall not extend beyond the final maturity date of the loan contract. In the event of a renewal of a loan contract, this type of insurance shall be canceled and a refund of the unearned premium credited or made before new insurance of this type may be written in connection with such loan. Such insurance shall not be required as a condition precedent to the making of such loan.

(2) In addition to the types of insurance written under subsection (1) of this section by licensees under the act, any other type of insurance may be written for a licensee's borrower or the borrower's immediate family whether or not in connection with a loan, except that such insurance shall not be required as a condition precedent to the making of any loan. Nothing in this subsection alters or eliminates any insurance licensing requirements.

(3) Notwithstanding sections 45-1024 and 45-1025, any gain or advantage, in the form of commission or otherwise, to the licensee or to any employee, affiliate, or associate of the licensee from such insurance or its sale shall not be deemed to be an additional or further charge in connection with the loan contract. The insurance premium for such insurance may be collected from the borrower or included in the loan contract at the time the loan is made.

(4) Insurance permitted under this section shall be obtained through a duly licensed insurance agent, agency, or broker. Premiums shall not exceed those fixed by law or current applicable manual rates. Insurance written, as authorized by this section, may contain a mortgage clause or other appropriate provision to protect the insurable interest of the licensee.

(5) In the event of a renewal of a loan contract, any insurance sold pursuant to this section shall be canceled and (a) a refund of the unearned premium credited or made before new insurance of the same type as that being canceled may be rewritten or (b) the holder of the loan contract shall send notice to the buyer within fifteen business days after cancellation of the

name, address, and telephone number of the insurance company which issued the insurance contract or the party responsible for any refund and notice that the buyer may be eligible for a refund. A copy of such notice shall be retained by the holder of the loan contract.

(6) If any insurance sold pursuant to this section is canceled or the premium adjusted during the term of the loan contract, any refund of the insurance premium plus the unearned interest thereon received by the holder shall be credited by the holder to the loan contract or otherwise refunded, except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

(7) If any insurance sold pursuant to this section is canceled due to the payment of all sums for which the buyer is liable under a loan contract, the holder of the loan contract shall, upon receipt of payment of all sums due, send notice to the buyer within fifteen business days after payment of the sums due of the name, address, and telephone number of the insurance company which issued the insurance contract or the party responsible for any refund and notice that the buyer may be eligible for a refund. A copy of such notice shall be retained by the holder of the loan contract. This subsection does not apply if the holder of the loan contract previously credited the refund of the insurance premium to the loan contract or otherwise refunded the insurance premium to the buyer.

Sec. 24. Section 52-1601, Revised Statutes Supplement, 2000, is amended to read:

52-1601. (1) Prior to July 1, 2001, the Secretary of State shall compile lien information received by his or her office pursuant to subsection (2) of section 9-414, Uniform Commercial Code, into a master lien list in alphabetical order according to the last name of the individual against whom such lien is filed or, in the case of an entity doing business other than as an individual, the first word in the name of the debtor. Such master lien list shall contain the name and address of the debtor, the name and address of the lienholder, and the type of such lien.

(2) On and after July 1, 2001, the Secretary of State shall compile lien information relative to liens created under Chapter 52, articles 2, 5, 7, 9, 11, 12, and 14, and Chapter 54, article 2, received by his or her office pursuant to subsection ~~(b)~~ (a) of section 9-530, Uniform Commercial Code, into a master lien list in alphabetical order according to the last name of the individual against whom such lien is filed or, in the case of an entity doing business other than as an individual, the first word in the name of the debtor. Such master lien list shall contain the name and address of the debtor, the name and address of the lienholder, and the type of such lien.

Sec. 25. Section 72-1262, Revised Statutes Supplement, 2000, is amended to read:

72-1262. For purposes of the Nebraska Capital Expansion Act, unless the context otherwise requires:

(1) Bank shall mean any national bank with its principal office or a branch in this state or any bank which is chartered to conduct a bank in this state as provided by sections 8-115 and 8-116 or any branch thereof;

(2) Building and loan association shall mean any building and loan association organized under Chapter 8, article 3, or any federal savings and loan association with its principal office in this state;

(3) Time deposit open account shall mean a bank account or a deposit with a building and loan association with respect to which there is in force a written contract which provides that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which date shall be not less than thirty days after the date of the deposit, or prior to the expiration of the period of notice which shall be given by the state investment officer in writing not less than thirty days in advance of withdrawal. The time deposit open account contract shall be uniform and shall be furnished by the state investment officer ~~with prior approval of such form by the Federal Deposit Insurance Corporation~~ to each bank and building and loan association for execution; and

(4) ~~Equity capital shall mean capital, surplus, undivided profits, federal insurance reserves, and contingency reserves; and~~

~~(5)~~ Funds available for investment shall mean all funds over which the state investment officer has investment jurisdiction less those funds necessary for operations and except those funds which are eligible for long-term investment.

Sec. 26. Section 72-1263, Revised Statutes Supplement, 2000, is amended to read:

72-1263. The state investment officer shall, out of funds available for investment, cause to be offered to all banks and building and loan associations in this state a time deposit open account in the amount of ~~three~~

~~hundred thousand~~ one million dollars, except that the minimum amount that any bank or building and loan association may accept ~~such offer in increments of~~ is the amount of one hundred thousand dollars. ~~or fifty thousand dollars.~~ Such deposit shall be available at any investment date to such banks or building and loan associations as are willing to meet the rate and other requirements set forth in the Nebraska Capital Expansion Act and make application therefor. ~~The balance of the funds available for investment shall then be offered at the same rate to the banks and building and loan associations making application for and otherwise qualifying for such deposit. Such deposit shall be offered in increments of fifty thousand dollars.~~ No deposit shall be made when doing so would violate a fiduciary obligation of the state or section 72-1268.07. All funds not investable under this section shall be invested as provided by section 72-1246. No one bank or building and loan association may receive for deposit a sum of more than one million dollars. ~~or an amount not to exceed the amount covered by the Federal Deposit Insurance Corporation, plus twice the institution's equity capital or net worth or as otherwise provided for by law, whichever is less.~~

Sec. 27. Section 72-1264, Revised Statutes Supplement, 2000, is amended to read:

72-1264. Funds shall be offered for deposit as they become available. The time of such deposit shall be known as an investment date. The state investment officer may make prudent interim investments. If the funds available for investment are less than the amount required for banks or building and loan associations ~~qualified for the applicable minimum deposit of three hundred thousand dollars~~ under section 72-1263, the state investment officer shall prorate the available funds among the desiring banks or building and loan associations.

Sec. 28. Section 72-1266, Reissue Revised Statutes of Nebraska, is amended to read:

72-1266. The Nebraska Investment Council shall adopt and promulgate rules and regulations to~~: (1) Establish~~ establish procedures for the distribution of funds to banks and building and loan associations. ~~, and (2) establish reporting requirements semiannually, as of June 30 and December 31, to report loans to deposit percentages, gross loans, gross deposits, and equity capital.~~

Sec. 29. Section 72-1268.03, Reissue Revised Statutes of Nebraska, is amended to read:

72-1268.03. The state investment officer shall not have on deposit in any bank or building and loan association giving a guaranty bond more than the amount insured by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by such bank or building and loan association or in any bank or building and loan association giving a personal bond more than the amount insured by the Federal Deposit Insurance Corporation plus one-half of the amount of the bond of such bank or building and loan association. ~~The amount deposited in any bank or building and loan association shall not exceed the amount insured by the Federal Deposit Insurance Corporation plus twice its capital stock and surplus.~~ All bonds of such depositories shall be deposited with and held by the state investment officer.

Sec. 30. Section 76-252, Reissue Revised Statutes of Nebraska, is amended to read:

76-252. When the obligation secured by any mortgage has been satisfied, the mortgagee shall, upon receipt of a written request by the mortgagor or the mortgagor's successor in interest or designated representative or by a holder of a junior trust deed or junior mortgage, execute and deliver a release of mortgage in recordable form to the mortgagor or mortgagor's successor in interest or designated representative, as directed in the written request.

Any mortgagee who fails to deliver such a release within sixty days after receipt of such written request shall be liable to the mortgagor or the mortgagor's successor in interest, as the case may be, for one thousand dollars or actual damages resulting from the failure, whichever is greater. In any action against the mortgagee pursuant to this section, the court shall award, in addition to the foregoing amounts, the cost of suit, including reasonable attorney's fees, and may further order the mortgagee to execute a release. Successor in interest of the mortgagor shall include the current owner of the property and shall also include the person issuing a payoff check in accordance with the terms of a payoff letter from a beneficiary.

Sec. 31. Section 76-1002, Revised Statutes Supplement, 2000, is amended to read:

76-1002. (1) Transfers in trust of real property may be made to secure (a) existing debts or obligations created simultaneously with the

execution of the trust deed, (b) future advances necessary to protect the security, (c) any future advances to be made at the option of the parties, or (d) the performance of an obligation of any other person named in the trust deed to a beneficiary.

(2) Future advances necessary to protect the security shall include, but not be limited to, advances for payment of real property taxes, special assessments, prior liens, hazard insurance premiums, maintenance charges imposed under a condominium declaration or other covenant, and costs of repair, maintenance, or improvements.

(3)(a) Except as provided in subdivision (b) of this subsection, all items identified in subsection (1) of this section are equally secured by the trust deed from the time of filing the trust deed as provided by law and have the same priority as the trust deed over the rights of all other persons who acquire any rights in or liens upon the trust property subsequent to the time the trust deed was filed.

(b)(i) The trustor or his or her successor in title may limit the amount of optional future advances secured by the trust deed under subdivision (a) of this subsection by filing a notice for record in the office of the register of deeds of each county in which the trust property or some part thereof is situated. A copy of such notice shall be sent by certified mail to the beneficiary at the address of the beneficiary set forth in the trust deed. The amount of such secured optional future advances shall be limited to not less than the amount actually advanced at the time of receipt of such notice by the beneficiary.

(ii) If any optional future advance is made by the beneficiary to the trustor or his or her successor in title after receiving written notice of the filing for record of any trust deed, mortgage, lien, or claim against such trust property, then the amount of such optional future advance shall be junior to such trust deed, mortgage, lien, or claim. The notice under this subdivision shall be sent by certified mail to the beneficiary at the address of the beneficiary set forth in the trust deed.

(iii) Subdivisions (b)(i) and (ii) of this subsection shall not limit or determine the priority of optional future advances as against construction liens governed by section 52-139.

(4) The reduction to zero or elimination of the obligation evidenced by any of the transfers in trust authorized by this section shall not invalidate the operation of this section as to any future advances unless a notice or release to the contrary is filed for record as provided by law. All right, title, interest, and claim in and to the trust property acquired by the trustor or his or her successors in interest subsequent to the execution of the trust deed shall inure to the trustee as security for the obligation or obligations for which the trust property is conveyed in like manner as if acquired before execution of the trust deed.

Sec. 32. Section 76-1014.01, Reissue Revised Statutes of Nebraska, is amended to read:

76-1014.01. When the obligation secured by any trust deed has been satisfied, the beneficiary shall, upon receipt of a written request by the trustor or the trustor's successor in interest or designated representative or by the holder of a junior trust deed or junior mortgage, deliver to the trustor or trustor's successor in interest or designated representative a reconveyance in recordable form duly executed by the trustee. The reconveyance may designate the grantee therein as the person or persons entitled thereto. The beneficiary under such trust deed shall, upon receipt of a written request, deliver to the trustor or his or her successor in interest, as directed in the written request, the trust deed and the note or other evidence of the obligation so satisfied. If a trustee fails or refuses to execute a reconveyance required by the beneficiary, the beneficiary shall appoint a successor trustee that will execute a reconveyance.

Any beneficiary who fails to deliver such a reconveyance within sixty days after receipt of such written request shall be liable to the trustor or his or her successor in interest, as the case may be, for one thousand dollars or actual damages resulting from such failure, whichever is greater. In any action against the beneficiary or trustee pursuant to this section, the court shall award, in addition to the foregoing amounts, the cost of suit, including reasonable attorney's fees, and may further order the trustee to reconvey the property. Successor in interest of the trustor shall include the current owner of the property and shall also include the person issuing a payoff check in accordance with the terms of a payoff letter from a beneficiary.

Sec. 33. Sections 1 to 6, 9 to 11, 14 to 19, 21 to 23, 30 to 32, and 34 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act

become operative on their effective date.

Sec. 34. Original sections 8-115.01, 8-120, 8-122, 8-157, 8-178, 21-1732, 21-1736, 21-17,109, 76-252, and 76-1014.01, Reissue Revised Statutes of Nebraska, sections 8-183.03, 8-1123, 21-1701, 45-337, 45-703, and 76-1002, Revised Statutes Supplement, 2000, and sections 8-1111, 10-126, and 45-1026, Revised Statutes Supplement, 2001, are repealed.

Sec. 35. Original sections 72-1266 and 72-1268.03, Reissue Revised Statutes of Nebraska, sections 8-1401, 8-1402, 52-1601, 72-1262, 72-1263, and 72-1264, Revised Statutes Supplement, 2000, and sections 8-1,140, 8-355, and 21-17,115, Revised Statutes Supplement, 2001, are repealed.

Sec. 36. Since an emergency exists, this act takes effect when passed and approved according to law.