

## LEGISLATIVE BILL 994

Approved by the Governor March 1, 1988

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

AN ACT relating to banks and banking; to amend section 8-197, Revised Statutes Supplement, 1987; to expand the definitions of certain terms to include the Federal Deposit Insurance Corporation or other receiver as prescribed; and to repeal the original section.

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

Section 1. That section 8-197, Revised Statutes Supplement, 1987, be amended to read as follows:

8-197. Pending final judgment on the petition to enjoin, the director shall retain possession of the property and business of the bank. If not enjoined, the director shall proceed to liquidate the affairs of such bank as provided in sections 8-101 to 8-1,121, except that: (1) The Federal Deposit Insurance Corporation may, under the laws of this state, accept the appointment as receiver or liquidator of any insolvent state bank whose the deposits of which are insured by the Federal Deposit Insurance Corporation; or (2) when any state bank is declared insolvent and ordered to be liquidated and the deposits of such bank are not insured by the Federal Deposit Insurance Corporation, then depositors and other creditors of such insolvent state bank, representing fifty-one percent or more of the deposit and other claims in number and in amount of the total thereof, shall have the right to liquidate such insolvent bank by and through liquidating trustees, who shall have the same power as the department and the director to liquidate such bank, if within thirty days after the filing of the declaration of insolvency, articles of trusteeship, executed and acknowledged by fifty-one percent or more of the depositors and other creditors in number, representing fifty-one percent or more of the total of all deposits and claims in such bank, are filed with the director. The articles creating the trusteeship shall be in writing, shall name the trustees, shall state the terms and conditions of such

trust, and shall become effective when it is determined by the director that fifty-one percent or more of the depositors and other creditors in number, representing fifty-one percent or more of the total of all deposits and claims in such bank, have signed and acknowledged the same. All nonconsenting depositors and other creditors of the insolvent bank shall be held to be subject to the terms and conditions of such trusteeship to the same extent and with the same effect as if they had joined in the execution thereof, and their respective claims shall be treated in all respects as if they had joined in the execution of such articles of trusteeship. Upon finding that such articles have been executed and acknowledged as provided in this section, the director shall thereupon transfer all of the assets of the insolvent bank to such liquidating trustees and take their receipt therefor, and all duties and responsibilities of the department and the director as otherwise provided by law with respect to such liquidation shall be assumed by such liquidating trustees. The director shall then be relieved from further responsibility in connection therewith, and the director and the person who issued the applicable bond shall be released from further liability on the director's official bond in respect to such liquidation. The trustees shall then proceed to liquidate such bank as nearly as may be in the manner provided by law for the liquidation of insolvent banks by the department acting as receiver and liquidating agent.

When the Federal Deposit Insurance Corporation or any party other than the department is appointed receiver and liquidating agent of an insolvent bank or other financial institution, all references to the department or the director as provided in sections 8-101 to 8-1,121 for the liquidation of banks and financial institutions shall mean the Federal Deposit Insurance Corporation or other appointed receiver and liquidating agent.

Sec. 2. That original section 8-197, Revised Statutes Supplement, 1987, is repealed.