

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1074

Introduced by Slama, 1.

Read first time January 09, 2024

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to banking and finance; to amend sections
2 8-1116, 8-1120, 8-1726, and 21-1736, Reissue Revised Statutes of
3 Nebraska, sections 8-135, 8-141, 8-143.01, 8-157.01, 8-183.04,
4 8-1,140, 8-318, 8-355, 8-1101, 8-1101.01, 8-1704, 8-1707, 8-2724,
5 8-2903, 8-3005, 8-3007, 21-17,115, 59-1722, 69-2103, 69-2104, and
6 69-2112, Revised Statutes Supplement, 2023, and section 4A-108,
7 Uniform Commercial Code, Revised Statutes Supplement, 2023; to adopt
8 updates to federal law relating to banking and finance; to change
9 provisions of the Securities Act of Nebraska, the Commodity Code,
10 and the Credit Union Act; to eliminate obsolete provisions; to
11 harmonize provisions; to repeal the original sections; and to
12 declare an emergency.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-135, Revised Statutes Supplement, 2023, is
2 amended to read:

3 8-135 (1) All persons, regardless of age, may become depositors in
4 any bank and shall be subject to the same duties and liabilities
5 respecting their deposits. Whenever a deposit is accepted by any bank in
6 the name of any person, regardless of age, the deposit may be withdrawn
7 by the depositor by any of the following methods:

8 (a) Check or other instrument in writing. The check or other
9 instrument in writing constitutes a receipt or acquittance if the check
10 or other instrument in writing is signed by the depositor and constitutes
11 a valid release and discharge to the bank for all payments so made; or

12 (b) Electronic means through:

13 (i) Preauthorized direct withdrawal;

14 (ii) An automatic teller machine;

15 (iii) A debit card;

16 (iv) A transfer by telephone;

17 (v) A network, including the Internet; or

18 (vi) Any electronic terminal, computer, magnetic tape, or other
19 electronic means.

20 (2) All persons, individually or with others and regardless of age,
21 may enter into an agreement with a bank for the lease of a safe deposit
22 box and shall be bound by the terms of the agreement.

23 (3) This section shall not be construed to affect the rights,
24 liabilities, or responsibilities of participants in an electronic fund
25 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
26 et seq., as such act existed on January 1, 2024 ~~2023~~, and shall not
27 affect the legal relationships between a minor and any person other than
28 the bank.

29 Sec. 2. Section 8-141, Revised Statutes Supplement, 2023, is amended
30 to read:

31 8-141 (1) No bank shall directly or indirectly loan to any single

1 corporation, limited liability company, firm, or individual, including in
2 such loans all loans made to the several members or shareholders of such
3 corporation, limited liability company, or firm, for the use and benefit
4 of such corporation, limited liability company, firm, or individual, more
5 than twenty-five percent of the paid-up capital, surplus, and capital
6 notes and debentures or fifteen percent of the unimpaired capital and
7 unimpaired surplus of such bank, whichever is greater. Such limitations
8 shall be subject to the following exceptions:

9 (a) Obligations of any person, partnership, limited liability
10 company, association, or corporation in the form of notes or drafts
11 secured by shipping documents or instruments transferring or securing
12 title covering livestock or giving a lien on livestock, when the market
13 value of the livestock securing the obligation is not at any time less
14 than one hundred fifteen percent of the face amount of the notes covered
15 by such documents, shall be subject under this section to a limitation of
16 ten percent of such capital, surplus, and capital notes and debentures or
17 ten percent of such unimpaired capital and unimpaired surplus, whichever
18 is greater, in addition to such twenty-five percent of such capital and
19 surplus or such fifteen percent of such unimpaired capital and unimpaired
20 surplus;

21 (b) Obligations of any person, partnership, limited liability
22 company, association, or corporation secured by not less than a like
23 amount of bonds or notes of the United States issued since April 24,
24 1917, or certificates of indebtedness of the United States, treasury
25 bills of the United States, or obligations fully guaranteed both as to
26 principal and interest by the United States shall be subject under this
27 section to a limitation of ten percent of such capital, surplus, and
28 capital notes and debentures or ten percent of such unimpaired capital
29 and unimpaired surplus, whichever is greater, in addition to such twenty-
30 five percent of such capital and surplus or such fifteen percent of such
31 unimpaired capital and unimpaired surplus;

1 (c) Obligations of any person, partnership, limited liability
2 company, association, or corporation which are secured by negotiable
3 warehouse receipts in an amount not less than one hundred fifteen percent
4 of the face amount of the note or notes secured by such documents shall
5 be subject under this section to a limitation of ten percent of such
6 capital, surplus, and capital notes and debentures or ten percent of such
7 unimpaired capital and unimpaired surplus, whichever is greater, in
8 addition to such twenty-five percent of such capital and surplus or such
9 fifteen percent of such unimpaired capital and unimpaired surplus; or

10 (d) Obligations of any person, partnership, limited liability
11 company, association, or corporation which are secured by readily
12 marketable collateral having a market value, as determined by reliable
13 and continuously available price quotations, in an amount at least equal
14 to the face amount of the note or notes secured by such collateral, shall
15 be subject under this section to a limitation of ten percent of such
16 capital, surplus, and capital notes and debentures or ten percent of such
17 unimpaired capital and unimpaired surplus, whichever is greater, in
18 addition to such twenty-five percent of such capital and surplus or such
19 fifteen percent of such unimpaired capital and unimpaired surplus.

20 (2)(a) For purposes of this section, the discounting of bills of
21 exchange, drawn in good faith against actually existing values, and the
22 discounting of commercial paper actually owned by the persons negotiating
23 the bills of exchange or commercial paper shall not be considered as the
24 lending of money.

25 (b) Loans or obligations shall not be subject to any limitation
26 under this section, based upon such capital and surplus or such
27 unimpaired capital and unimpaired surplus, to the extent that such
28 capital and surplus or such unimpaired capital and unimpaired surplus are
29 secured or covered by guaranties, or by commitments or agreements to take
30 over or to purchase such capital and surplus or such unimpaired capital
31 and unimpaired surplus, made by any federal reserve bank or by the United

1 States Government or any authorized agency thereof, including any
2 corporation wholly owned directly or indirectly by the United States, or
3 general obligations of any state of the United States or any political
4 subdivision of the state. The phrase general obligation of any state or
5 any political subdivision of the state means an obligation supported by
6 the full faith and credit of an obligor possessing general powers of
7 taxation, including property taxation, but does not include municipal
8 revenue bonds and sanitary and improvement district warrants which are
9 subject to the limitations set forth in this section.

10 (c) Any bank may subscribe to, invest in, purchase, and own single-
11 family mortgages secured by the Federal Housing Administration or the
12 United States Department of Veterans Affairs and mortgage-backed
13 certificates of the Government National Mortgage Association which are
14 guaranteed as to payment of principal and interest by the Government
15 National Mortgage Association. Such mortgages and certificates shall not
16 be subject under this section to any limitation based upon such capital
17 and surplus or such unimpaired capital and unimpaired surplus.

18 (d) Obligations representing loans to any national banking
19 association or to any banking institution organized under the laws of any
20 state, when such loans are approved by the director by rule and
21 regulation or otherwise, shall not be subject under this section to any
22 limitation based upon such capital and surplus or such unimpaired capital
23 and unimpaired surplus.

24 (e) Loans or extensions of credit secured by a segregated deposit
25 account in the lending bank shall not be subject under this section to
26 any limitation based on such capital and surplus or such unimpaired
27 capital and unimpaired surplus. The director may adopt and promulgate
28 rules and regulations governing the terms and conditions of such security
29 interest and segregated deposit account.

30 (f) For the purpose of determining lending limits, partnerships
31 shall not be treated as separate entities. Each individual shall be

1 charged with his or her personal debt plus the debt of every partnership
2 in which he or she is a partner, except that for purposes of this section
3 (a) an individual shall only be charged with the debt of any limited
4 partnership in which he or she is a partner to the extent that the terms
5 of the limited partnership agreement provide that such individual is to
6 be held liable for the debts or actions of such limited partnership and
7 (b) no individual shall be charged with the debt of any general
8 partnership in which he or she is a partner beyond the extent to which
9 (i) his or her liability for such partnership debt is limited by the
10 terms of a contract or other written agreement between the bank and such
11 individual and (ii) any personal debt of such individual is incurred for
12 the use and benefit of such general partnership.

13 (3) A loan made within lending limits at the initial time the loan
14 was made may be renewed, extended, or serviced without regard to changes
15 in the lending limit of a bank following the initial extension of the
16 loan if (a) the renewal, extension, or servicing of the loan does not
17 result in the extension of funds beyond the initial amount of the loan or
18 (b) the accrued interest on the loan is not added to the original amount
19 of the loan in the process of renewal, extension, or servicing.

20 (4) Any bank may purchase or take an interest in life insurance
21 contracts for any purpose incidental to the business of banking. A bank's
22 purchase of any life insurance contract, as measured by its cash
23 surrender value, from any one life insurance company shall not at any
24 time exceed twenty-five percent of the paid-up capital, surplus, and
25 capital notes and debentures of such bank or fifteen percent of the
26 unimpaired capital and unimpaired surplus of such bank, whichever is
27 greater. A bank's purchase of life insurance contracts, as measured by
28 their cash surrender values, in the aggregate from all life insurance
29 companies shall not at any time exceed thirty-five percent of the paid-up
30 capital, surplus, undivided profits, and capital notes and debentures of
31 such bank. The limitations under this subsection on a bank's purchase of

1 life insurance contracts, in the aggregate from all life insurance
2 companies, shall not apply to any contract purchased prior to April 5,
3 1994.

4 (5) On and after January 21, 2013, the director has the authority to
5 determine the manner and extent to which credit exposure resulting from
6 derivative transactions, repurchase agreements, reverse repurchase
7 agreements, securities lending transactions, and securities borrowing
8 transactions shall be taken into account for purposes of determining
9 compliance with this section. In making such determinations, the director
10 may, but is not required to, act by rule and regulation or order.

11 (6) For purposes of this section:

12 (a) Derivative transaction means any transaction that is a contract,
13 agreement, swap, warrant, note, or option that is based, in whole or in
14 part, on the value of, any interest in, or any quantitative measure or
15 the occurrence of any event relating to, one or more commodities,
16 securities, currencies, interest or other rates, indices, or other
17 assets;

18 (b) Loan includes:

19 (i) All direct and indirect advances of funds to a person made on
20 the basis of any obligation of that person to repay the funds or
21 repayable from specific property pledged by or on behalf of that person;

22 (ii) To the extent specified by rule and regulation or order of the
23 director, any liability of a state bank to advance funds to or on behalf
24 of a person pursuant to a contractual commitment; and

25 (iii) Any credit exposure to a person arising from a derivative
26 transaction, repurchase agreement, reverse repurchase agreement,
27 securities lending transaction, or securities borrowing transaction
28 between the bank and the person; and

29 (c) Unimpaired capital and unimpaired surplus means:

30 (i) For qualifying banks that have elected to use the community bank
31 leverage ratio framework, as set forth under the Capital Adequacy

1 Standards of the appropriate federal banking agency:

2 (A) The bank's tier 1 capital as reported according to the capital
3 guidelines of the appropriate federal banking agency; and

4 (B) The bank's allowance for loan and lease losses or allowance for
5 credit losses, as applicable, as reported in the most recent consolidated
6 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
7 existed on January 1, 2024 ~~2023~~; and

8 (ii) For all other banks:

9 (A) The bank's tier 1 and tier 2 capital included in the bank's
10 risk-based capital under the capital guidelines of the appropriate
11 federal banking agency, based on the bank's most recent consolidated
12 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
13 existed on January 1, 2024 ~~2023~~; and

14 (B) The balance of the bank's allowance for loan and lease losses
15 not included in the bank's tier 2 capital for purposes of the calculation
16 of risk-based capital by the appropriate federal banking agency, based on
17 the bank's most recent consolidated report of condition filed under 12
18 U.S.C. 1817(a)(3), as such section existed on January 1, 2024 ~~2023~~.

19 (7) Notwithstanding the provisions of section 8-1,140, the director
20 may, by order, deny or limit the inclusion of goodwill in the calculation
21 of a bank's unimpaired capital and unimpaired surplus or in the
22 calculation of a bank's paid-up capital and surplus.

23 Sec. 3. Section 8-143.01, Revised Statutes Supplement, 2023, is
24 amended to read:

25 8-143.01 (1) No bank shall extend credit to any of its executive
26 officers, directors, or principal shareholders or to any related interest
27 of such persons in an amount that, when aggregated with the amount of all
28 other extensions of credit by the bank to that person and to all related
29 interests of that person, exceeds the higher of twenty-five thousand
30 dollars or five percent of the bank's unimpaired capital and unimpaired
31 surplus unless (a) the extension of credit has been approved in advance

1 by a majority vote of the entire board of directors of the bank, a record
2 of which shall be made and kept as a part of the records of such bank,
3 and (b) the interested party has abstained from participating directly or
4 indirectly in such vote.

5 (2) No bank shall extend credit to any of its executive officers,
6 directors, or principal shareholders or to any related interest of such
7 persons in an amount that, when aggregated with the amount of all other
8 extensions of credit by the bank to that person and to all related
9 interests of that person, exceeds five hundred thousand dollars except by
10 complying with the requirements of subdivisions (1)(a) and (b) of this
11 section.

12 (3) No bank shall extend credit to any of its executive officers,
13 and no such executive officer shall borrow from or otherwise become
14 indebted to his or her bank, except in the amounts and for the purposes
15 set forth in subsection (4) of this section.

16 (4) A bank shall be authorized to extend credit to any of its
17 executive officers:

18 (a) In any amount to finance the education of such executive
19 officer's children;

20 (b)(i) In any amount to finance or refinance the purchase,
21 construction, maintenance, or improvement of a residence of such
22 executive officer if the extension of credit is secured by a first lien
23 on the residence and the residence is owned or is expected to be owned
24 after the extension of credit by the executive officer and (ii) in the
25 case of a refinancing, only the amount of the refinancing used to repay
26 the original extension of credit, together with the closing costs of the
27 refinancing, and any additional amount thereof used for any of the
28 purposes enumerated in this subdivision are included within this category
29 of credit;

30 (c) In any amount if the extension of credit is (i) secured by a
31 perfected security interest in bonds, notes, certificates of

1 indebtedness, or treasury bills of the United States or in other such
2 obligations fully guaranteed as to principal and interest by the United
3 States, (ii) secured by unconditional takeout commitments or guarantees
4 of any department, agency, bureau, board, commission, or establishment of
5 the United States or any corporation wholly owned directly or indirectly
6 by the United States, or (iii) secured by a perfected security interest
7 in a segregated deposit account in the lending bank; or

8 (d) For any other purpose not specified in subdivisions (a), (b),
9 and (c) of this subsection if the aggregate amount of such other
10 extensions of credit to such executive officer does not exceed, at any
11 one time, the greater of two and one-half percent of the bank's
12 unimpaired capital and unimpaired surplus or twenty-five thousand
13 dollars, but in no event greater than one hundred thousand dollars or the
14 amount of the bank's lending limit as prescribed in section 8-141,
15 whichever is less.

16 (5)(a) Except as provided in subdivision (b) or (c) of this
17 subsection, any executive officer shall make, on an annual basis, a
18 written report to the board of directors of the bank of which he or she
19 is an executive officer stating the date and amount of all loans or
20 indebtedness on which he or she is a borrower, cosigner, or guarantor,
21 the security therefor, and the purpose for which the proceeds have been
22 or are to be used.

23 (b) Except as provided in subdivision (c) of this subsection, in
24 lieu of the reports required by subdivision (a) of this subsection, the
25 board of directors of a bank may obtain a credit report from a recognized
26 credit agency, on an annual basis, for any or all of its executive
27 officers.

28 (c) Subdivisions (a) and (b) of this subsection do not apply to any
29 executive officer if such officer is excluded by a resolution of the
30 board of directors or by the bylaws of the bank from participating in the
31 major policymaking functions of the bank and does not actually

1 participate in the major policymaking functions of the bank.

2 (6) No bank shall extend credit to any of its executive officers,
3 directors, or principal shareholders or to any related interest of such
4 persons in an amount that, when aggregated with the amount of all other
5 extensions of credit by the bank to that person and to all related
6 interests of that person, exceeds the lending limit of the bank as
7 prescribed in section 8-141.

8 (7)(a) Except as provided in subdivision (b) of this subsection, no
9 bank shall extend credit to any of its executive officers, directors, or
10 principal shareholders or to any related interest of such persons unless
11 the extension of credit (i) is made on substantially the same terms,
12 including interest rates and collateral, as, and following credit-
13 underwriting procedures that are not less stringent than, those
14 prevailing at the time for comparable transactions by the bank with other
15 persons that are not covered by this section and who are not employed by
16 the bank and (ii) does not involve more than the normal risk of repayment
17 or present other unfavorable features.

18 (b) Nothing in subdivision (a) of this subsection shall prohibit any
19 extension of credit made by a bank pursuant to a benefit or compensation
20 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation
21 existed on January 1, 2024 ~~2023~~.

22 (8) For purposes of this section:

23 (a) Executive officer means a person who participates or has
24 authority to participate, other than in the capacity of director, in the
25 major policymaking functions of the bank, whether or not the officer has
26 an official title, the title designates such officer as an assistant, or
27 such officer is serving without salary or other compensation. Executive
28 officer includes the chairperson of the board of directors, the
29 president, all vice presidents, the cashier, the corporate secretary, and
30 the treasurer, unless the executive officer is excluded by a resolution
31 of the board of directors or by the bylaws of the bank from

1 participating, other than in the capacity of director, in the major
2 policymaking functions of the bank, and the executive officer does not
3 actually participate in such functions. A manager or assistant manager of
4 a branch of a bank shall not be considered to be an executive officer
5 unless such individual participates or is authorized to participate in
6 the major policymaking functions of the bank; and

7 (b) Unimpaired capital and unimpaired surplus means the sum of:

8 (i) The total equity capital of the bank reported on its most recent
9 consolidated report of condition filed under section 8-166;

10 (ii) Any subordinated notes and debentures approved as an addition
11 to the bank's capital structure by the appropriate federal banking
12 agency; and

13 (iii) Any valuation reserves created by charges to the bank's income
14 reported on its most recent consolidated report of condition filed under
15 section 8-166.

16 (9) Any executive officer, director, or principal shareholder of a
17 bank or any other person who intentionally violates this section or who
18 aids, abets, or assists in a violation of this section is guilty of a
19 Class IV felony.

20 (10) The Director of Banking and Finance may adopt and promulgate
21 rules and regulations to carry out this section, including rules and
22 regulations defining or further defining terms used in this section,
23 consistent with the provisions of 12 U.S.C. 84 and implementing
24 Regulation O as such section and regulation existed on January 1, 2024
25 2023.

26 Sec. 4. Section 8-157.01, Revised Statutes Supplement, 2023, is
27 amended to read:

28 8-157.01 (1) Any establishing financial institution may establish
29 and maintain any number of automatic teller machines at which all banking
30 transactions, defined as receiving deposits of every kind and nature and
31 crediting such to customer accounts, cashing checks and cash withdrawals,

1 transferring funds from checking accounts to savings accounts,
2 transferring funds from savings accounts to checking accounts,
3 transferring funds from either checking accounts and savings accounts to
4 accounts of other customers, transferring payments from customer accounts
5 into accounts maintained by other customers of the financial institution
6 or the financial institution, including preauthorized draft authority,
7 preauthorized loans, and credit transactions, receiving payments payable
8 at the financial institution or otherwise, account balance inquiry, and
9 any other transaction incidental to the business of the financial
10 institution or which will provide a benefit to the financial
11 institution's customers or the general public, may be conducted. Any
12 automatic teller machine owned by a nonfinancial institution third party
13 shall be sponsored by an establishing financial institution. Neither such
14 automatic teller machines nor the transactions conducted thereat shall be
15 construed as the establishment of a branch or as branch banking.

16 (2) Any financial institution may become a user financial
17 institution by agreeing to pay the establishing financial institution the
18 automatic teller machine usage fee. Such agreement shall be implied by
19 the use of such automatic teller machines.

20 (3)(a)(i) All automatic teller machines shall be made available on a
21 nondiscriminating basis for use by Nebraska customers of a user financial
22 institution and (ii) all Nebraska automatic teller machine transactions
23 initiated by Nebraska customers of a user financial institution shall be
24 made on a nondiscriminating basis.

25 (b) It shall not be deemed discrimination if (i) an automatic teller
26 machine does not offer the same transaction services as other automatic
27 teller machines, (ii) there are no automatic teller machine usage fees
28 charged between affiliate financial institutions for the use of automatic
29 teller machines, (iii) the automatic teller machine usage fees of an
30 establishing financial institution that authorizes and directly or
31 indirectly routes Nebraska automatic teller machine transactions to

1 multiple switches, all of which comply with the requirements of
2 subdivision (3)(d) of this section, differ solely based upon the fees
3 established by the switches, (iv) automatic teller machine usage fees
4 differ based upon whether the transaction initiated at an automatic
5 teller machine is subject to a surcharge or provided on a surcharge-free
6 basis, or (v) the automatic teller machines established or sponsored by
7 an establishing financial institution are made available for use by
8 Nebraska customers of any user financial institution which agrees to pay
9 the automatic teller machine usage fee and which conforms to the
10 operating rules and technical standards established by the switch to
11 which a Nebraska automatic teller machine transaction is directly or
12 indirectly routed.

13 (c) The director, upon notice and after a hearing, may terminate or
14 suspend the use of any automatic teller machine if he or she determines
15 that the automatic teller machine is not made available on a
16 nondiscriminating basis or that Nebraska automatic teller machine
17 transactions initiated at such automatic teller machine are not made on a
18 nondiscriminating basis.

19 (d) A switch (i) shall provide to all financial institutions that
20 have a main office or approved branch located in the State of Nebraska
21 and that conform to the operating rules and technical standards
22 established by the switch an equal opportunity to participate in the
23 switch for the use of and access thereto; (ii) shall be capable of
24 operating to accept and route Nebraska automatic teller machine
25 transactions, whether receiving data from an automatic teller machine, an
26 establishing financial institution, or a data processing center; and
27 (iii) shall be capable of being directly or indirectly connected to every
28 data processing center for any automatic teller machine.

29 (e) The director, upon notice and after a hearing, may terminate or
30 suspend the operation of any switch with respect to all Nebraska
31 automatic teller machine transactions if he or she determines that the

1 switch is not being operated in the manner required under subdivision (3)
2 (d) of this section.

3 (f) Subject to the requirement for a financial institution to comply
4 with this subsection, no user financial institution or establishing
5 financial institution shall be required to become a member of any
6 particular switch.

7 (4) Any consumer initiating an electronic funds transfer at an
8 automatic teller machine for which an automatic teller machine surcharge
9 will be imposed shall receive notice in accordance with the provisions of
10 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
11 2024 ~~2023~~. Such notice shall appear on the screen of the automatic teller
12 machine or appear on a paper notice issued from such machine after the
13 transaction is initiated and before the consumer is irrevocably committed
14 to completing the transaction.

15 (5) A point-of-sale terminal may be established at any point within
16 this state by a financial institution, a group of two or more financial
17 institutions, or a combination of a financial institution or financial
18 institutions and a third party or parties. Such parties may contract with
19 a seller of goods and services or any other third party for the operation
20 of point-of-sale terminals.

21 (6) A seller of goods and services or any other third party on whose
22 premises one or more point-of-sale terminals are established shall not
23 be, solely by virtue of such establishment, a financial institution and
24 shall not be subject to the laws governing, or other requirements imposed
25 on, financial institutions, except for the requirement that it faithfully
26 perform its obligations in connection with any transaction originated at
27 any point-of-sale terminal on its premises.

28 (7) Nothing in this section shall be construed to prohibit nonbank
29 employees from assisting in transactions originated at automatic teller
30 machines or point-of-sale terminals, and such assistance shall not be
31 deemed to be engaging in the business of banking.

1 (8)(a) Annually by September 1, any entity operating as a switch in
2 Nebraska shall file a notice with the department setting forth its name,
3 address, and contact information for an officer authorized to answer
4 inquiries related to its operations in Nebraska.

5 (b) Any entity intending to operate in Nebraska as a switch shall
6 file a notice with the department setting forth its name, address, and
7 contact information for an officer authorized to answer inquiries related
8 to its operations in Nebraska. Such notice shall be filed at least thirty
9 days prior to the date on which the switch commences operations, and
10 thereafter annually by September 1.

11 (9) Nothing in this section prohibits ordinary clearinghouse
12 transactions between financial institutions.

13 (10) Nothing in this section shall prevent any financial institution
14 which has a main chartered office or an approved branch located in the
15 State of Nebraska from participating in a national automatic teller
16 machine program to allow its customers to use automatic teller machines
17 located outside of the State of Nebraska which are established by out-of-
18 state financial institutions or foreign financial institutions or to
19 allow customers of out-of-state financial institutions or foreign
20 financial institutions to use its automatic teller machines. Such
21 participation and any automatic teller machine usage fees charged or
22 received pursuant to the national automatic teller machine program or
23 usage fees charged for the use of its automatic teller machines by
24 customers of out-of-state financial institutions or foreign financial
25 institutions shall not be considered for purposes of determining (a) if
26 an automatic teller machine has been made available or Nebraska automatic
27 teller machine transactions have been made on a nondiscriminating basis
28 for use by Nebraska customers of a user financial institution or (b) if a
29 switch complies with subdivision (3)(d) of this section.

30 (11) An agreement to operate or share an automatic teller machine
31 may not prohibit, limit, or restrict the right of the operator or owner

1 of the automatic teller machine to charge a customer conducting a
2 transaction using an account from a foreign financial institution an
3 access fee or surcharge not otherwise prohibited under state or federal
4 law.

5 (12) Switch fees shall not be subject to this section or be
6 regulated by the department.

7 (13) Nothing in this section shall prevent a group of two or more
8 credit unions, each of which has a main chartered office or an approved
9 branch located in the State of Nebraska, from participating in a credit
10 union service organization organized on or before January 1, 2015, for
11 the purpose of owning automatic teller machines, provided that all
12 participating credit unions have an ownership interest in the credit
13 union service organization and that the credit union service organization
14 has an ownership interest in each of the participating credit unions'
15 automatic teller machines. Such participation and any automatic teller
16 machine usage fees associated with Nebraska automatic teller machine
17 transactions initiated by customers of participating credit unions at
18 such automatic teller machines shall not be considered for purposes of
19 determining if such automatic teller machines have been made available on
20 a nondiscriminating basis or if Nebraska automatic teller machine
21 transactions initiated at such automatic teller machines have been made
22 on a nondiscriminating basis, provided that all Nebraska automatic teller
23 machine transactions initiated by customers of participating credit
24 unions result in the same automatic teller machine usage fees for
25 essentially the same service routed over the same switch.

26 (14) Nebraska automatic teller machine usage fees and any agreements
27 relating to Nebraska automatic teller machine usage fees shall comply
28 with subsection (3) of this section.

29 (15) For purposes of this section:

30 (a) Access means the ability to utilize an automatic teller machine
31 or a point-of-sale terminal to conduct permitted banking transactions or

1 purchase goods and services electronically;

2 (b) Account means a checking account, a savings account, a share
3 account, or any other customer asset account held by a financial
4 institution. Such an account may also include a line of credit which a
5 financial institution has agreed to extend to its customer;

6 (c) Affiliate financial institution means any financial institution
7 which is a subsidiary of the same bank holding company;

8 (d) Automatic teller machine usage fee means any per transaction fee
9 established by a switch or otherwise established on behalf of an
10 establishing financial institution and collected from the user financial
11 institution and paid to the establishing financial institution for the
12 use of the automatic teller machine. An automatic teller machine usage
13 fee shall not include switch fees;

14 (e) Electronic funds transfer means any transfer of funds, other
15 than a transaction originated by check, draft, or similar paper
16 instrument, that is initiated through a point-of-sale terminal, an
17 automatic teller machine, or a personal terminal for the purpose of
18 ordering, instructing, or authorizing a financial institution to debit or
19 credit an account;

20 (f) Essentially the same service means the same Nebraska automatic
21 teller machine transaction offered by an establishing financial
22 institution irrespective of the user financial institution, the Nebraska
23 customer of which initiates the Nebraska automatic teller machine
24 transaction. A Nebraska automatic teller machine transaction that is
25 subject to a surcharge is not essentially the same service as the same
26 banking transaction for which a surcharge is not imposed;

27 (g) Establishing financial institution means any financial
28 institution which has a main chartered office or approved branch located
29 in the State of Nebraska that establishes or sponsors an automatic teller
30 machine or any out-of-state financial institution that establishes or
31 sponsors an automatic teller machine;

1 (h) Financial institution means a bank, savings bank, building and
2 loan association, savings and loan association, or credit union, whether
3 chartered by the department, the United States, or a foreign state
4 agency; any other similar organization which is covered by federal
5 deposit insurance; or a subsidiary of any such entity;

6 (i) Foreign financial institution means a financial institution
7 located outside the United States;

8 (j) Nebraska automatic teller machine transaction means a banking
9 transaction as defined in subsection (1) of this section which is (i)
10 initiated at an automatic teller machine established in whole or in part
11 or sponsored by an establishing financial institution, (ii) for an
12 account of a Nebraska customer of a user financial institution, and (iii)
13 processed through a switch regardless of whether it is routed directly or
14 indirectly from an automatic teller machine;

15 (k) Personal terminal means a personal computer and telephone,
16 wherever located, operated by a customer of a financial institution for
17 the purpose of initiating a transaction affecting an account of the
18 customer;

19 (l) Sponsoring an automatic teller machine means the acceptance of
20 responsibility by an establishing financial institution for compliance
21 with all provisions of law governing automatic teller machines and
22 Nebraska automatic teller machine transactions in connection with an
23 automatic teller machine owned by a nonfinancial institution third party;

24 (m) Switch fee means a fee established by a switch and assessed to a
25 user financial institution or to an establishing financial institution
26 other than an automatic teller machine usage fee; and

27 (n) User financial institution means any financial institution which
28 has a main chartered office or approved branch located in the State of
29 Nebraska which avails itself of and provides its customers with automatic
30 teller machine services.

31 Sec. 5. Section 8-183.04, Revised Statutes Supplement, 2023, is

1 amended to read:

2 8-183.04 (1) Notwithstanding any other provision of the Nebraska
3 Banking Act or any other Nebraska law, a state or federal savings
4 association which was formed and in operation as a mutual savings
5 association as of July 15, 1998, may elect to retain its mutual form of
6 corporate organization upon conversion to a state bank.

7 (2) All references to shareholders or stockholders for state banks
8 shall be deemed to be references to members for such a converted savings
9 association.

10 (3) The amount and type of capital required for such a converted
11 savings association shall be as required for federal mutual savings
12 associations in 12 C.F.R. 5.21, as such regulation existed on January 1,
13 2024 ~~2023~~, except that if at any time the department determines that the
14 capital of such a converted savings association is impaired, the director
15 may require the members to make up the capital impairment.

16 (4) The director may adopt and promulgate rules and regulations
17 governing such converted mutual savings associations. In adopting and
18 promulgating such rules and regulations, the director may consider the
19 provisions of sections 8-301 to 8-384 governing savings associations in
20 mutual form of corporate organization.

21 Sec. 6. Section 8-1,140, Revised Statutes Supplement, 2023, is
22 amended to read:

23 8-1,140 Notwithstanding any of the other provisions of the Nebraska
24 Banking Act or any other Nebraska statute, any bank incorporated under
25 the laws of this state and organized under the provisions of the act, or
26 under the laws of this state as they existed prior to May 9, 1933, shall
27 directly, or indirectly through a department, a subsidiary, or
28 subsidiaries, have all the rights, powers, privileges, benefits, and
29 immunities which may be exercised as of January 1, 2024 ~~2023~~, by a
30 federally chartered bank doing business in Nebraska, including the
31 exercise of all powers and activities that are permitted for a financial

1 subsidiary of a federally chartered bank. Such rights, powers,
2 privileges, benefits, and immunities shall not relieve such bank from
3 payment of state taxes assessed under any applicable laws of this state.

4 Sec. 7. Section 8-318, Revised Statutes Supplement, 2023, is amended
5 to read:

6 8-318 (1)(a) Shares of stock in any association, or in any federal
7 savings and loan association incorporated under the provisions of the
8 federal Home Owners' Loan Act, with its principal office and place of
9 business in this state, may be subscribed for, held, transferred,
10 surrendered, withdrawn, and forfeited and payments thereon received and
11 receipted for by any person, regardless of age, in the same manner and
12 with the same binding effect as though such person were of the age of
13 majority, except that a minor or his or her estate shall not be bound on
14 his or her subscription to stock except to the extent of payments
15 actually made thereon.

16 (b) Whenever a share account is accepted by any building and loan
17 association in the name of any person, regardless of age, the deposit may
18 be withdrawn by the shareholder by any of the following methods:

19 (i) Check or other instrument in writing. The check or other
20 instrument in writing constitutes a receipt or acquittance if the check
21 or other instrument in writing is signed by the shareholder and
22 constitutes a valid release in discharge to the building and loan
23 association for all payments so made; or

24 (ii) Electronic means through:

25 (A) Preauthorized direct withdrawal;

26 (B) An automatic teller machine;

27 (C) A debit card;

28 (D) A transfer by telephone;

29 (E) A network, including the Internet; or

30 (F) Any electronic terminal, computer, magnetic tape, or other
31 electronic means.

1 (c) This section shall not be construed to affect the rights,
2 liabilities, or responsibilities of participants in an electronic fund
3 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
4 et seq., as it existed on January 1, ~~2024~~ ~~2023~~, and shall not affect the
5 legal relationships between a minor and any person other than the
6 building and loan association.

7 (2) All trustees, guardians, personal representatives,
8 administrators, and conservators appointed by the courts of this state
9 may invest and reinvest in, acquire, make withdrawals in whole or in
10 part, hold, transfer, or make new or additional investments in or
11 transfers of shares of stock in any (a) building and loan association
12 organized under the laws of the State of Nebraska or (b) federal savings
13 and loan association incorporated under the provisions of the federal
14 Home Owners' Loan Act, having its principal office and place of business
15 in this state, without an order of approval from any court.

16 (3) Trustees created solely by the terms of a trust instrument may
17 invest in, acquire, hold, and transfer such shares, and make withdrawals,
18 in whole or in part, therefrom, without any order of court, unless
19 expressly limited, restricted, or prohibited therefrom by the terms of
20 such trust instrument.

21 (4) All building and loan associations referred to in this section
22 are qualified to act as trustee or custodian within the provisions of the
23 federal Self-Employed Individuals Tax Retirement Act of 1962, as amended,
24 or under the terms and provisions of section 408(a) of the Internal
25 Revenue Code, if the provisions of such retirement plan require the funds
26 of such trust or custodianship to be invested exclusively in shares or
27 accounts in the association or in other associations. If any such
28 retirement plan, within the judgment of the association, constitutes a
29 qualified plan under the federal Self-Employed Individuals Tax Retirement
30 Act of 1962, or under the terms and provisions of section 408(a) of the
31 Internal Revenue Code, and the regulations promulgated thereunder at the

1 time the trust was established and accepted by the association, is
2 subsequently determined not to be such a qualified plan or subsequently
3 ceases to be such a qualified plan, in whole or in part, the association
4 may continue to act as trustee of any deposits theretofore made under
5 such plan and to dispose of the same in accordance with the directions of
6 the member and beneficiaries thereof. No association, in respect to
7 savings made under this section, shall be required to segregate such
8 savings from other assets of the association. The association shall keep
9 appropriate records showing in proper detail all transactions engaged in
10 under the authority of this section.

11 Sec. 8. Section 8-355, Revised Statutes Supplement, 2023, is amended
12 to read:

13 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
14 or any other Nebraska statute, except as provided in section 8-345.02,
15 any association incorporated under the laws of the State of Nebraska and
16 organized under the provisions of such article shall have all the rights,
17 powers, privileges, benefits, and immunities which may be exercised as of
18 January 1, 2024 ~~2023~~, by a federal savings and loan association doing
19 business in Nebraska. Such rights, powers, privileges, benefits, and
20 immunities shall not relieve such association from payment of state taxes
21 assessed under any applicable laws of this state.

22 Sec. 9. Section 8-1101, Revised Statutes Supplement, 2023, is
23 amended to read:

24 8-1101 For purposes of the Securities Act of Nebraska, unless the
25 context otherwise requires:

26 (1) Agent means any individual other than a broker-dealer who
27 represents a broker-dealer or issuer in effecting or attempting to effect
28 sales of securities, but agent does not include an individual who
29 represents (a) an issuer in (i) effecting a transaction in a security
30 exempted by subdivision (6), (7), or (8) of section 8-1110, (ii)
31 effecting certain transactions exempted by section 8-1111, (iii)

1 effecting transactions in a federal covered security as described in
2 section 18(b)(3) of the Securities Act of 1933, or (iv) effecting
3 transactions with existing employees, limited liability company members,
4 partners, or directors of the issuer or any of its subsidiaries if no
5 commission or other remuneration is paid or given directly or indirectly
6 for soliciting any person in this state or (b) a broker-dealer in
7 effecting transactions described in section 15(h)(2) of the Securities
8 Exchange Act of 1934. A partner, limited liability company member,
9 officer, or director of a broker-dealer is an agent only if he or she
10 otherwise comes within this definition;

11 (2) Broker-dealer means any person engaged in the business of
12 effecting transactions in securities for the account of others or for his
13 or her own account. Broker-dealer does not include (a) an issuer-dealer,
14 agent, bank, savings institution, or trust company, (b) an issuer
15 effecting a transaction in its own security exempted by subdivision (5)
16 (a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a
17 federal covered security pursuant to section 18(b)(1) of the Securities
18 Act of 1933, (c) a person who has no place of business in this state if
19 he or she effects transactions in this state exclusively with or through
20 the issuers of the securities involved in the transactions, other broker-
21 dealers, or banks, savings institutions, credit unions, trust companies,
22 insurance companies, investment companies as defined in the Investment
23 Company Act of 1940, pension or profit-sharing trusts, or other financial
24 institutions or institutional buyers, whether acting for themselves or as
25 trustees, (d) a person who has no place of business in this state if
26 during any period of twelve consecutive months he or she does not direct
27 more than five offers to sell or to buy into this state in any manner to
28 persons other than those specified in subdivision (2)(c) of this section,
29 or (e) a person who is a resident of Canada and who has no office or
30 other physical presence in Nebraska if the following conditions are
31 satisfied: (i) The person must be registered with, or be a member of, a

1 securities self-regulatory organization in Canada or a stock exchange in
2 Canada; (ii) the person must maintain, in good standing, its provisional
3 or territorial registration or membership in a securities self-regulatory
4 organization in Canada, or stock exchange in Canada; (iii) the person
5 effects, or attempts to effect, (A) a transaction with or for a Canadian
6 client who is temporarily present in this state and with whom the
7 Canadian broker-dealer had a bona fide customer relationship before the
8 client entered this state or (B) a transaction with or for a Canadian
9 client in a self-directed tax advantaged retirement plan in Canada of
10 which that client is the holder or contributor; and (iv) the person
11 complies with all provisions of the Securities Act of Nebraska relating
12 to the disclosure of material information in connection with the
13 transaction;

14 (3) Department means the Department of Banking and Finance. Director
15 means the Director of Banking and Finance of the State of Nebraska except
16 as further provided in section 8-1120;

17 (4) Federal covered adviser means a person who is registered under
18 section 203 of the Investment Advisers Act of 1940;

19 (5) Federal covered security means any security described as a
20 covered security under section 18(b) of the Securities Act of 1933 or
21 rules and regulations under the act;

22 (6) Guaranteed means guaranteed as to payment of principal,
23 interest, or dividends;

24 (7) Investment adviser means any person who for compensation engages
25 in the business of advising others, either directly or through
26 publications or writings, as to the value of securities or as to the
27 advisability of investing in, purchasing, or selling securities or who
28 for compensation and as a part of a regular business issues or
29 promulgates analyses or reports concerning securities. Investment adviser
30 also includes financial planners and other persons who, as an integral
31 component of other financially related services, provide the foregoing

1 investment advisory services to others for compensation and as part of a
2 business or who hold themselves out as providing the foregoing investment
3 advisory services to others for compensation. Investment adviser does not
4 include (a) an investment adviser representative, (b) a bank, savings
5 institution, or trust company, (c) a lawyer, accountant, engineer, or
6 teacher whose performance of these services is solely incidental to the
7 practice of his or her profession, (d) a broker-dealer or its agent whose
8 performance of these services is solely incidental to its business as a
9 broker-dealer and who receives no special compensation for them, (e) an
10 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,
11 newsletter, news magazine, or business or financial publication or
12 service, whether communicated in hard copy form, by electronic means, or
13 otherwise which does not consist of the rendering of advice on the basis
14 of the specific investment situation of each client, (g) a person who has
15 no place of business in this state if (i) his or her only clients in this
16 state are other investment advisers, federal covered advisers, broker-
17 dealers, banks, savings institutions, credit unions, trust companies,
18 insurance companies, investment companies as defined in the Investment
19 Company Act of 1940, pension or profit-sharing trusts, or other financial
20 institutions or institutional buyers, whether acting for themselves or as
21 trustees, or (ii) during the preceding twelve-month period, he or she has
22 had five or fewer clients who are residents of this state other than
23 those persons specified in subdivision (g)(i) of this subdivision, (h)
24 any person that is a federal covered adviser or is excluded from the
25 definition of investment adviser under section 202 of the Investment
26 Adviser Act of 1940, or (i) such other persons not within the intent of
27 this subdivision as the director may by rule and regulation or order
28 designate;

29 (8) Investment adviser representative means any partner, limited
30 liability company member, officer, or director or any person occupying a
31 similar status or performing similar functions of a partner, limited

1 liability company member, officer, or director or other individual,
2 except clerical or ministerial personnel, who is employed by or
3 associated with an investment adviser that is registered or required to
4 be registered under the Securities Act of Nebraska or who has a place of
5 business located in this state and is employed by or associated with a
6 federal covered adviser, and who (a) makes any recommendations or
7 otherwise renders advice regarding securities, (b) manages accounts or
8 portfolios of clients, (c) determines which recommendation or advice
9 regarding securities should be given, (d) solicits, offers, or negotiates
10 for the sale of or sells investment advisory services, or (e) supervises
11 employees who perform any of the foregoing;

12 (9) Issuer means any person who issues or proposes to issue any
13 security, except that (a) with respect to certificates of deposit,
14 voting-trust certificates, or collateral-trust certificates or with
15 respect to certificates of interest or shares in an unincorporated
16 investment trust not having a board of directors, or persons performing
17 similar functions, or of the fixed, restricted management, or unit type,
18 the term issuer means the person or persons performing the acts and
19 assuming the duties of depositor or manager pursuant to the provisions of
20 the trust or other agreement or instrument under which the security is
21 issued and (b) with respect to a fractional or pooled interest in a
22 viatical settlement contract, issuer means the person who creates, for
23 the purpose of sale, the fractional or pooled interest. In the case of a
24 viatical settlement contract that is not fractionalized or pooled, issuer
25 means the person effecting a transaction with a purchaser of such
26 contract;

27 (10) Issuer-dealer means (a) any issuer located in the State of
28 Nebraska or (b) any issuer which registered its securities by
29 qualification who proposes to sell to the public of the State of Nebraska
30 the securities that it issues without the benefit of another registered
31 broker-dealer. Such securities shall have been approved for sale in the

1 State of Nebraska pursuant to section 8-1104;

2 (11) Nonissuer means not directly or indirectly for the benefit of
3 the issuer;

4 (12) Person means an individual, a corporation, a partnership, a
5 limited liability company, an association, a joint-stock company, a trust
6 in which the interests of the beneficiaries are evidenced by a security,
7 an unincorporated organization, a government, or a political subdivision
8 of a government;

9 (13) Sale or sell includes every contract of sale of, contract to
10 sell, or disposition of a security or interest in a security for value.
11 Offer or offer to sell includes every attempt or offer to dispose of, or
12 solicitation of an offer to buy, a security or interest in a security for
13 value. Any security given or delivered with or as a bonus on account of
14 any purchase of securities or any other thing is considered to constitute
15 part of the subject of the purchase and to have been offered and sold for
16 value. A purported gift of assessable stock shall be considered to
17 involve an offer and sale. Every sale or offer of a warrant or right to
18 purchase or subscribe to another security of the same or another issuer,
19 as well as every sale or offer of a security which gives the holder a
20 present or future right or privilege to convert into another security of
21 the same or another issuer, shall be considered to include an offer of
22 the other security;

23 (14) Securities Act of 1933, Securities Exchange Act of 1934,
24 Investment Advisers Act of 1940, Investment Company Act of 1940,
25 Commodity Exchange Act, and the federal Interstate Land Sales Full
26 Disclosure Act means the acts as they existed on January 1, 2024 ~~2023~~;

27 (15) Security means any note, stock, treasury stock, bond,
28 debenture, units of beneficial interest in a real estate trust, evidence
29 of indebtedness, certificate of interest or participation in any profit-
30 sharing agreement, collateral-trust certificate, preorganization
31 certificate or subscription, transferable share, investment contract,

1 viatical settlement contract or any fractional or pooled interest in such
2 contract, membership interest in any limited liability company organized
3 under Nebraska law or any other jurisdiction unless otherwise excluded
4 from this definition, voting-trust certificate, certificate of deposit
5 for a security, certificate of interest or participation in an oil, gas,
6 or mining title or lease or in payments out of production under such a
7 title or lease, in general any interest or instrument commonly known as a
8 security, or any certificate of interest or participation in, temporary
9 or interim certificate for, guarantee of, or warrant or right to
10 subscribe to or purchase any of the foregoing. Security does not include
11 any insurance or endowment policy or annuity contract issued by an
12 insurance company. Security also does not include a membership interest
13 in a limited liability company when all of the following exist: (a) The
14 member enters into a written commitment to be engaged actively and
15 directly in the management of the limited liability company; and (b) all
16 members of the limited liability company are actively engaged in the
17 management of the limited liability company. For the limited purposes of
18 determining professional malpractice insurance premiums, a security
19 issued through a transaction that is exempted pursuant to subdivision
20 (23) of section 8-1111 shall not be considered a security;

21 (16) State means any state, territory, or possession of the United
22 States as well as the District of Columbia and Puerto Rico; and

23 (17) Viatical settlement contract means an agreement for the
24 purchase, sale, assignment, transfer, devise, or bequest of all or any
25 portion of the death benefit or ownership of a life insurance policy or
26 contract for consideration which is less than the expected death benefit
27 of the life insurance policy or contract. Viatical settlement contract
28 does not include (a) the assignment, transfer, sale, devise, or bequest
29 of a death benefit of a life insurance policy or contract made by the
30 viator to an insurance company or to a viatical settlement provider or
31 broker licensed pursuant to the Viatical Settlements Act, (b) the

1 assignment of a life insurance policy or contract to a bank, savings
2 bank, savings and loan association, credit union, or other licensed
3 lending institution as collateral for a loan, or (c) the exercise of
4 accelerated benefits pursuant to the terms of a life insurance policy or
5 contract and consistent with applicable law.

6 Sec. 10. Section 8-1101.01, Revised Statutes Supplement, 2023, is
7 amended to read:

8 8-1101.01 For purposes of the Securities Act of Nebraska:

9 (1) Federal rules and regulations adopted under the Investment
10 Advisers Act of 1940 or the Securities Act of 1933 means such rules and
11 regulations as they existed on January 1, 2024 ~~2023~~; and

12 (2) Fair practice or ethical rules or standards promulgated by the
13 Securities and Exchange Commission, the Financial Industry Regulatory
14 Authority, or a self-regulatory organization approved by the Securities
15 and Exchange Commission means such practice, rules, or standards as they
16 existed on January 1, 2024 ~~2023~~.

17 Sec. 11. Section 8-1116, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 8-1116 Whenever it appears to the director that any person has
20 engaged or is about to engage in any act or practice constituting a
21 violation of any provision of the Securities Act of Nebraska or any rule
22 and regulation or order under the act, the director may in his or her
23 discretion bring an action in any court of competent jurisdiction to
24 enjoin any such acts or practices and to enforce compliance with the
25 Securities Act of Nebraska or any rule and regulation or order under the
26 act. Upon a proper showing, a permanent or temporary injunction,
27 restraining order, or writ of mandamus shall be granted and a receiver or
28 conservator may be appointed for the defendant's assets. Upon a proper
29 showing by the director, the court may invoke its equitable powers under
30 the law and issue an order of rescission, restitution, or disgorgement,
31 an order freezing assets, an order requiring an accounting, or a writ of

1 attachment or writ of general or specific execution, directed to any
2 person who has engaged in or is engaging in any act constituting a
3 violation of any provision of the Securities Act of Nebraska or any rule
4 and regulation or order under the act. Neither the ~~The~~ director nor any
5 receiver appointed pursuant to this section shall ~~not~~ be required to post
6 a bond.

7 Sec. 12. Section 8-1120, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 8-1120 (1) Except as otherwise provided in this section, the
10 Securities Act of Nebraska shall be administered by the Director of
11 Banking and Finance who may employ such deputies, examiners, assistants,
12 or counsel as may be reasonably necessary for the purpose thereof. The
13 employment of any person for the administration of the act is subject to
14 section 49-1499.07. The director may delegate to a deputy director or
15 counsel any powers, authority, and duties imposed upon or granted to the
16 director under the act, such as may be lawfully delegated under the
17 common law or the statutes of this state. The director may also employ
18 special counsel with respect to any investigation conducted by him or her
19 under the act or with respect to any litigation to which the director is
20 a party under the act.

21 (2) A security issued by and representing an interest in or a debt
22 of, or guaranteed by, any insurance company shall be registered, pursuant
23 to the provisions of sections 8-1104 to 8-1109, with the Director of
24 Insurance who shall as to such registrations administer and enforce the
25 act, and as pertains to the administration and enforcement of such
26 registration of such securities all references in the act to director
27 shall mean the Director of Insurance.

28 (3)(a) It shall be unlawful for the director or any of his or her
29 employees to use for personal benefit any information which is filed with
30 or obtained by the director and which is not made public. Neither the
31 director nor any of his or her employees shall disclose any confidential

1 information except among themselves, when necessary or appropriate in a
2 proceeding, examination, or investigation under the act, or as authorized
3 in subdivision (3)(b) of this subsection. No provision of the act shall
4 either create or derogate from any privilege which exists at common law
5 or otherwise when documentary or other evidence is sought under a
6 subpoena directed to the director or any of his or her employees.

7 (b)(i) In administering the act, the director may also:

8 (A) Enter into agreements or relationships with other government
9 officials, including, but not limited to, the securities administrator of
10 a foreign state and the Securities and Exchange Commission, or self-
11 regulatory organizations, to share resources, standardized or uniform
12 methods or procedures, and documents, records, and information; or

13 (B) Accept and rely on examination or investigation reports made by
14 other government officials, including, but not limited to, the securities
15 administrator of a foreign state and the Securities and Exchange
16 Commission, or self-regulatory organizations.

17 (ii) For purposes of this subdivision, foreign state means any state
18 of the United States, other than the State of Nebraska, any territory of
19 the United States, including Puerto Rico, Guam, American Samoa, the Trust
20 Territory of the Pacific Islands, or the Virgin Islands, and the District
21 of Columbia.

22 (4) The director may adopt and promulgate rules and regulations and
23 prescribe forms to carry out the act. No rule and regulation may be
24 adopted and promulgated or form may be prescribed unless the director
25 finds that the action is necessary or appropriate in the public interest
26 or for the protection of investors and consistent with the purposes
27 fairly intended by the policy and provisions of the act. In adopting and
28 promulgating rules and regulations and prescribing forms the director may
29 cooperate with the securities administrators of the other states and the
30 Securities and Exchange Commission with a view to effectuating the policy
31 of the Securities Act of Nebraska to achieve maximum uniformity in the

1 form and content of registration statements, applications, and reports
2 wherever practicable. All rules and regulations and forms of the director
3 shall be published and made available to any person upon request.

4 (5) No provision of the act imposing any liability shall apply to
5 any act done or omitted in good faith in conformity with any rule and
6 regulation, form, or order of the director, notwithstanding that the rule
7 and regulation or form may later be amended or rescinded or be determined
8 by judicial or other authority to be invalid for any reason.

9 (6) Every hearing in an administrative proceeding shall be public
10 unless the director in his or her discretion grants a request joined in
11 by all the respondents that the hearing be conducted privately.

12 ~~(7) (7)(a)~~ The Securities Act Cash Fund is created. All filing fees,
13 registration fees, and all other fees and all money collected by or paid
14 to the director under any of the provisions of the act shall be remitted
15 to the State Treasurer for credit to the fund, except that registration
16 fees collected by or paid to the Director of Insurance pursuant to the
17 provisions of the act shall be credited to the Department of Insurance
18 Cash Fund. The Securities Act Cash Fund shall be used for the purpose of
19 administering and enforcing the provisions of the act, except that
20 transfers may be made to the General Fund at the direction of the
21 Legislature. Any money in the Securities Act Cash Fund available for
22 investment shall be invested by the state investment officer pursuant to
23 the Nebraska Capital Expansion Act and the Nebraska State Funds
24 Investment Act.

25 ~~(b) The State Treasurer shall transfer seven hundred twelve thousand~~
26 ~~four hundred eighty-nine dollars from the Securities Act Cash Fund to the~~
27 ~~Financial Institution Assessment Cash Fund on or before October 30, 2021,~~
28 ~~on such date as directed by the budget administrator of the budget~~
29 ~~division of the Department of Administrative Services.~~

30 ~~(c) The State Treasurer shall transfer three hundred ninety-seven~~
31 ~~thousand eighty-nine dollars from the Securities Act Cash Fund to the~~

1 ~~Financial Institution Assessment Cash Fund on or before October 30, 2022,~~
2 ~~on such date as directed by the budget administrator of the budget~~
3 ~~division of the Department of Administrative Services.~~

4 (8) A document is filed when it is received by the director. The
5 director shall keep a register of all applications for registration and
6 registration statements which are or have ever been effective under the
7 Securities Act of Nebraska and all denial, suspension, or revocation
8 orders which have ever been entered under the act. The register shall be
9 open for public inspection. The information contained in or filed with
10 any registration statement, application, or report may be made available
11 to the public under such conditions as the director may prescribe.

12 (9) The director may, by rule and regulation or order, authorize or
13 require the filing of any document required to be filed under the act by
14 electronic or other means, processes, or systems.

15 (10) Upon request and at such reasonable charges as he or she shall
16 prescribe, the director shall furnish to any person photostatic or other
17 copies, certified under his or her seal of office if requested, of any
18 entry in the register or any document which is a matter of public record.
19 In any proceeding or prosecution under the act, any copy so certified
20 shall be prima facie evidence of the contents of the entry or document
21 certified.

22 (11) The director in his or her discretion may honor requests from
23 interested persons for interpretative opinions.

24 Sec. 13. Section 8-1704, Revised Statutes Supplement, 2023, is
25 amended to read:

26 8-1704 CFTC rule shall mean any rule, regulation, or order of the
27 Commodity Futures Trading Commission in effect on January 1, 2024 ~~2023~~.

28 Sec. 14. Section 8-1707, Revised Statutes Supplement, 2023, is
29 amended to read:

30 8-1707 Commodity Exchange Act shall mean the act of Congress known
31 as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2024

1 2023.

2 Sec. 15. Section 8-1726, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 8-1726 (1) If the director believes, whether or not based upon an
5 investigation conducted under section 8-1725, that any person has engaged
6 or is about to engage in any act or practice constituting a violation of
7 any provision of the Commodity Code or any rule, regulation, or order
8 under the code, the director may:

9 (a) Issue a cease and desist order;

10 (b) Issue an order imposing (i) a fine civil penalty in an amount
11 that which may not exceed twenty-five thousand dollars for any single
12 violation or one hundred thousand dollars for multiple violations in a
13 single proceeding or a series of related proceedings and (ii) the costs
14 of investigation; or

15 (c) Initiate any of the actions specified in subsection (2) of this
16 section.

17 (2) The director may institute any of the following actions in the
18 appropriate district court of this state or in the appropriate courts of
19 another state in addition to any legal or equitable remedies otherwise
20 available:

21 (a) An action for a declaratory judgment;

22 (b) An action for a prohibitory or mandatory injunction to enjoin
23 the violation and to ensure compliance with the Commodity Code or any
24 rule, regulation, or order of the director;

25 (c) An action for disgorgement or restitution; or

26 (d) An action for appointment of a receiver or conservator for the
27 defendant or the defendant's assets.

28 (3)(a) The fines and costs shall be in addition to all other
29 penalties imposed by the laws of this state. The director shall collect
30 the fines and costs and remit them to the State Treasurer. The State
31 Treasurer shall credit the costs to the Securities Act Cash Fund and

1 distribute the fines in accordance with Article VII, section 5, of the
2 Constitution of Nebraska.

3 (b) If a person fails to pay the administrative fine or
4 investigation costs referred to in this section, a lien in the amount of
5 such fine and costs may be imposed upon all assets and property of such
6 person in this state and may be recovered by suit by the director.
7 Failure of the person to pay such fine and costs shall constitute a
8 separate violation of the code.

9 Sec. 16. Section 8-2724, Revised Statutes Supplement, 2023, is
10 amended to read:

11 8-2724 (1) The requirement for a license under the Nebraska Money
12 Transmitters Act does not apply to:

13 (a) The United States or any department, agency, or instrumentality
14 thereof;

15 (b) Any post office of the United States Postal Service;

16 (c) A state or any political subdivision thereof;

17 (d)(i) Banks, credit unions, digital asset depository institutions
18 as defined in section 8-3003, building and loan associations, savings and
19 loan associations, savings banks, or mutual banks organized under the
20 laws of any state or the United States;

21 (ii) Subsidiaries of the institutions listed in subdivision (d)(i)
22 of this subsection;

23 (iii) Bank holding companies which have a banking subsidiary located
24 in Nebraska and whose debt securities have an investment grade rating by
25 a national rating agency; or

26 (iv) Authorized delegates of the institutions and entities listed in
27 subdivision (d)(i), (ii), or (iii) of this subsection, except that
28 authorized delegates that are not banks, credit unions, building and loan
29 associations, savings and loan associations, savings banks, mutual banks,
30 subsidiaries of any of the foregoing, or bank holding companies shall
31 comply with all requirements imposed upon authorized delegates under the

1 act;

2 (e) The provision of electronic transfer of government benefits for
3 any federal, state, or county governmental agency, as defined in Consumer
4 Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such
5 regulation existed on January 1, 2024 ~~2023~~, by a contractor for and on
6 behalf of the United States or any department, agency, or instrumentality
7 thereof or any state or any political subdivision thereof;

8 (f) An operator of a payment system only to the extent that the
9 payment system provides processing, clearing, or settlement services
10 between or among persons who are all exempt under this section in
11 connection with wire transfers, credit card transactions, debit card
12 transactions, automated clearinghouse transfers, or similar fund
13 transfers; or

14 (g) A person, firm, corporation, or association licensed in this
15 state and acting within this state within the scope of a license:

16 (i) As a collection agency pursuant to the Collection Agency Act;

17 (ii) As a credit services organization pursuant to the Credit
18 Services Organization Act; or

19 (iii) To engage in the debt management business pursuant to sections
20 69-1201 to 69-1217.

21 (2) An authorized delegate of a licensee or of an exempt entity,
22 acting within the scope of its authority conferred by a written contract
23 as described in section 8-2739, is not required to obtain a license under
24 the Nebraska Money Transmitters Act, except that such an authorized
25 delegate shall comply with the other provisions of the act which apply to
26 money transmission transactions.

27 Sec. 17. Section 8-2903, Revised Statutes Supplement, 2023, is
28 amended to read:

29 8-2903 (1) When a financial institution, or an employee of a
30 financial institution, reasonably believes, or has received information
31 from the department or a law enforcement agency demonstrating that it is

1 reasonable to believe, that financial exploitation of a vulnerable adult
2 or senior adult may have occurred, may have been attempted, is occurring,
3 or is being attempted, the financial institution may, but is not required
4 to:

5 (a) Delay or refuse a transaction with or involving the vulnerable
6 adult or senior adult;

7 (b) Delay or refuse to permit the withdrawal or disbursement of
8 funds contained in the vulnerable adult's or senior adult's account;

9 (c) Prevent a change in ownership of the vulnerable adult's or
10 senior adult's account;

11 (d) Prevent a transfer of funds from the vulnerable adult's or
12 senior adult's account to an account owned wholly or partially by another
13 person;

14 (e) Refuse to comply with instructions given to the financial
15 institution by an agent or a person acting for or with an agent under a
16 power of attorney signed or purported to have been signed by the
17 vulnerable adult or senior adult; or

18 (f) Prevent the designation or change the designation of
19 beneficiaries to receive any property, benefit, or contract rights for a
20 vulnerable adult or senior adult at death.

21 (2) A financial institution is not required to act under subsection
22 (1) of this section when provided with information alleging that
23 financial exploitation may have occurred, may have been attempted, is
24 occurring, or is being attempted, but may use the financial institution's
25 discretion to determine whether or not to act under subsection (1) of
26 this section based on the information available to the financial
27 institution at the time.

28 (3)(a)(i) A financial institution may notify any third party
29 reasonably associated with a vulnerable adult or senior adult if the
30 financial institution reasonably believes that the financial exploitation
31 of a vulnerable adult or senior adult may have occurred, may have been

1 attempted, is occurring, or is being attempted.

2 (ii) A third party reasonably associated with a vulnerable adult or
3 senior adult includes, but is not limited to, the following: (A) A
4 parent, spouse, adult child, sibling, or other known family member or
5 close associate of a vulnerable adult or senior adult; (B) an authorized
6 contact provided by a vulnerable adult or senior adult to the financial
7 institution; (C) a co-owner, additional authorized signatory, or
8 beneficiary on a vulnerable adult's or a senior adult's account; (D) an
9 attorney in fact, trustee, conservator, guardian, or other fiduciary who
10 has been selected by a vulnerable adult or senior adult, a court, or a
11 third party to manage some or all of the financial affairs of the
12 vulnerable adult or senior adult; and (E) an attorney known to represent
13 or have represented the vulnerable adult or senior adult.

14 (b) A financial institution may choose not to notify any third party
15 reasonably associated with a vulnerable adult or senior adult of
16 suspected financial exploitation of the vulnerable adult or senior adult
17 if the financial institution reasonably believes the third party is, may
18 be, or may have been engaged in the financial exploitation of the
19 vulnerable adult or senior adult or if requested to refrain from making a
20 notification by a law enforcement agency, if such notification could
21 interfere with a law enforcement investigation.

22 (c) Nothing in this subsection shall prevent a financial institution
23 from notifying the department or a law enforcement agency, if the
24 financial institution reasonably believes that the financial exploitation
25 of a vulnerable adult or senior adult may have occurred, may have been
26 attempted, is occurring, or is being attempted.

27 (4) The authority granted the financial institution under subsection
28 (1) of this section expires upon the sooner of: (a) Thirty business days
29 after the date on which the financial institution first acted under
30 subsection (1) of this section; (b) when the financial institution is
31 satisfied that the transaction or act will not result in financial

1 exploitation of the vulnerable adult or senior adult; or (c) upon
2 termination by an order of a court of competent jurisdiction.

3 (5) Unless otherwise directed by order of a court of competent
4 jurisdiction, a financial institution may extend the duration under
5 subsection (4) of this section based on a reasonable belief that the
6 financial exploitation of a vulnerable adult or senior adult may continue
7 to occur or continue to be attempted.

8 (6) A financial institution and its bank holding company, if any,
9 and any employees, agents, officers, and directors of the financial
10 institution and its bank holding company, if any, shall be immune from
11 any civil, criminal, or administrative liability that may otherwise exist
12 (a) for delaying or refusing to execute a transaction, withdrawal, or
13 disbursement, or for not delaying or refusing to execute such
14 transaction, withdrawal, or disbursement under this section and (b) for
15 actions taken in furtherance of determinations made under subsections (1)
16 through (5) of this section.

17 (7)(a) Notwithstanding any other law to the contrary, the refusal by
18 a financial institution to engage in a transaction as authorized under
19 subsection (1) of this section shall not constitute the wrongful dishonor
20 of an item under section 4-402, Uniform Commercial Code.

21 (b) Notwithstanding any other law to the contrary, a reasonable
22 belief that payment of a check will facilitate the financial exploitation
23 of a vulnerable adult or senior adult shall constitute reasonable grounds
24 to doubt the collectability of the item for purposes of the federal Check
25 Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal
26 Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R.
27 part 229, as such acts and part existed on January 1, 2024 ~~2023~~.

28 Sec. 18. Section 8-3005, Revised Statutes Supplement, 2023, is
29 amended to read:

30 8-3005 (1)(a) A digital asset depository may:

31 (i) Make contracts as a corporation under Nebraska law;

- 1 (ii) Sue and be sued;
- 2 (iii) Receive notes as permitted by federal law;
- 3 (iv) Carry on a nonlending digital asset banking business for
- 4 customers, consistent with subdivision (2)(b) of this section;
- 5 (v) Provide payment services upon the request of a customer; and
- 6 (vi) Make an application to become a member bank of the federal
- 7 reserve system.

8 (b) A digital asset depository shall maintain its main office and
9 the primary office of its chief executive officer in Nebraska.

10 (c) As otherwise authorized by this section, a digital asset
11 depository may conduct business with customers outside this state.

12 (2)(a) A digital asset depository institution, consistent with the
13 Nebraska Financial Innovation Act, shall be organized as a corporation
14 under the Nebraska Model Business Corporation Act to exercise the powers
15 set forth in subsection (1) of this section.

16 (b) A digital asset depository institution shall not accept demand
17 deposits of United States currency or United States currency that may be
18 accessed or withdrawn by check or similar means for payment to third
19 parties and except as otherwise provided in this subsection, a digital
20 asset depository institution shall not make any loans to consumers for
21 personal, property or household purposes, mortgage loans, or commercial
22 loans of any fiat currency including, but not limited to, United States
23 currency, including the provision of temporary credit relating to
24 overdrafts. Notwithstanding this prohibition against fiat currency
25 lending by a digital asset depository institution, a digital asset
26 depository institution may facilitate the provision of digital asset
27 business services resulting from the interaction of customers with
28 centralized finance or decentralized finance platforms including, but not
29 limited to, controllable electronic record exchange, staking,
30 controllable electronic record lending, and controllable electronic
31 record borrowing. A digital asset depository institution may purchase

1 debt obligations specified by subdivision (2)(c) of section 8-3009.

2 (c) A digital asset depository institution may open a branch in this
3 state or in another state in the manner set forth in section 8-157 or
4 8-2303. A branch in another state is subject to the laws of the host
5 state. A digital asset depository institution, including any branch of
6 the digital asset depository institution, may only accept digital asset
7 deposits or provide other digital asset business services under the
8 Nebraska Financial Innovation Act to individual customers or a customer
9 that is a legal entity other than a natural person engaged in a bona fide
10 business which is lawful under the laws of Nebraska, the laws of the host
11 state if the entity is headquartered in another state, and federal law.

12 (3) The deposit limitations of subdivision (2)(a)(ii) of section
13 8-157 shall not apply to a digital asset depository.

14 (4) Any United States currency coming into an account established by
15 a customer of a digital asset depository institution shall be held in a
16 financial institution, the deposits of which are insured by the Federal
17 Deposit Insurance Corporation, which maintained a main-chartered office
18 in this state, any branch thereof in this state, or any branch of the
19 financial institution which maintained the main-chartered office in this
20 state prior to becoming a branch of such financial institution.

21 (5) A digital asset depository institution shall establish and
22 maintain programs for compliance with the federal Bank Secrecy Act, in
23 accordance with 12 C.F.R. 208.63, as the act and rule existed on January
24 1, 2024 ~~2023~~.

25 (6) A digital asset depository shall help meet the digital financial
26 needs of the communities in which it operates, consistent with safe and
27 sound operations, and shall maintain and update a public file available
28 to any person on request and on any Internet website or mobile
29 application it maintains containing specific information about its
30 efforts to meet community needs, including:

31 (a) The collection and reporting of data;

1 (b) Its policies and procedures for accepting and responding to
2 consumer complaints; and

3 (c) Its efforts to assist with financial literacy or personal
4 finance programs to increase knowledge and skills of Nebraska students in
5 areas such as digital assets, budgeting, credit, checking and savings
6 accounts, loans, stocks, and insurance.

7 Sec. 19. Section 8-3007, Revised Statutes Supplement, 2023, is
8 amended to read:

9 8-3007 (1) No customer shall open or maintain an account with a
10 digital asset depository or otherwise receive any services from the
11 digital asset depository unless the customer meets the criteria of this
12 subsection. A customer shall:

13 (a) Make sufficient evidence available to the digital asset
14 depository to enable compliance with anti-money laundering, customer
15 identification, and beneficial ownership requirements, as determined by
16 the federal Bank Secrecy Act guidance and the policies and practices of
17 the institution; and

18 (b) If the customer is a legal entity other than a natural person:

19 (i) Be in good standing with the jurisdiction in the United States
20 in which it is incorporated or organized; and

21 (ii) Be engaged in a business that is lawful and bona fide in
22 Nebraska, in the host state, if applicable, and under federal law
23 consistent with subsection (3) of this section.

24 (2) A customer which meets the criteria of subsection (1) of this
25 section may be issued a digital asset depository account and otherwise
26 receive services from the digital asset depository, contingent on the
27 digital asset depository maintaining sufficient insurance under
28 subsection (5) of section 8-3023.

29 (3) Consistent with subdivisions (1)(a)(iv) and (v) of section
30 8-3005, and in addition to any requirements specified by federal law, a
31 digital asset depository shall require that any potential customer that

1 is a legal entity other than a natural person provide reasonable evidence
2 that the entity is engaged in a business that is lawful and bona fide in
3 Nebraska, in the host state, if applicable, and under federal law or is
4 likely to open a lawful, bona fide business within a federal Bank Secrecy
5 Act compliant timeframe, as the act existed on January 1, 2024 ~~2023~~. For
6 purposes of this subsection, reasonable evidence includes business entity
7 filings, articles of incorporation or organization, bylaws, operating
8 agreements, business plans, promotional materials, financing agreements,
9 or other evidence.

10 Sec. 20. Section 21-1736, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 21-1736 (1) The director shall examine or cause to be examined each
13 credit union as often as deemed necessary. Each credit union and all of
14 its officials and agents shall give the director or any of the examiners
15 appointed by him or her free and full access to all books, papers,
16 securities, and other sources of information relative to such credit
17 union. For purposes of the examination, the director may subpoena
18 witnesses, administer oaths, compel the giving of testimony, and require
19 the submission of documents.

20 (2) The department shall forward a report of the examination to the
21 chief executive officer, president, or manager of the credit union
22 ~~chairperson of the board of directors~~ within ninety calendar days after
23 completion. The report shall contain comments relative to the management
24 of the affairs of the credit union and the general condition of its
25 assets. Within ninety calendar days after the receipt of such report, the
26 members of the board of directors and the members of the supervisory
27 committee and credit committee, if any, shall meet to consider the
28 matters contained in the report.

29 (3) The director may require special examinations of and special
30 financial reports from a credit union or a credit union service
31 organization in which a credit union loans, invests, or delegates

1 substantially all managerial duties and responsibilities when he or she
2 determines that such examinations and reports are necessary to enable the
3 director to determine the safety of a credit union's operations or its
4 solvency. The cost to the department of such special examinations shall
5 be borne by the credit union being examined.

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

13 Sec. 21. Section 21-17,115, Revised Statutes Supplement, 2023, is
14 amended to read:

15 21-17,115 Notwithstanding any of the other provisions of the Credit
16 Union Act or any other Nebraska statute, any credit union incorporated
17 under the laws of the State of Nebraska and organized under the
18 provisions of the act shall have all the rights, powers, privileges,
19 benefits, and immunities which may be exercised as of January 1, 2024
20 ~~2023~~, by a federal credit union doing business in Nebraska on the
21 condition that such rights, powers, privileges, benefits, and immunities
22 shall not relieve such credit union from payment of state taxes assessed
23 under any applicable laws of this state.

24 Sec. 22. Section 59-1722, Revised Statutes Supplement, 2023, is
25 amended to read:

26 59-1722 (1) Any transaction involving the sale of a franchise as
27 defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1,
28 2024 ~~2023~~, shall be exempt from the Seller-Assisted Marketing Plan Act,
29 except that such transactions shall be subject to subdivision (1)(d) of
30 section 59-1757, those provisions regulating or prescribing the use of
31 the phrase buy-back or secured investment or similar phrases as set forth

1 in sections 59-1726 to 59-1728 and 59-1751, and all sections which
2 provide for their enforcement. The exemption shall only apply if:

3 (a) The franchise is offered and sold in compliance with the
4 requirements of 16 C.F.R. part 436, Disclosure Requirements and
5 Prohibitions Concerning Franchising, as such part existed on January 1,
6 2024 ~~2023~~;

7 (b) Before placing any advertisement in a Nebraska-based
8 publication, offering for sale to any prospective purchaser in Nebraska,
9 or making any representations in connection with such offer or sale to
10 any prospective purchaser in Nebraska, the seller files a notice with the
11 Department of Banking and Finance which contains (i) the name, address,
12 and telephone number of the seller and the name under which the seller
13 intends to do business and (ii) a brief description of the plan offered
14 by the seller; and

15 (c) The seller pays a filing fee of one hundred dollars.

16 (2) The department may request a copy of the disclosure document
17 upon receipt of a written complaint or inquiry regarding the seller or
18 upon a reasonable belief that a violation of the Seller-Assisted
19 Marketing Plan Act has occurred or may occur. The seller shall provide
20 such copy within ten business days of receipt of the request.

21 (3) All funds collected by the department under this section shall
22 be remitted to the State Treasurer for credit to the Securities Act Cash
23 Fund.

24 (4) The Director of Banking and Finance may by order deny or revoke
25 an exemption specified in this section with respect to a particular
26 offering of one or more business opportunities if the director finds that
27 such an order is in the public interest or is necessary for the
28 protection of purchasers. An order shall not be entered without
29 appropriate prior notice to all interested parties, an opportunity for
30 hearing, and written findings of fact and conclusions of law. If the
31 public interest or the protection of purchasers so requires, the director

1 may by order summarily deny or revoke an exemption specified in this
2 section pending final determination of any proceedings under this
3 section. An order under this section shall not operate retroactively.

4 Sec. 23. Section 69-2103, Revised Statutes Supplement, 2023, is
5 amended to read:

6 69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

7 (1) Advertisement means a commercial message in any medium that
8 aids, promotes, or assists directly or indirectly a consumer rental
9 purchase agreement but does not include in-store merchandising aids such
10 as window signs and ceiling banners;

11 (2) Cash price means the price at which the lessor would have sold
12 the property to the consumer for cash on the date of the consumer rental
13 purchase agreement for the property;

14 (3) Consumer means a natural person who rents property under a
15 consumer rental purchase agreement;

16 (4) Consumer rental purchase agreement means an agreement which is
17 for the use of property by a consumer primarily for personal, family, or
18 household purposes, which is for an initial period of four months or
19 less, whether or not there is any obligation beyond the initial period,
20 which is automatically renewable with each payment, and which permits the
21 consumer to become the owner of the property. A consumer rental purchase
22 agreement in compliance with the act shall not be construed to be a lease
23 or agreement which constitutes a credit sale as defined in 12 C.F.R.
24 1026.2(a)(16), as such regulation existed on January 1, 2024 ~~2023~~, and 15
25 U.S.C. 1602(h), as such section existed on January 1, 2024 ~~2023~~, or a
26 lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2,
27 as such regulation existed on January 1, 2024 ~~2023~~. Consumer rental
28 purchase agreement does not include:

29 (a) Any lease for agricultural, business, or commercial purposes;

30 (b) Any lease made to an organization;

31 (c) A lease or agreement which constitutes an installment sale or

1 installment contract as defined in section 45-335;

2 (d) A security interest as defined in subdivision (35) of section
3 1-201, Uniform Commercial Code; and

4 (e) A home solicitation sale as defined in section 69-1601;

5 (5) Consummation means the occurrence of an event which causes a
6 consumer to become contractually obligated on a consumer rental purchase
7 agreement;

8 (6) Department means the Department of Banking and Finance;

9 (7) Lease payment means a payment to be made by the consumer for the
10 right of possession and use of the property for a specific lease period
11 but does not include taxes imposed on such payment;

12 (8) Lease period means a week, month, or other specific period of
13 time, during which the consumer has the right to possess and use the
14 property after paying the lease payment and applicable taxes for such
15 period;

16 (9) Lessor means a person who in the ordinary course of business
17 operates a commercial outlet which regularly leases, offers to lease, or
18 arranges for the leasing of property under a consumer rental purchase
19 agreement;

20 (10) Property means any property that is not real property under the
21 laws of this state when made available for a consumer rental purchase
22 agreement; and

23 (11) Total of payments to acquire ownership means the total of all
24 charges imposed by the lessor and payable by the consumer as a condition
25 of acquiring ownership of the property. Total of payments to acquire
26 ownership includes lease payments and any initial nonrefundable
27 administrative fee or required delivery charge but does not include
28 taxes, late charges, reinstatement fees, or charges for optional products
29 or services.

30 Sec. 24. Section 69-2104, Revised Statutes Supplement, 2023, is
31 amended to read:

1 69-2104 (1) Before entering into any consumer rental purchase
2 agreement, the lessor shall disclose to the consumer the following items
3 as applicable:

4 (a) A brief description of the leased property sufficient to
5 identify the property to the consumer and lessor;

6 (b) The number, amount, and timing of all payments included in the
7 total of payments to acquire ownership;

8 (c) The total of payments to acquire ownership;

9 (d) A statement that the consumer will not own the property until
10 the consumer has paid the total of payments to acquire ownership plus
11 applicable taxes;

12 (e) A statement that the total of payments to acquire ownership does
13 not include other charges such as taxes, late charges, reinstatement
14 fees, or charges for optional products or services the consumer may have
15 elected to purchase and that the consumer should see the rental purchase
16 agreement for an explanation of these charges;

17 (f) A statement that the consumer is responsible for the fair market
18 value, remaining rent, early purchase option amount, or cost of repair of
19 the property, whichever is less, if it is lost, stolen, damaged, or
20 destroyed;

21 (g) A statement indicating whether the property is new or used. A
22 statement that indicates that new property is used shall not be a
23 violation of the Consumer Rental Purchase Agreement Act;

24 (h) A statement of the cash price of the property. When the
25 agreement involves a lease for two or more items, a statement of the
26 aggregate cash price of all items shall satisfy the requirement of this
27 subdivision;

28 (i) The total amount of the initial payments required to be paid
29 before consummation of the agreement or delivery of the property,
30 whichever occurs later, and an itemization of the components of the
31 initial payment, including any initial nonrefundable administrative fee

1 or delivery charge, lease payment, taxes, or fee or charge for optional
2 products or services;

3 (j) A statement clearly summarizing the terms of the consumer's
4 options to purchase, including a statement that at any time after the
5 first periodic payment is made the consumer may acquire ownership of the
6 property by tendering an amount which may not exceed fifty-five percent
7 of the difference between the total of payments to acquire ownership and
8 the total of lease payments the consumer has paid on the property at that
9 time;

10 (k) A statement identifying the party responsible for maintaining or
11 servicing the property while it is being leased, together with a
12 description of that responsibility and a statement that if any part of a
13 manufacturer's warranty covers the leased property at the time the
14 consumer acquires ownership of the property, such warranty shall be
15 transferred to the consumer if allowed by the terms of the warranty; and

16 (1) The date of the transaction and the names of the lessor and the
17 consumer.

18 (2) With respect to matters specifically governed by the federal
19 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
20 existed on January 1, 2024 ~~2023~~, compliance with such act shall satisfy
21 the requirements of this section.

22 (3) Subsection (1) of this section shall not apply to a lessor who
23 complies with the disclosure requirements of the federal Consumer Credit
24 Protection Act, 15 U.S.C. 1667a, as such section existed on January 1,
25 2024 ~~2023~~, with respect to a consumer rental purchase agreement entered
26 into with a consumer.

27 Sec. 25. Section 69-2112, Revised Statutes Supplement, 2023, is
28 amended to read:

29 69-2112 (1) Any advertisement for a consumer rental purchase
30 agreement which refers to or states the amount of any payment or the
31 right to acquire ownership for any specific item shall also state clearly

1 and conspicuously the following if applicable:

2 (a) That the transaction advertised is a consumer rental purchase
3 agreement;

4 (b) The total of payments to acquire ownership; and

5 (c) That the consumer acquires no ownership rights until the total
6 of payments to acquire ownership is paid.

7 (2) Any owner or employee of any medium in which an advertisement
8 appears or through which it is disseminated shall not be liable under
9 this section.

10 (3) Subsection (1) of this section shall not apply to an
11 advertisement which does not refer to a specific item of property, which
12 does not refer to or state the amount of any payment, or which is
13 published in the yellow pages of a telephone directory or any similar
14 directory of business.

15 (4) With respect to matters specifically governed by the federal
16 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
17 existed on January 1, 2024 ~~2023~~, compliance with such act shall satisfy
18 the requirements of this section.

19 Sec. 26. Section 4A-108, Uniform Commercial Code, Revised Statutes
20 Supplement, 2023, is amended to read:

21 4A-108 Relationship to federal Electronic Fund Transfer Act.

22 (a) Except as provided in subsection (b), this article does not
23 apply to a funds transfer any part of which is governed by the federal
24 Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed
25 on January 1, 2024 ~~2023~~.

26 (b) This article applies to a funds transfer that is a remittance
27 transfer as defined in the federal Electronic Fund Transfer Act, 15
28 U.S.C. 1693o-1, as such section existed on January 1, 2024 ~~2023~~, unless
29 the remittance transfer is an electronic fund transfer as defined in the
30 federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section
31 existed on January 1, 2024 ~~2023~~.

1 (c) In a funds transfer to which this article applies, in the event
2 of an inconsistency between an applicable provision of this article and
3 an applicable provision of the federal Electronic Fund Transfer Act, the
4 provision of the federal Electronic Fund Transfer Act governs to the
5 extent of the inconsistency.

6 Sec. 27. Original sections 8-1116, 8-1120, 8-1726, and 21-1736,
7 Reissue Revised Statutes of Nebraska, sections 8-135, 8-141, 8-143.01,
8 8-157.01, 8-183.04, 8-1,140, 8-318, 8-355, 8-1101, 8-1101.01, 8-1704,
9 8-1707, 8-2724, 8-2903, 8-3005, 8-3007, 21-17,115, 59-1722, 69-2103,
10 69-2104, and 69-2112, Revised Statutes Supplement, 2023, and section
11 4A-108, Uniform Commercial Code, Revised Statutes Supplement, 2023, are
12 repealed.

13 Sec. 28. Since an emergency exists, this act takes effect when
14 passed and approved according to law.