

LEGISLATIVE BILL 1321

Approved by the Governor April 18, 1998

Introduced by Landis, 46

AN ACT relating to financial transactions; to amend sections 8-101, 8-113 to 8-115, 8-121, 8-124, 8-126, 8-128, 8-132, 8-159 to 8-162, 8-169, 8-185, 8-187, 8-190, 8-193, 8-197, 8-198, 8-1,102 to 8-1,104, 8-1,116, 8-1,119, 8-1,120, 8-201, 8-203, 8-205 to 8-206, 8-209, 8-211 to 8-215, 8-218, 8-219, 8-222, 8-223, 8-225, 8-229.01, 8-230, 8-355, 8-602, 8-909 to 8-911, 8-1602, 8-1603, 8-2102, 21-17,115, 21-2028, 52-202, 52-203, 52-501, 52-701, 52-902, 52-1001, 52-1003, 52-1004, 52-1008, 52-1102, 52-1202, 52-1307, 52-1312, 52-1313, 52-1315, 54-201, 54-208, 77-3902, and 77-3903, Reissue Revised Statutes of Nebraska, sections 28-612, 30-3209, and 59-1803, Revised Statutes Supplement, 1996, section 52-1316, Revised Statutes Supplement, 1997, and sections 9-303, 9-312, 9-401 to 9-406, 9-408, 9-412 to 9-415, and 9-420, Uniform Commercial Code; to name the Nebraska Banking Act and the Nebraska Trust Company Act; to adopt the Interstate Trust Company Office Act; to revise the powers of savings and loan associations and credit unions; to change provisions relating to banks, investment securities, statutory liens, secured transactions, and lien filings; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 8-101, Reissue Revised Statutes of Nebraska, is amended to read:

8-101. For purposes of ~~sections 8-101 to 8-1,129~~ the Nebraska Banking Act, unless the context otherwise requires:

(1) Bank subsidiary corporation means a corporation which has a bank as a shareholder and which is organized for purposes of engaging in activities which are part of the business of banking or incidental to such business except for the receipt of deposits. A bank subsidiary corporation is not to be considered a branch of its bank shareholder;

(2) Capital or capital stock means capital stock;

(3) Department means the Department of Banking and Finance;

(4) Director means the Director of Banking and Finance;

(5) Bank or banking corporation means any incorporated banking institution which was incorporated under the laws of this state as they existed prior to May 9, 1933, and any corporation duly organized under the laws of this state for the purpose of conducting a bank within this state under ~~sections 8-101 to 8-1,129~~ the act. Bank means any such banking institution which is, in addition to the exercise of other powers, following the practice of repaying deposits upon check, draft, or order and of making loans;

(6) Order includes orders transmitted by electronic transmission;

(7) Automatic teller machine means a machine established and located off the premises of a financial institution which has a main chartered office or approved branch office located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated. An unattended automatic teller machine shall not be deemed to be an office operated by a financial institution;

(8) Data processing center means a facility, wherever located, at which electronic impulses or other indicia of a transaction originating at an automatic teller machine or point-of-sale terminal are received and either authorized or routed to a switch or other data processing center in order to enable the automatic teller machine or point-of-sale terminal to perform any function for which it is designed;

(9) Point-of-sale terminal means an information processing terminal which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, which are transmitted to a financial institution or which are recorded for later transmission to effectuate electronic funds transfer transactions for the purchase or payment of goods and services and which are initiated by an access device in conjunction with a personal identification number. A point-of-sale terminal is not an office operated by a financial institution. Any terminal owned or operated by a seller of goods and services shall be connected directly or indirectly to an acquiring financial

institution;

(10) Making loans includes advances or credits that are initiated by means of credit card or other transaction card. Transaction card and other transactions, including transactions made pursuant to prior agreements, may be brought about and transmitted by means of an electronic impulse. Such loan transactions including transactions made pursuant to prior agreements shall be subject to sections 8-815 to 8-829 and shall be deemed loans made at the place of business of the financial institution;

(11) Financial institution means a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, trust company, or other institution offering automatic teller machines;

(12) Financial institution employees includes parent holding company and affiliate employees;

(13) Switch means any facility where electronic impulses or other indicia of a transaction originating at an automatic teller machine or point-of-sale terminal are received and are routed and transmitted to a financial institution, data processing center, or other switch, wherever located. A switch may also be a data processing center;

(14) Impulse means an electronic, sound, or mechanical impulse, or any combination thereof;

(15) Insolvent means a condition in which (a) the actual cash market value of the assets of a bank is insufficient to pay its liabilities to its depositors, (b) a bank is unable to meet the demands of its creditors in the usual and customary manner, (c) a bank, after demand in writing by the director, fails to make good any deficiency in its reserves as required by law, or (d) the stockholders of a bank, after written demand by the director, fail to make good an impairment of its capital or surplus; and

(16) Foreign state agency means any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any other state, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands or which is operating under the code of law for the District of Columbia.

Sec. 2. Section 8-113, Reissue Revised Statutes of Nebraska, is amended to read:

8-113. No individual, firm, company, corporation, or association in the State of Nebraska, unless organized under authority of the federal government, shall use the word bank or any derivative thereof as any part of a title or descriptive of any business activity, except corporations complying with the terms of sections 8-101 to 8-112 the Nebraska Banking Act and such other corporations or associations as have been in existence and doing business for a period of ten years or more prior to October 19, 1963, under a name composed in part of the word bank or some derivative thereof. Any violation of this section shall be a Class V misdemeanor.

Sec. 3. Section 8-114, Reissue Revised Statutes of Nebraska, is amended to read:

8-114. It shall be unlawful for any person to conduct a bank within this state except by means of a corporation duly organized for such purpose under the laws of this state. It shall be unlawful for any corporation to receive money upon deposit or conduct a bank under the laws of this state until such corporation has complied with all the provisions and requirements of sections 8-101 to 8-112 the Nebraska Banking Act. Any violation of this section shall be a Class V misdemeanor for each day of the continuation of such offense and be cause for the appointment of a receiver as provided in sections 8-101 to 8-112 the act to wind up such banking business.

Sec. 4. Section 8-115, Reissue Revised Statutes of Nebraska, is amended to read:

8-115. No corporation shall conduct a bank in this state without having first obtained a charter in the manner provided in sections 8-101 to 8-112 the Nebraska Banking Act.

Sec. 5. Section 8-121, Reissue Revised Statutes of Nebraska, is amended to read:

8-121. If the department, upon examination of the application required by section 8-120, is satisfied that such corporation has complied with the requirements of sections 8-101 to 8-112 the Nebraska Banking Act and if charter approval is intended, it shall issue to such corporation a certificate stating that such corporation has complied with the laws of this state, advising of any requirements which must be met.

Sec. 6. Section 8-124, Reissue Revised Statutes of Nebraska, is amended to read:

8-124. The affairs and business of any bank chartered after

September 2, 1973, or which has had transfer of twenty-five percent or more of voting shares after September 2, 1973, shall be managed or controlled by a board of directors of not less than five and not more than fifteen members, who shall be selected from the stockholders at such time and in such manner as may be provided by the articles of incorporation of the corporation and in conformity with ~~sections 8-101 to 8-1-121~~ the Nebraska Banking Act. Any bank chartered before September 2, 1973, may have a minimum of three directors and not more than fifteen directors so long as it does not have transfer of twenty-five percent or more voting shares, with such directors selected as provided in this section. Any vacancy on the board shall be filled within ninety days by appointment by the remaining directors, and any director so appointed shall serve until the next election of directors, except that if the vacancy created leaves a minimum of five directors, appointment shall be optional. The board shall select from among its number the president and secretary and shall select a cashier. Such officers shall hold their office at the pleasure of the board of directors. The board of directors shall hold at least one regular meeting in each calendar quarter, and at one of such meetings in each year a thorough examination of the books, records, funds, and securities held by the bank shall be made and recorded in detail upon its record book. In lieu of the one annual examination required, the board of directors may accept one annual audit by an accountant or accounting firm approved by the Director of Banking and Finance.

Sec. 7. Section 8-126, Reissue Revised Statutes of Nebraska, is amended to read:

8-126. A majority of the members of the board of directors of any bank transacting business under ~~sections 8-101 to 8-1-121~~ the Nebraska Banking Act shall have their residences in this state or within twenty-five miles of the main office of the bank. Reasonable efforts shall be made to acquire members of such board of directors from the county in which such bank is located. Directors of banks shall be persons of good moral character, known integrity, business experience, and responsibility. No person shall act as a member of the board of directors of any bank until such bank applies for and obtains approval from the Department of Banking and Finance.

If the department, upon investigation, determines that any director of a bank is conducting the business of the bank in an unsafe or unauthorized manner or is endangering the interests of the stockholders or depositors, the department shall have authority, following notice and opportunity for hearing, to revoke such approval to act as a member of the board of directors. The department may adopt and promulgate rules and regulations and prescribe forms to carry out this section.

Sec. 8. Section 8-128, Reissue Revised Statutes of Nebraska, is amended to read:

8-128. The paid-in capital stock of any bank may be increased or decreased in the following manner: The stockholders at any regular meeting or at any special meeting duly called for such purpose shall by vote of those owning two-thirds of the capital stock authorize the president or cashier to notify the department of the proposed increase or reduction of paid-in capital stock, and a notice containing a statement of the amount of any proposed reduction of paid-in capital stock shall be published for four weeks in some newspaper published and of general circulation in the county where such bank is located. Reduction of paid-in capital stock shall be discretionary with the department, but shall be denied if granting the same would reduce the paid-in capital stock below the requirements of ~~sections 8-101 to 8-1-121~~ the Nebraska Banking Act or would impair the security of the depositors. The bank shall notify the department when the proposed increase or decrease of the paid-in capital stock has been consummated.

Sec. 9. Section 8-132, Reissue Revised Statutes of Nebraska, is amended to read:

8-132. The available funds referred to in section 8-131 shall consist of cash on hand and balances due from other solvent banks approved by the Department of Banking and Finance. Cash shall include lawful money of the United States and exchange for any clearinghouse association. Whenever the available funds of any bank fall below the required reserve, such bank shall not make any new loans or discount otherwise than by discounting or purchasing bills of exchange payable at sight or make any dividends of its profits until it has on hand the available funds required by section 8-131. The department shall notify any bank, in case its reserves fall below the amount required or its capital is impaired, to make good such reserve or capital within such time as the department may direct, and any failure of such bank to make good any deficiency in the amount of its reserve or its capital within the time directed shall be cause for the director to take possession of such bank, declare it insolvent, and liquidate it as provided in ~~sections 8-101 to~~

~~8-1,121~~ the Nebraska Banking Act.

Sec. 10. Section 8-159, Reissue Revised Statutes of Nebraska, is amended to read:

8-159. Any bank, having adopted or amended its articles of incorporation to authorize the conduct of a trust business as defined in ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act, may be further chartered by the director to transact a trust company business in a trust department in connection with such bank.

Sec. 11. Section 8-160, Reissue Revised Statutes of Nebraska, is amended to read:

8-160. The director shall have the power to issue to banks amendments to their charters of authority to transact trust business as defined in ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act and shall have general supervision and control over such trust department of banks.

Sec. 12. Section 8-161, Reissue Revised Statutes of Nebraska, is amended to read:

8-161. The director, before granting to any bank the right to operate a trust department, shall require such bank to make an application for amendment of its charter, setting forth such information as the director may require. If, upon investigation, the department shall be satisfied that the bank requesting such charter is operated by stockholders, directors, and officers of integrity and responsibility, the department shall, with such additional capital as the director shall require, issue to such bank an amendment to its charter, entitling it to operate a trust department and entitling it to transact the business provided for in ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act.

Sec. 13. Section 8-162, Reissue Revised Statutes of Nebraska, is amended to read:

8-162. The trust department of a bank when chartered under sections 8-159 to 8-161 shall be separate and apart from every other department of the bank and shall have all of the powers, duties, and obligations of a trust company provided in ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act.

Sec. 14. Section 8-169, Reissue Revised Statutes of Nebraska, is amended to read:

8-169. Any bank that shall fail, neglect, or refuse to make or furnish any report or any published statement required by the ~~provisions of sections 8-161 to 8-1,121,~~ Nebraska Banking Act shall pay to the department fifty dollars for each day such failure shall continue, unless the department shall extend the time for filing such report.

Sec. 15. Section 8-185, Reissue Revised Statutes of Nebraska, is amended to read:

8-185. Any bank may voluntarily liquidate by paying off all its depositors in full. The bank so liquidating shall file a certified statement with the department, setting forth the fact that all its liabilities have been paid and naming its stockholders with the amount of stock held by each, and surrender its certificate of authority to transact a banking business. The department shall cause an examination to be made of any such bank for the purpose of determining that all of its liabilities, except liabilities to stockholders, have been paid. Upon such examination, if it appears that all liabilities other than liabilities to stockholders have been paid, the bank shall cease to be subject to ~~sections 8-101 to 8-1,121~~ the Nebraska Banking Act.

Sec. 16. Section 8-187, Reissue Revised Statutes of Nebraska, is amended to read:

8-187. Whenever it appears to the department from any examination or report provided for by the laws of this state that the capital of any bank is impaired, or that such bank is conducting its business in an unsafe or unauthorized manner, or is endangering the interests of its depositors, or upon failure of such bank to make any of the reports or statements required by the laws of this state, or if the officers or employees of any bank refuse to submit its books, papers, and affairs to the inspection of any examiner, or if any officer thereof refuses to be examined upon oath touching the affairs of any such bank, or if from any examination or report provided for by law, the department has reason to conclude that such bank is in an unsafe or unsound condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any such bank neglects or refuses to observe any order of the department, the department may forthwith take possession of the property and business of the bank and shall thereafter conduct the affairs of the bank, and shall retain possession of all money, rights, credits, assets, and property of every description belonging to the bank, as against any mesne or final process issued by any court against the bank whose property has been taken, and may retain possession for a

sufficient time to make an examination of its affairs and dispose thereof as provided by law. All levies, judgment liens, attachments, or other liens obtained through legal proceedings against the bank or its property, acquired within sixty days next preceding the taking of possession, in the event the bank is liquidated and the business of the bank is not resumed or carried on after the taking over thereof by the department, shall be void and the property affected by the levy, judgment lien, attachment, or other lien so obtained shall be wholly discharged and released therefrom. The director shall retain possession of the property and business of the bank until the bank shall resume business or its affairs be are finally liquidated as provided in ~~sections 8-101 to 8-112~~ the Nebraska Banking Act.

Sec. 17. Section 8-190, Reissue Revised Statutes of Nebraska, is amended to read:

8-190. Whenever any bank refuses or neglects to deliver possession of its affairs, assets, or property of whatever nature to the department or to any person ordered or appointed to take charge of such bank according to ~~sections 8-101 to 8-112~~ the Nebraska Banking Act, the director shall make an application to the district court of the county in which such bank is located or to any judge thereof for an order placing the department or such person in charge thereof and of its affairs and property. If the judge of the district court having jurisdiction is absent from the district at the time such application is to be made, any judge of the Court of Appeals or Supreme Court may grant such order, but the petition and order of possession shall be forthwith transmitted to the clerk of the district court of the county in which such bank is located.

Sec. 18. Section 8-193, Reissue Revised Statutes of Nebraska, is amended to read:

8-193. Whenever the officers, directors, stockholders, or owners of any insolvent bank give good and sufficient bond running to the department with an incorporated surety company authorized by the laws of this state to transact such business, conditioned upon the full settlement of all the liabilities of such bank by such officers, directors, stockholders, or owners within a stated time, and the bond is approved by the department, then the department shall turn over all the assets of such bank to the officers, directors, stockholders, or owners of the bank furnishing the bond, reserving the same right to require report of the condition and to examine into the affairs of the bank as existed in the department previous to its closing. If, upon such examination, it is found by the department that the officers, directors, stockholders, or owners are not closing up the affairs of the bank in such manner as to discharge its liabilities and to close up its affairs in a manner satisfactory to the department within a reasonable time, the department shall take immediate possession of the bank for the liquidation thereof as provided in ~~sections 8-101 to 8-112~~ the Nebraska Banking Act.

Sec. 19. Section 8-197, Reissue Revised Statutes of Nebraska, is amended to read:

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 8-112~~ the Nebraska Banking Act, 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 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~~ the act for the liquidation of banks and financial institutions shall mean the Federal Deposit Insurance Corporation or other appointed receiver and liquidating agent.

Sec. 20. Section 8-198, Reissue Revised Statutes of Nebraska, is amended to read:

8-198. The department may be designated the receiver and liquidating agent for any financial institution subject to the department's jurisdiction and, subject to the district court's supervision and control, may proceed to liquidate such institution or reorganize it in accordance with ~~sections 8-101 to 8-1,121~~ the Nebraska Banking Act.

Sec. 21. Section 8-1,102, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,102. Upon the declaration of insolvency of a bank by the director, the department shall become the receiver and liquidating agent to wind up the business of that bank, and the department shall be vested with the title to all of the assets of such bank wheresoever the same may be situated and whatsoever kind and character such assets may be, as of the date of the filing of the declaration of insolvency with the clerk of the district court of the county in which such bank is located. All levies, judgment liens, attachments, or other liens obtained through legal proceedings against such bank or its property acquired within sixty days next preceding the filing of the declaration of insolvency shall be void, and the property affected by the levy, judgment lien, attachment, or other lien obtained through legal proceedings, shall be wholly discharged and released therefrom. If at any time within sixty days prior to the taking over by the director of a bank which is later declared insolvent any transfers of the assets of such bank are made to prevent liquidation and distribution of such assets to the bank's creditors as provided in ~~sections 8-101 to 8-1,121~~ the Nebraska Banking Act or if any transfers are made so as to create a preference of one creditor over another, such transfers shall be void and the director shall be entitled to recover such assets for the benefit of the trust.

Sec. 22. Section 8-1,103, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,103. For the purpose of executing and performing any of the powers and duties hereby conferred upon him or her, the director may, in the name of the department or the delinquent bank or in his or her own name as director, prosecute and defend any and all suits and other legal proceedings and may, in the name of the department or the delinquent bank or in his or her own name as director, execute, acknowledge, and deliver any and all deeds, assignments, releases, and other instruments necessary and proper to effectuate any sale of real or personal property or sale or compromise authorized by order of the court as provided in ~~sections 8-101 to 8-1,121~~ the Nebraska Banking Act. Any deed or other instrument executed pursuant to such authority shall be valid and effectual for all purposes as though the same had been executed by the officers of the delinquent bank by authority of its board of directors.

Sec. 23. Section 8-1,104, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,104. Upon taking possession of the property and business of any bank, the director shall collect all money due to such bank and do such other acts as are necessary to conserve its assets and business and, on declaration of insolvency, he or she shall proceed to liquidate the affairs thereof as provided in ~~sections 8-101 to 8-1,121~~ the Nebraska Banking Act. He or she shall collect all debts due to and belonging to such bank. If he or she

desires to sell or compromise any or all bad or doubtful debts or any or all of the real and personal property of such bank, he or she shall apply to the district court of the county in which the bank is located for an order permitting such sale or compromise on such terms and in such manner as the court may direct. All money so collected by the director may be, from time to time, deposited in one or more state banks or national banks. No deposits of such money shall be made unless a pledge of assets, a depository bond, or both are given as security for such deposit. All depository banks are authorized to give such security. The director may invest a portion or all of such money in short-time interest-bearing securities of the federal government.

Sec. 24. Section 8-1,116, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,116. After the department has taken possession of any bank under ~~sections 8-101 to 8-1,121~~ the Nebraska Banking Act, the stockholders thereof may repair its credit, restore or substitute its reserves, and otherwise place it in safe condition, but such bank shall not be permitted to reopen its business until the department, after careful investigation of its affairs, is of the opinion that its stockholders have complied with the law, that the bank's credit and funds are in all respects repaired, that its reserves are restored or are sufficiently substituted, and that it should be permitted again to reopen for business, whereupon the department may issue written permission for resumption of business under its charter.

Sec. 25. Section 8-1,119, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,119. Where no other punishment is provided in ~~sections 8-101 to 8-1,121~~ the Nebraska Banking Act, any person violating any of the provisions of ~~sections 8-101 to 8-1,121~~ the act shall be guilty of a Class III misdemeanor.

Sec. 26. Section 8-1,120, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,120. The department may offer and pay out of the funds appropriated to it rewards for the apprehension and conviction of any person or persons violating ~~sections 8-101 to 8-1,121~~ the Nebraska Banking Act, but such rewards shall not exceed two hundred and fifty dollars in any one case.

Sec. 27. (1) Any state or federal savings association, whether formed as a mutual association or a capital stock association, may apply to the director to convert to a state bank.

(2) Any savings association seeking to convert its form of organization pursuant to this section shall first obtain approval of a plan of conversion by resolution adopted by not less than a two-thirds majority vote of the total number of directors authorized to vote.

(3) Upon approval of a plan of conversion by the board of directors, such plan and the resolution approving it shall be submitted to the director. The director shall approve the plan of conversion if he or she finds, after appropriate investigation, that:

(a) The plan of conversion is fair and equitable;

(b) The interests of the applicant, its members or shareholders, its savings account holders, and the public are adequately protected; and

(c) The converting savings association has complied with the requirements of this section.

(4) If the director approves the plan of conversion, the approval shall be in writing and sent to the home office of the converting savings association. As part of its approval, the director may prescribe terms and conditions to be fulfilled either before or after the conversion to cause the converting savings association to conform to the requirements of the Nebraska Banking Act.

(5) If the director disapproves the plan of conversion, the reasons for such disapproval shall be stated in writing and sent to the home office of the converting savings association, which shall be afforded an opportunity to amend and resubmit the plan within a reasonable period of time as prescribed by the director. In the event the director disapproves the plan after such resubmission, written notice of such final disapproval shall be sent by certified mail to the savings association's home office.

Sec. 28. (1) If the director approves a plan of conversion in accordance with section 27 of this act, such plan shall be submitted for adoption to the members or shareholders of the converting savings association by vote at a meeting called to consider such action. At least three weeks prior to such meeting, a copy of the plan, together with an accurate summary plan description explaining the operation of the plan and the rights, duties, obligations, liabilities, conditions, and requirements which may be imposed upon such members or shareholders and the converted association as a result of the operation of the plan, shall be mailed to each member or shareholder

eligible to vote at such meeting.

(2) The plan of conversion must be approved by not less than sixty percent of the total outstanding shares, which may be voted by proxy or in person at the meeting called to consider such conversion.

(3) A certified copy of the proceedings at such meeting shall be filed with the director within thirty days after such meeting.

(4) If the plan of conversion is approved, the board of directors of the savings association shall take action to obtain a state bank charter, adopt articles of incorporation, adopt bylaws, elect directors and officers, and take such other action as is required or appropriate for a state bank corporation.

Sec. 29. (1) To obtain a state bank charter, a savings association shall meet the requirements of state law as to the formation of a new state bank. The public hearing requirement of section 8-115.01 shall only be required if (a) after publishing a notice of the proposed conversion in a newspaper of general circulation in the county where the main office of the converting savings association is located, the director receives a substantive objection to the conversion within fifteen days after such publication, or (b) in the discretion of the director, the condition of the savings association warrants a hearing.

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

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

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

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

Sec. 30. Notwithstanding any other provision of the Nebraska Banking Act or any other Nebraska law, a state or federal savings association which was formed and in operation as a mutual savings association as of the operative date of this section may elect to retain its mutual form of corporate organization upon conversion to a state bank. All references to shareholders or stockholders for state banks shall be deemed to be references to members for such a converted savings association. The director shall have the power to adopt and promulgate rules and regulations governing such converted mutual savings associations. In adopting and promulgating such rules and regulations, the director may consider the provisions of sections 8-301 to 8-385 governing savings associations in mutual form of corporate organization.

Sec. 31. (1) Upon the issuance of a state bank charter to a converting savings association, the corporate existence of the converting association shall not terminate, but such bank shall be a continuation of the entity so converted and all property of the converted savings association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, immediately, by operation of law and without any conveyance or transfer and without any further act or deed, shall vest in and remain the property of such converted savings association, and the same shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting savings association.

(2) Upon issuance of the charter, the new state bank shall continue to have and succeed to all the rights, obligations, and relations of the converting savings association.

(3) All pending actions and other judicial proceedings to which the converting savings association is a party shall not be abated or discontinued by reason of such conversion but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion had not been made, and such converted savings association may continue the actions in its new corporate name. Any judgment, order, or decree may be rendered for or against the converting savings association theretofore involved in the proceedings.

(4) Nothing in this section shall be construed to authorize a

converted savings association to establish detached branch banks except as permitted by section 8-157 and the Interstate Branching by Merger Act of 1997. This subsection shall not be construed to require divestiture of any branch offices of a savings association in existence at the time of the conversion to a state bank charter.

Sec. 32. Sections 8-101 to 8-1,139 and sections 27 to 32 of this act shall be known and may be cited as the Nebraska Banking Act.

Sec. 33. Section 8-201, Reissue Revised Statutes of Nebraska, is amended to read:

8-201. The Director of Banking and Finance shall have the power to issue to corporations desiring to transact business as trust companies charters of authority to transact trust company business as defined in ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act. He or she shall have general supervision and control over such trust companies. Any three or more persons may adopt articles of incorporation and become a body corporate for the purpose of engaging in and conducting the business of a trust company, upon complying with the requirements of ~~such sections~~ the act and the general laws of this state relating to the organization of corporations and upon obtaining a charter to transact business as a trust company from the director.

Every corporation organized for and desiring to transact a trust company business shall, before commencing such business, make under oath and transmit to the Department of Banking and Finance a complete statement including:

- (1) The name of the proposed trust company;
- (2) A certified copy of the articles of incorporation;
- (3) The names of the stockholders;
- (4) The name of the county, city, or village in which the trust company is located;
- (5) The amount of paid-up capital stock; and
- (6) A statement sworn to by the president and secretary that the capital stock has been paid in as provided for.

The corporation shall also pay the fee prescribed by section 8-602 for investigation of such statement.

If upon investigation the department is satisfied that the parties requesting the charter are parties of integrity and responsibility, that the corporation will apply safe and sound methods for the purpose of carrying out trust company duties, and that the public necessity, convenience, and advantage will be promoted by permitting the corporation to transact business as a trust company, the department shall issue to the corporation a charter entitling it to transact the business provided for in ~~sections 8-201 to 8-233~~ the act. Upon payment of the required fees, the pledging of assets required by section 8-209, and the receipt of the charter, the corporation may begin to transact business as a trust company. It shall be unlawful for any corporation, except a foreign corporate trustee to the extent authorized under section 30-2805, to engage in business as a trust company or to act in any other fiduciary capacity unless it has first obtained from the Department of Banking and Finance a charter of authority to do business.

The Department of Banking and Finance may adopt and promulgate rules and regulations to carry out the governance of trust companies under its supervision.

Sec. 34. Sections 8-201 to 8-233 and sections 34, 52, and 53 of this act shall be known and may be cited as the Nebraska Trust Company Act.

Sec. 35. Section 8-203, Reissue Revised Statutes of Nebraska, is amended to read:

8-203. The trust company shall have power:

- (1) To have a corporate name;
- (2) To have a corporate seal;
- (3) To sue and be sued and complain and defend in all courts of law and equity;
- (4) To receive reasonable compensation for all services performed by it under the provisions of sections 8-201 to 8-233 Nebraska Trust Company Act;
- (5) To make bylaws not inconsistent with such sections the act or its articles of incorporation for the management of its affairs; and
- (6) To appoint or elect such officers and agents as the business of the corporation may require.

Sec. 36. Section 8-205, Reissue Revised Statutes of Nebraska, is amended to read:

8-205. (1) No corporation, except a bank authorized by the Director of Banking and Finance to operate a trust department, shall be authorized to transact business as a trust company under ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act on or after September 9, 1993, unless it has capital stock of at least three hundred thousand dollars, all of which shall

be fully paid up in cash before the corporation is authorized to commence business.

(2) (a) Corporations, except a bank authorized to operate a trust department, authorized to transact business as a trust company under ~~sections 8-201 to 8-233~~ the act before September 9, 1993, shall, on or after such date, maintain a capital stock of at least two hundred thousand dollars in cities of one hundred thousand inhabitants or more, one hundred thousand dollars in cities of fifty thousand and less than one hundred thousand inhabitants, fifty thousand dollars in cities of more than ten thousand and less than fifty thousand inhabitants, and twenty-five thousand dollars in cities and villages having ten thousand inhabitants or less. The population of a city for purposes of this subsection shall be the population as determined by the most recent federal decennial census.

(b) A corporation, except a bank authorized to operate a trust department, authorized to transact business as a trust company under ~~sections 8-201 to 8-233~~ the act before September 9, 1993, subject to the capital stock requirement of subsection (2) of this section, which complies with the capital stock requirement of subsection (1) of this section, shall be subject to the capital stock requirement of subsection (1) of this section and shall maintain a capital stock of at least the minimum amount required by subsection (1) of this section.

(c) A corporation, except a bank authorized to operate a trust department, authorized to transact business as a trust company under ~~sections 8-201 to 8-233~~ the act before September 9, 1993, subject to the capital stock requirement of subsection (2) of this section, which complies with the capital stock requirement of a corporation located in a larger city pursuant to subsection (2) of this section, shall be subject to the capital stock requirement of such a corporation located in a larger city pursuant to subsection (2) of this section and shall maintain a capital stock of at least the minimum amount required for such a corporation located in a larger city pursuant to subsection (2) of this section.

(d) A capital stock requirement once attained by a corporation pursuant to either subsection (1) or (2) of this section shall not be reduced.

(3) If at any time the department determines that the capital stock of a trust company is impaired, it may require the shareholders of the trust company to make up the capital stock impairment.

Sec. 37. Section 8-205.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-205.01. Each trust company doing business under ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act shall obtain a fidelity bond, naming the trust company as obligee, in an amount to be fixed by the department. The bond shall be issued by an authorized insurer and shall be conditioned to protect and indemnify the trust company from loss of money or other personal property, including that for which the trust company is responsible, which it may sustain through or by reason of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction, misapplication, misappropriation, or other dishonest or criminal act of or by any of its officers or employees. The bond may contain a deductible clause in an amount to be approved by the Director of Banking and Finance. An executed copy of the bond shall be filed with and approved by the director and shall remain a part of the records of the department. If the premium of the bond is not paid, the bond shall not be canceled or subject to cancellation unless at least ten days' advance notice, in writing, is filed with the department. No bond which is current with respect to premium payments shall be canceled or subject to cancellation unless at least forty-five days' advance notice, in writing, is filed with the department. The bond shall always be open to public inspection during the office hours of the department. In the event a bond is canceled, the department may take whatever action it deems appropriate in connection with the continued operation of the trust company involved.

Sec. 38. Section 8-206, Reissue Revised Statutes of Nebraska, is amended to read:

8-206. A trust company created under ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act shall have power:

(1) To receive trust funds for investment or in trust upon such terms and conditions as may be agreed upon and to purchase, hold, and lease fireproof and burglar-proof and other vaults and safes from which revenue may be derived;

(2) To accept and execute all such trusts as may be committed to it by any corporation, person, or persons, act as assignee, receiver, trustee, and depositor, and accept and execute all such trusts as may be committed or referred to it by order, judgment, or decree of any court of record;

(3) To take, accept, and hold by the order, judgment, or decree of

any such court or by gift, grant, assignment, transfer, devise, or bequest any real or personal property in trust, to care for, manage, and convey the same in accordance with such trusts, and to execute and perform any and all such trusts;

(4) To act as attorney in fact for any person or corporation, public or private;

(5) To act either by itself or jointly with any natural person or persons or with any other trust company or state or national bank doing business in this state as administrator of the estate of any deceased person, as personal representative, or as conservator or guardian of the estate of any incapacitated person;

(6) To act as trustee for any person or of the estate of any deceased person under the appointment of any court of record having jurisdiction of the estate of such person;

(7) To act as agent or in an agency capacity for any person or entity, public or private;

(8) To loan money upon real estate and upon collateral security when the collateral would of itself be a legal investment for such corporation;

(9) To buy, hold, own, and sell securities issued or guaranteed by the United States Government or any authorized agency thereof, including any corporation or enterprise wholly owned directly or indirectly by the United States, or with the authority to borrow directly from the United States treasury, or securities secured by obligations of any of the foregoing, securities of any state or political subdivision thereof which possesses general powers of taxation, stock, warrants, bills of exchange, notes, mortgages, banker's acceptances, certificates of deposit in institutions whose accounts are insured by the Federal Deposit Insurance Corporation, and other investment securities, negotiable and nonnegotiable, except stock or other securities of any corporation organized under ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act;

(10) To purchase, own, or rent real estate needed in the conduct of the business and to erect thereon buildings deemed expedient and necessary, the cost of such real estate and buildings not to exceed one hundred percent of the paid-up capital stock, and to purchase, own, and improve such other real estate as it may be required to bid in under foreclosure or in payment of other debts;

(11) To borrow money, to execute and issue its notes payable at a future date, and to pledge its real estate, mortgages, or other securities therefor. With the approval of the Director of Banking and Finance, any trust company may at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate and subject to the claims of trustors and beneficiaries of estates and trusts and may be subordinated and subject to the claims of other creditors. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of the trust company and shall not be held liable for assessments to restore impairments in the capital of the trust company as may be from time to time determined by the director; and

(12) To perform all acts and exercise all powers connected with, belonging to or incident to, or necessary for the full and complete exercise and discharge of the rights, powers, and responsibilities granted in ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act, and all provisions of such ~~sections~~ the act shall be liberally construed. None of the powers hereby granted shall extend to or be construed to authorize any such corporation to accept deposits or conduct the business of banking as defined in ~~sections 8-101 to 8-121~~ the Nebraska Banking Act.

Sec. 39. Section 8-209, Reissue Revised Statutes of Nebraska, is amended to read:

8-209. Any corporation organized to do business as a trust company under ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act shall make a pledge with the Department of Banking and Finance of approved securities in the amount of one hundred thousand dollars in par value. If at any time the market value of pledged assets is determined to have depreciated to less than ninety percent of par value or the trust company has trust funds deposited with itself or its supporting commercial bank in excess of those deposits referred to by section 8-212, the Director of Banking and Finance may require additional pledges in amounts deemed necessary to fully secure pledging requirements or excessive trust fund depository balances.

Any national bank authorized by the Office of the Comptroller of the Currency or the Board of Governors of the Federal Reserve System to act in a fiduciary capacity in this state, and any federal savings association

authorized by the Director of the Office of Thrift Supervision to act in a fiduciary capacity in this state, any federally chartered trust company, and any out-of-state trust company authorized under the Interstate Trust Company Office Act shall make similar pledges with the department, and all such deposits of national banks held by the department shall be considered as having been lawfully so pledged and subject to the provisions of sections ~~8-201 to 8-233~~ the Nebraska Trust Company Act.

Sec. 40. Section 8-211, Reissue Revised Statutes of Nebraska, is amended to read:

8-211. The required pledges having been made, the Department of Banking and Finance shall issue a receipt and a certificate showing that the trust company has complied with the ~~provisions of sections 8-201 to 8-233~~ Nebraska Trust Company Act. Having thus qualified, the trust company may be permitted to act as assignee, receiver, trustee, either by appointment of court or under will, or depository of money in court without bond. Upon presentation of the certificate that the trust company has complied with the ~~provisions of such sections act~~ and has made a pledge as provided in section 8-209, the court or other officer charged with the duty of making such appointment or of approving bonds may, in his or her discretion, make the appointment and permit the trust company to qualify without bond or require such bond as is required from natural persons.

Sec. 41. Section 8-212, Reissue Revised Statutes of Nebraska, is amended to read:

8-212. Securities pledged as provided in section 8-209 shall be primarily liable for the obligations of the trust company, state or national bank, ~~or~~ federal savings association, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act incurred while acting in any fiduciary capacity, for depository of money in court, and for losses arising from trust funds deposited with failed financial institutions in excess of deposit insurance limits and shall not be liable for any other debt or obligation of the trust company until all such trust liabilities have been discharged.

Sec. 42. Section 8-213, Reissue Revised Statutes of Nebraska, is amended to read:

8-213. In the case of national banks and federal savings associations doing business as trust companies, ~~and~~ trust companies, federally chartered trust companies, and out-of-state trust companies authorized under the Interstate Trust Company Office Act which upon insolvency are not liquidated by the Department of Banking and Finance, upon the appointment of a receiver, trustee in bankruptcy, or other liquidating agent, the department shall turn over to the receiver, trustee in bankruptcy, or other liquidating agent any securities pledged to it by the national bank, federal savings association, ~~or~~ trust company, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act upon a proper showing as follows:

(1) That all trust liabilities known to the receiver, trustee in bankruptcy, or other liquidating agent and reasonably ascertainable from the records of the national bank, federal savings association, ~~or~~ trust company, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act have been discharged;

(2) That notice has been given for three successive weeks in some legal newspaper published in the county or, if none is published in the county, in a legal newspaper of general circulation in the county in which the principal place of business of the national bank, federal savings association, ~~or~~ trust company, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act is located that all claims for the trust liabilities must be filed with the receiver, referee in bankruptcy, or other liquidating agent within thirty days. In the case of national banks the notice provided for in 12 U.S.C. 193, and in the case of trust companies liquidated in bankruptcy court, the notice provided for in 11 U.S.C. 94(b), shall be sufficient without further notice being given and shall be in lieu of the notice required in this subdivision; and

(3) That after the notice and thirty days have elapsed, all claims, if any, have been discharged.

Sec. 43. Section 8-214, Reissue Revised Statutes of Nebraska, is amended to read:

8-214. Any national bank, ~~or~~ federal savings association, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act which has surrendered its right to exercise such fiduciary powers in this state may have its pledged securities released to it upon furnishing to the Department of Banking and Finance a certificate by the ~~Office of the Comptroller of the Currency, the Office of~~

Thrift Supervision, or the Board of Governors of the Federal Reserve System its primary financial institution regulator that such national bank, or federal savings association, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act is no longer authorized to exercise such powers and has been relieved, in accordance with the laws of this state, of all duties and obligations as assignee, receiver, or trustee, either by appointment of court or under will, and for depository of money in court.

Sec. 44. Section 8-215, Reissue Revised Statutes of Nebraska, is amended to read:

8-215. Any trust company, or state or national bank or federal savings association with a trust department, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act doing business in this state, upon liquidating its business and affairs for reasons other than insolvency, may have its pledged securities released to it upon satisfying the Department of Banking and Finance that it has been lawfully relieved of all its duties and obligations as assignee, receiver, or trustee, either by appointment of court or under will, and for depository of money in court, after first having published notice three successive weeks in some legal newspaper published in the county or, if none is published in the county, in a legal newspaper of general circulation in the county in which the principal place of business of the trust company, or trust department of a state or national bank or federal savings association, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act is located that all claims against such securities, whether absolute or contingent, must be filed with the department by a day certain, not less than thirty days after the last publication of such notice.

Sec. 45. Section 8-218, Reissue Revised Statutes of Nebraska, is amended to read:

8-218. The Department of Banking and Finance or any duly appointed examiner authorized by it may make a full examination into all the books, papers, and affairs of any trust company doing business under ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act as often as deemed necessary. In so doing, the department shall have power to administer oaths and affirmations and to examine on oath or affirmation the officers, agents, and clerks of the trust company, touching the matter which they may be authorized to inquire into and examine, and to summon and by subpoena compel the attendance of any person or persons in this state to testify under oath in relation to the affairs of the trust company. In lieu of any examination authorized by the laws of this state, the Director of Banking and Finance may accept, in his or her discretion, a report of an examination made of a trust company by the Federal Deposit Insurance Corporation, the Federal Reserve Bank, or the Office of Thrift Supervision or he or she may examine any such trust company jointly with any such federal agency.

Sec. 46. Section 8-219, Reissue Revised Statutes of Nebraska, is amended to read:

8-219. Whenever (1) it appears to the Department of Banking and Finance from any examination or report provided for by ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act that the capital stock of any trust company transacting business under ~~such sections~~ the act is impaired, or that the trust company is conducting its business in an unsafe or unauthorized manner, or that the trust company is endangering the interest of the beneficiaries for whom it holds property in trust, (2) the officers or employees of the trust company refuse to submit its books, papers, and affairs to the inspection of any examiner, (3) any officer thereof refuses to be examined upon oath touching the affairs of the trust company, or (4) from any examination or report provided for by law, the department has reason to conclude that the trust company is in an unsafe or unsound condition to transact the business for which it is organized or that it is unsafe and inexpedient for it to continue its business, the department shall take charge of the trust company and proceed to reorganize or to liquidate the trust company in the manner provided for the liquidation of insolvent banks. If the trust company neglects or refuses to observe any lawful order of the department, then the department may cause a suit to be brought in the name of the State of Nebraska upon the relation of the Department of Banking and Finance against the trust company in the district court of the county in which the trust company is chartered for the purpose of having the trust company adjudged insolvent and its business wound up.

Sec. 47. Section 8-222, Reissue Revised Statutes of Nebraska, is amended to read:

8-222. The maximum liability which may be incurred by any trust

company organized under ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act, exclusive of money or properties held in trust and exclusive of money borrowed for investment and actually invested in real estate mortgages and other securities in which trust companies are authorized to invest under ~~such sections the act~~, shall not exceed one hundred percent of the paid-up capital stock.

Sec. 48. Section 8-223, Reissue Revised Statutes of Nebraska, is amended to read:

8-223. The trust company shall file with the Department of Banking and Finance during the months of January and July of each year a statement under oath of the condition of the trust company on the last business day of the preceding December and June in the manner and form required by the department. For purposes of ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act, the trust company's annual report shall be deemed to be the report filed with the Department of Banking and Finance during the month of January.

Sec. 49. Section 8-225, Reissue Revised Statutes of Nebraska, is amended to read:

8-225. Any person who swears to any of the statements required by ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act, knowing them to be false, who subscribes to, makes, or causes to be made any false statement or false entry in the books of any trust company transacting a business under ~~sections 8-201 to 8-233~~ the act, who subscribes to or exhibits false papers or fails to make true and correct entry in the books and records of the trust company of its business and transactions in the manner and form prescribed by the Department of Banking and Finance, who mutilates, alters, destroys, secretes, or removes any of the books or records of the trust company without the written consent of the Director of Banking and Finance, or who makes, states, or publishes any false statement of the amount of the assets or liabilities of the trust company shall be guilty of a Class IV felony.

Sec. 50. Section 8-229.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-229.01. Any state trust company, with the approval of the Department of Banking and Finance, may, upon a vote of the holders of at least two-thirds of its capital stock, merge or consolidate with any state bank which has obtained powers to conduct a trust business pursuant to ~~sections 8-201 to 8-233~~ the Nebraska Trust Company Act. The merging trust company must file with the department a certificate of the stockholders of the trust company that the resolution to merge or consolidate has been duly adopted by the holders of at least two-thirds of the capital stock of the trust company.

Sec. 51. Section 8-230, Reissue Revised Statutes of Nebraska, is amended to read:

8-230. ~~As used in sections 8-201 to 8-233~~ For purposes of the Nebraska Trust Company Act, unless the context otherwise requires:

(1) ~~Trust company shall mean any trust company which is incorporated under the laws of this state, any national banking association having its principal office in this state and authorized to conduct a trust company business as defined in sections 8-201 to 8-233, any bank authorized to conduct a trust company business in a trust department pursuant to sections 8-159 to 8-162, and any federal savings association authorized to conduct a trust company business;~~

(2) ~~Fiduciary capacity shall mean a capacity resulting from a trust company undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with its undertaking and includes the capacities of trustee, including trustee of a common trust fund, administrator, personal representative, guardian of estates, conservator, receiver, attorney in fact, and custodian and any other similar capacity; and~~

(1) ~~(3) Agency capacity shall mean means a capacity resulting from a trust company undertaking to act alone or jointly with others primarily as agent for another in all matters connected with its undertaking, including the capacities of registrar, paying agent, or transfer agent with respect to stocks, bonds, or other evidences of indebtedness of any corporation, association, municipality, state, or public authority, escrow agent, or agent for the investment of money or any other similar capacity;~~

(2) ~~Branch trust office means an office of a trust company, other than the main or principal office of a trust company, at which a trust company may act in any fiduciary capacity or conduct any activity permitted under the Nebraska Trust Company Act;~~

(3) ~~Fiduciary capacity means a capacity resulting from a trust company undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with the undertaking and includes the capacities of trustee, including trustee of a common trust fund,~~

administrator, personal representative, guardian of an estate, conservator, receiver, attorney in fact, and custodian and any other similar capacity;

(4) Representative trust office means an office at which a trust company does not act in any fiduciary capacity or conduct or engage in any activity related to its fiduciary capacities but may otherwise engage in any other activity permitted under the Nebraska Trust Company Act; and

(5) Trust company means any trust company which is incorporated under the laws of this state, any national banking association having its principal office in this state and authorized to conduct a trust company business as defined in the Nebraska Trust Company Act, any bank authorized to conduct a trust company business in a trust department pursuant to sections 8-159 to 8-162, any federal savings association authorized to conduct a trust company business, and any federally chartered trust company.

Sec. 52. (1) With the approval of the Director of Banking and Finance, a corporation organized to do business as a trust company under the Nebraska Trust Company Act may establish and maintain branch trust offices within this state and in any other state pursuant to section 56 of this act.

(2) A corporation organized to do business as a trust company under the Nebraska Trust Company Act, in order to establish a branch trust office in Nebraska pursuant to subsection (1) of this section, shall apply to the Director of Banking and Finance on a form prescribed by the director. Upon receipt of a substantially complete application, the director shall hold a public hearing on the matter if he or she determines, in his or her discretion, that the condition of the corporation organized to do business as a trust company warrants a hearing. If the director determines that the condition of the corporation organized to do business as a trust company does not warrant a hearing, the director shall (a) publish a notice of the filing of the application in a newspaper of general circulation in the county where the proposed branch trust office would be located, the expense of which shall be paid by the corporation organized to do business as a trust company, and (b) give notice of such application for a branch trust office by certified mail to all financial institutions within the county where the proposed branch trust office would be located and to such other interested parties as the director may determine. If the director receives a substantive objection to the proposed branch trust office within fifteen days after publication or mailing of such notice, he or she shall hold a hearing on the application. Notice of a hearing held pursuant to this subsection shall be published for two consecutive weeks in a newspaper of general circulation in the county where the proposed branch would be located, the expense of which shall be paid by the trust company. The date for hearing the application shall not be more than ninety days after the filing of the application and not less than thirty-one days after the last publication of notice of hearing. The costs of the hearing shall be assessed in accordance with the rules and regulations of the Department of Banking and Finance.

(3) The director shall approve the application for a branch trust office if he or she finds that (a) the establishment of the branch trust office would not adversely affect the financial condition of the corporation organized to do business as a trust company, (b) there is a need in the community for the branch trust office, and (c) establishment of the branch trust office would be in the public interest.

(4) With the approval of the director, a state-chartered bank authorized to conduct a trust business pursuant to sections 8-159 to 8-162 may establish and maintain branch trust offices within this state and in any other state pursuant to section 56 of this act. The procedure for the establishment of any branch trust office under this subsection shall be the same as provided in subsections (2) and (3) of this section. The activities at the branch trust office shall be limited to the activities permitted by the Nebraska Trust Company Act, and the general business of banking shall not be conducted at the branch trust office. Nothing in this subsection is intended to prohibit the establishment of a branch bank pursuant to section 8-157 at which trust business may be conducted.

(5) A branch trust office of a corporation organized to do business as a trust company or of a state-chartered bank shall not be closed without the prior written approval of the director.

Sec. 53. (1) With the approval of the Director of Banking and Finance, a corporation organized to do business as a trust company under the Nebraska Trust Company Act may establish and maintain representative trust offices within this state and in any other state pursuant to section 57 of this act.

(2) A corporation organized to do business as a trust company under the Nebraska Trust Company Act, in order to establish a representative trust office in Nebraska pursuant to subsection (1) of this section, shall apply to

the Director of Banking and Finance on a form prescribed by the director. Within sixty days after receipt of a substantially complete application, the director shall notify the trust company of his or her decision on the application. If the director does not act on the application, the application shall be deemed approved on the sixty-first day after receipt of a substantially complete application.

(3) The director shall approve the application for a representative trust office if he or she finds that:

(a) The establishment of the representative trust office would not adversely affect the financial condition of the trust company;

(b) The activities at the representative trust office will be limited to nonfiduciary trust activities; and

(c) Establishment of the representative trust office would be in the public interest.

(4) A state-chartered bank authorized to conduct a trust business pursuant to sections 8-159 to 8-162 may establish and maintain representative trust offices within this state and in any other state pursuant to section 57 of this act. The procedure for the establishment of any representative trust offices under this subsection shall be the same as provided in subsections (2) and (3) of this section. The activities at the representative trust office shall be limited to the activities permitted by the Nebraska Trust Company Act, except that no fiduciary activities may be conducted at the representative trust offices. The general business of banking shall not be conducted at the representative trust offices.

(5) A representative trust office shall not be closed unless the trust company or state-chartered bank provides sixty days' prior written notice to the director.

Sec. 54. Sections 54 to 66 of this act shall be known and may be cited as the Interstate Trust Company Office Act.

Sec. 55. For purposes of the Interstate Trust Company Office Act, unless the context otherwise requires:

(1) Branch trust office means an office of a trust company, other than the main or principal office of a trust company, at which a trust company may act in any fiduciary capacity or conduct any activity permitted under the Nebraska Trust Company Act;

(2) Department means the Department of Banking and Finance;

(3) Director means the Director of Banking and Finance;

(4) Fiduciary capacity means a capacity resulting from a trust company undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with the undertaking and includes the capacities of trustee, including trustee of a common trust fund, administrator, personal representative, guardian of an estate, conservator, receiver, attorney in fact, and custodian and any other similar capacity;

(5) Home state means (a) with respect to a state-chartered trust company, the state in which the trust company is chartered, and (b) with respect to a federally chartered trust company, the state in which the main or principal office of the federally chartered trust company is located;

(6) Home state regulator means the supervisory agency with primary responsibility for chartering and supervising an out-of-state trust company;

(7) Host state means a state, other than the home state of a trust company, in which the trust company maintains, or seeks to establish and maintain, a branch trust office or a representative trust office;

(8) Nebraska state-chartered trust company means (a) a corporation which is chartered to conduct a trust company business and engage in any fiduciary capacity pursuant to the Nebraska Trust Company Act or (b) a corporation which is chartered to conduct a bank in this state pursuant to the Nebraska Banking Act and which has been authorized to conduct a trust company business in the bank pursuant to sections 8-159 to 8-162;

(9) Nebraska trust company means a trust company whose home state is Nebraska;

(10) Out-of-state state trust company means a trust company chartered under the laws of any state other than Nebraska;

(11) Out-of-state trust company means a trust company whose home state is a state other than Nebraska;

(12) Representative trust office means an office at which a trust company does not act in any fiduciary capacity or conduct or engage in any activity related to its fiduciary capacities but may otherwise engage in any other activity permitted under the Nebraska Trust Company Act;

(13) State means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands; and

(14) Trust company means (a) a company chartered and supervised under the laws of any state or the United States to act in a fiduciary capacity, (b) a bank chartered and supervised under the laws of any state or the United States if such bank has been further chartered or authorized to conduct a trust company business within the bank, or (c) a savings association chartered and supervised under the laws of any state or the United States if such savings association has been further chartered or authorized to engage in a trust company business within the savings association.

Sec. 56. A Nebraska state-chartered trust company may establish and maintain branch trust offices in any other state in accordance with the laws of the other state and with the prior approval of the director. A Nebraska state-chartered trust company may conduct any activities at any branch trust office outside the State of Nebraska that are permissible for a trust company chartered by the host state where the branch trust office is located or for a national bank authorized to conduct a trust company business within the host state.

Sec. 57. A Nebraska state-chartered trust company may establish and maintain representative trust offices in any other state in accordance with the laws of the other state and with the prior approval of the director. A Nebraska state-chartered trust company may not act in a fiduciary capacity but may conduct any other trust company activities at any representative trust office outside the State of Nebraska that are permissible for a representative trust office of a trust company chartered by the host state where the representative trust office is located or for a national bank authorized to conduct a trust company business within the host state.

Sec. 58. An out-of-state trust company may establish and maintain branch trust offices in Nebraska only if (1) the requirements of sections 59 and 60 of this act are met and (2) the home state of the out-of-state trust company authorizes the establishment and maintenance of branch trust offices in that state by a Nebraska trust company under conditions no more restrictive than those imposed by the laws of Nebraska, as determined by the director.

Sec. 59. (1) An out-of-state trust company, in order to establish and maintain branch trust offices in Nebraska pursuant to section 58 of this act, shall file written notice of the proposed transaction with the director on a form prescribed by the director on or after the date on which the out-of-state trust company applies to its home state regulator for approval to establish and maintain the branch trust office in this state. The notice shall include a copy of the application made to its home state regulator, a copy of a resolution of its board of directors authorizing the branch trust office, and the filing fee prescribed by section 8-602.

(2) An out-of-state trust company shall provide with the notice satisfactory evidence to the director of compliance with (a) any applicable requirements of the Business Corporation Act and (b) the applicable requirements of its home state regulator for establishing and maintaining a branch trust office.

(3) An out-of-state trust company shall provide with the notice affidavit from its president stating that for as long as it maintains a branch trust office in this state the trust company will comply with Nebraska law.

(4) An out-of-state trust company shall obtain a fidelity bond in accordance with section 8-205.01. Submission of a rider to an existing bond indicating that the required coverage is outstanding and evidencing the beneficiaries described in section 8-205.01 shall satisfy the requirements of this subsection. The bond or a substitute bond shall remain in effect during all periods in which the trust company conducts business in Nebraska.

Sec. 60. (1) The director shall act within ninety days after receipt of notice under section 59 of this act. The director may extend the ninety-day period if he or she determines that the notice raises issues that require additional information or additional time for analysis.

(2) The director may deny approval of the proposed branch trust office if he or she finds that the out-of-state trust company lacks sufficient financial resources to establish the branch trust office without adversely affecting its safety or soundness or that the establishment of the proposed branch trust office would not be in the public interest.

(3) If the out-of-state trust company is not insured by an agency of the federal government, the director may condition his or her approval on the satisfaction by the out-of-state trust company of any requirement applicable to a Nebraska state-chartered trust company pursuant to the Nebraska Trust Company Act.

(4) If the director does not extend the ninety-day period pursuant to subsection (1) of this section, he or she shall certify his or her approval or denial of the notice to the out-of-state trust company's home state regulator on or before the ninetieth day after receipt of notice. If the

director imposes conditions pursuant to subsection (3) of this section, the conditions shall be satisfied prior to the director's certification of approval. A copy of the certification of approval shall be sent to the out-of-state trust company. If the notice is approved, the out-of-state trust company may commence business at the branch trust office upon compliance with sections 8-209 and 8-210.

(5) If the director does extend the ninety-day period pursuant to subsection (1) of this section, he or she shall act on the notice as soon as reasonably possible. Upon reaching a decision on the notice, the director shall certify his or her approval or denial of the notice to the out-of-state trust company's home state regulator. If the director imposes conditions pursuant to subsection (3) of this section, the conditions shall be satisfied prior to the director's certification of approval. A copy of such certification shall be sent to the out-of-state trust company. If the notice is approved, the out-of-state trust company may commence business at the branch trust office upon compliance with sections 8-209 and 8-210.

Sec. 61. An out-of-state trust company which has established and maintains at least one branch trust office in this state pursuant to the Interstate Trust Company Office Act may establish and maintain representative trust offices in Nebraska only if (1) the requirements of section 62 of this act are met and (2) the home state of the out-of-state trust company authorizes the establishment and maintenance of representative trust offices in that state by a Nebraska trust company under conditions no more restrictive than those imposed by the laws of Nebraska, as determined by the director.

Sec. 62. (1) An out-of-state trust company, in order to establish and maintain representative trust offices in Nebraska pursuant to section 61 of this act, shall file written notice of the proposed transaction with the director on a form prescribed by the director. The notice shall include a list of the proposed activities to be conducted at the representative trust office, procedures to ensure that no fiduciary activities will be conducted at the representative trust office, a copy of a resolution of its board of directors authorizing the representative trust office, satisfactory evidence that the bond required pursuant to subsection (4) of section 59 of this act will cover the activities at the representative trust office, any other information which the director may require, and the filing fee prescribed by section 8-602.

(2) The director shall act within sixty days after receipt of the notice under subsection (1) of this section. The director may extend the sixty-day period if he or she determines that the notice raises issues that require additional information or additional time for analysis. If the sixty-day period is extended, the out-of-state trust company may establish a representative trust office only on prior written approval of the director.

(3) The director may deny approval of the proposed representative trust office if he or she finds that the trust company lacks sufficient financial resources to establish the representative trust office without adversely affecting its safety or soundness or that the establishment of the proposed representative trust office would not be in the public interest.

(4) If the director does not extend the sixty-day period pursuant to subsection (2) of this section and does not act within sixty days, the out-of-state trust company may establish representative trust offices on the sixty-first day following the director's receipt of notice.

Sec. 63. An out-of-state trust company which has not established and does not maintain a branch trust office in this state may establish and maintain representative trust offices in Nebraska only if (1) the requirements of section 64 of this act are met and (2) the home state of the out-of-state trust company authorizes the establishment and maintenance of representative trust offices in that state by a Nebraska trust company under conditions no more restrictive than those imposed by the laws of Nebraska, as determined by the director.

Sec. 64. (1) An out-of-state trust company, in order to establish and maintain representative trust offices in Nebraska pursuant to section 63 of this act, shall file written notice of the proposed transaction with the director on a form prescribed by the director. The notice shall include, in addition to the information and fee prescribed in subsection (1) of section 62 of this act:

(a) Satisfactory evidence that the out-of-state trust company is a trust company;

(b) Satisfactory evidence of compliance with any applicable requirements of the Business Corporation Act;

(c) An affidavit from its president stating that for as long as it maintains a representative trust office in this state the trust company will comply with Nebraska law; and

(d) Submission of a fidelity bond in accordance with section 8-205.01. Submission of a rider to an existing bond indicating that the required coverage is outstanding and evidencing the beneficiaries described in section 8-205.01 shall satisfy the requirements of this subdivision. The bond or a substitute bond shall remain in effect during all periods in which the trust company conducts business in Nebraska.

(2) The director shall act within ninety days after receipt of notice under subsection (1) of this section. The director may extend the ninety-day period if he or she determines that the notice raises issues that require additional information or additional time for analysis. If the ninety-day period is extended, the out-of-state trust company may establish representative trust offices only on prior written approval of the director.

(3) The director may deny approval of the proposed representative trust office if he or she finds that the trust company lacks sufficient financial resources to establish the representative trust office without adversely affecting its safety or soundness, that the trust company does not have adequate fidelity bond coverage, or that the proposed representative trust office would not be in the public interest.

(4) If the director does not extend the ninety-day period pursuant to subsection (2) of this section and does not act within ninety days, the out-of-state trust company may, upon compliance with sections 8-209 and 8-210, establish representative trust offices on the ninety-first day following the director's receipt of notice.

Sec. 65. (1) The director may examine any branch trust office or representative trust office established and maintained in this state by any out-of-state state trust company as he or she deems necessary to determine whether the branch trust office or representative trust office is being operated in compliance with Nebraska law and in accordance with safe and sound practices.

(2) The director may prescribe requirements for periodic reports by an out-of-state trust company that operates branch trust offices or representative trust offices pursuant to the Interstate Trust Company Office Act. Any such reporting requirements shall be consistent with the reporting requirements applicable to Nebraska trust companies and appropriate for the purpose of enabling the director to carry out his or her responsibilities under the act.

(3) The director may enter into cooperative, coordinating, and information-sharing agreements with any other trust company supervisory agency that has concurrent jurisdiction over a Nebraska state-chartered trust company or an out-of-state state trust company operating a branch trust office or representative trust office in this state to engage the services of such supervisory agency's examiners or to provide the services of department examiners to such supervisory agency.

(4) The director may enter into joint examinations or joint enforcement actions with other trust company supervisory agencies having concurrent jurisdiction over any branch trust office or representative trust office of an out-of-state state trust company or any branch trust office or representative trust office of a Nebraska state-chartered trust company in any host state. The director may, at any time, take such actions independently if he or she deems such actions to be necessary or appropriate to carry out his or her responsibilities under the act or to ensure compliance with Nebraska law. In the case of an out-of-state state trust company, the director shall recognize the exclusive jurisdiction of the home state regulator over corporate government matters and the primary responsibility of the home state regulator with respect to safety and soundness matters.

(5) The cost of any examination conducted under this section shall be assessed against the out-of-state state trust company in the manner set forth in section 8-601 and paid for by the out-of-state state trust company.

Sec. 66. Nothing in the Interstate Trust Company Office Act shall be construed to authorize any Nebraska trust company or any out-of-state trust company to conduct the general business of banking at any branch trust office or representative trust office.

Sec. 67. Section 8-355, Reissue Revised Statutes of Nebraska, is amended to read:

8-355. Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute, except as provided in section 8-345.02, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of February 11, 1997 the operative date of this section, by a federal savings and loan association doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such association from payment of

state taxes assessed under any applicable laws of this state.

Sec. 68. Section 8-602, Reissue Revised Statutes of Nebraska, is amended to read:

8-602. The Director of Banking and Finance shall charge and collect fees for certain services rendered by the Department of Banking and Finance according to the following schedule:

(1) For filing and examining articles of incorporation, association, and bylaws, except cooperative credit associations and credit unions, one hundred dollars, and for cooperative credit associations and credit unions, fifty dollars;

(2) For filing and examining an amendment to articles of incorporation, association, and bylaws, except cooperative credit associations and credit unions, fifty dollars, for cooperative credit associations, twenty-five dollars, and for credit unions, fifteen dollars;

(3) For issuing to banks, trust companies, building and loan associations, and industrial loan and investment companies a charter, authority, or license to do business in this state, a sum which shall be determined on the basis of one dollar and fifty cents for each one thousand dollars of authorized capital, except that the minimum fee in each case shall be two hundred twenty-five dollars, and all foreign building and loan associations shall pay annually a fee of two hundred dollars;

(4) For issuing to cooperative credit associations a charter, authority, or license to do business in this state, twenty-five dollars;

(5) For issuing an executive officer's or loan officer's license, fifty dollars at the time of the initial license and fifteen dollars on or before January 15 each year thereafter, except cooperative credit associations and credit unions for which the fee shall be twenty-five dollars at the time of the initial license and fifteen dollars on or before January 15 each year thereafter;

(6) For affixing certificate and seal, five dollars;

(7) For making a photostatic copy of instruments, documents, or any other departmental records and for providing a computer-generated document, one dollar and fifty cents per page;

(8) For making substitution of securities held by it and issuing a receipt, fifteen dollars;

(9) For issuing a certificate of approval to a credit union, ten dollars;

(10) For investigating the applications required by sections 8-120, 8-331, and 8-403 and the documents required by sections 8-201, 21-1312, and 21-1313, the cost of such examination, investigation, and inspection, including all legal expenses and the cost of any hearing transcript, with a minimum fee under (a) section 8-120 of two thousand five hundred dollars, (b) section 8-331 of two thousand dollars, (c) section 8-403 of two thousand five hundred dollars, and (d) sections 8-201, 21-1312, and 21-1313 of one thousand dollars. The department may require the applicant to procure and give a surety bond in such principal amount as the department may determine and conditioned for the payment of the fees provided in this subdivision;

(11) For registering a statement of intention to engage in the business of making personal loans pursuant to section 8-816, fifty dollars;

(12) To meet the expense of safekeeping securities as provided in section 8-210, the company, national bank, or federal savings association, federally chartered trust company, out-of-state trust company authorized under the Interstate Trust Company Office Act, or state-chartered bank shall, at the time of the initial deposit of such securities, pay one dollar and fifty cents for each thousand dollars of securities deposited and a like amount on or before January 15 each year thereafter;

(13) For investigating an application to move its location within the city or village limits of its original license or charter for banks, trust companies, building and loan associations, and industrial loan and investment companies, two hundred fifty dollars;

(14) For investigating an application for approval to establish or acquire a detached branch bank pursuant to section 8-157, two hundred fifty dollars;

(15) For investigating an application for approval of an automatic teller machine, fifteen dollars;

(16) For investigating a notice of acquisition of control under subsection (1) of section 8-1502, five hundred dollars;

(17) For investigating an application for a cross-industry merger under section 8-1510, five hundred dollars;

(18) For investigating an application for a merger of two state banks or a merger of a state bank and a national bank in which the state bank is the surviving entity, five hundred dollars; and

(19) For investigating an application for a purchase of an eligible savings association under section 8-1515, five hundred dollars;

(20) For investigating an application or a notice to establish a branch trust office, five hundred dollars; and

(21) For investigating an application or a notice to establish a representative trust office, five hundred dollars.

All fees and money collected by or paid to the department under any of the provisions of Chapter 8, 21, or 45 or any other law shall, if and when specifically appropriated by the Legislature during any biennium, constitute the Financial Institution Assessment Cash Fund for the use of the department during any biennium in administering the provisions of such chapters and any duties imposed upon the department by any other law, and all of such money when appropriated shall be appropriated for the purposes expressed in this section.

Sec. 69. Section 8-909, Reissue Revised Statutes of Nebraska, is amended to read:

8-909. For purposes of the Nebraska Bank Holding Company Act of 1995, unless the context otherwise requires:

(1) Bank means any bank which is chartered to conduct a bank in this state pursuant to ~~sections 8-104 to 8-139~~ the Nebraska Banking Act or any national bank authorized to do business in this state;

(2) Company means any corporation, partnership, limited liability company, business trust, association, or similar organization or entity, but does not include:

(a) An individual; or

(b) Any corporation, the majority of the shares of which are owned by the United States or by any state;

(3) (a) Bank holding company means any company, including an out-of-state bank holding company, which, except as provided in subdivision (b) of this subdivision:

(i) Directly or indirectly owns or controls twenty-five percent or more of the voting shares of any bank;

(ii) Controls in any manner the election of the majority of the directors of any bank; or

(iii) For the benefit of whose shareholders or members twenty-five percent or more of the voting shares of any bank or bank holding company are held by trustees.

(b) (i) No estate, trust, guardianship, or conservatorship or fiduciary thereof shall be a bank holding company by virtue of its ownership or control of a bank or banks if such trust is not a business trust or voting trust. It shall be unlawful for any such estate, trust, guardianship, or conservatorship to acquire, by purchase, ownership, or control, twenty-five percent of the shares of any additional bank;

(ii) No company shall be a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of bank shares and which are held only for such period of time as will permit the sale thereof on a reasonable basis; and

(iii) No company shall be a bank holding company by virtue of its ownership or control of shares acquired and held in the ordinary course of securing or collecting a debt previously contracted in good faith, except that such shares shall be disposed of within a period of two years from the date on which they were acquired, unless the director, upon good cause shown, extends the two-year period. Any extensions granted by the director shall be for no more than one year at a time and, in the aggregate, for no more than three years;

(4) Adequately capitalized means a level of capitalization which meets or exceeds all applicable federal regulatory capital standards;

(5) Department means the Department of Banking and Finance;

(6) Director means the Director of Banking and Finance;

(7) Foreign state means any state of the United States other than Nebraska, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the District of Columbia;

(8) Home state means, with respect to a bank holding company, the state in which the total deposits of all banking subsidiaries of such company are the largest on the later of: (a) July 1, 1966; or (b) the date on which the company becomes a bank holding company under 12 U.S.C. 1842;

(9) Out-of-state bank holding company means a bank holding company whose home state is a foreign state, except an out-of-state bank holding company, as defined in 12 U.S.C. 1842(d) as it existed on August 26, 1983, which owned at least two banks in Nebraska as of March 12, 1963; and

(10) Foreign state agency means any duly constituted regulatory or

supervisory agency which has authority over financial institutions and which is created under the laws of any state of the United States other than Nebraska, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands or which is operating under the code of law for the District of Columbia.

Sec. 70. Section 8-910, Reissue Revised Statutes of Nebraska, is amended to read:

8-910. (1) It shall be unlawful, except as provided in this section, for:

(a) Any action to be taken that causes any company to become a bank holding company;

(b) Any action to be taken that causes a bank to become a subsidiary of a bank holding company;

(c) Any bank holding company to acquire direct or indirect ownership, or control of any voting shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than twenty-five percent of the voting shares of such bank;

(d) Any bank holding company or subsidiary thereof, other than a bank, to acquire all or substantially all of the assets of a bank; or

(e) Any bank holding company to merge or consolidate with any other bank holding company.

(2) The prohibition set forth in subsection (1) of this section shall not apply if:

(a) (i) The bank holding company is registered with the department as of September 29, 1995, as a bank holding company for any bank or banks; or (ii) the bank holding company registers with the department in accordance with the provisions of section 8-913 as a bank holding company;

(b) The bank holding company does not have a name deceptively similar to an existing unaffiliated bank or bank holding company located in Nebraska;

(c) Upon any action referred to in subsection (1) of this section and subject to subsection (3) of this section, the bank or banks so owned or controlled would have deposits in Nebraska in an amount no greater than fourteen percent of the total deposits of all banks in Nebraska plus the total deposits, savings accounts, passbook accounts, and shares in savings and loan associations and building and loan associations in Nebraska as determined by the director on the basis of the most recent calendar-year-end reports, except as provided in subsections (4) and (5) of this section;

(d) The bank holding company is adequately capitalized and adequately managed;

(e) The bank holding company complies with sections 8-1501 to 8-1505 if the bank or banks to be acquired are chartered in this state under sections 8-101 to 8-139 the Nebraska Banking Act; and

(f) The bank holding company, if an out-of-state bank holding company, complies with the limitations of section 8-911.

(3) If any person, association, partnership, limited liability company, or corporation owns or controls twenty-five percent or more of the voting stock of any bank holding company acquiring a bank and any such person, association, partnership, limited liability company, or corporation owns or controls twenty-five percent or more of the voting stock of any other bank or bank holding company in Nebraska, then the total deposits of such other bank or banks and of all banks in Nebraska owned or controlled by such bank holding company shall be included in the computation of the total deposits of a bank holding company acquiring a bank.

(4) A bank or bank holding company which acquires and holds all or substantially all of the voting stock of one newly established bank under sections 8-1512 and 8-1513 shall not have such acquisition count against the limitations set forth in subdivision (2)(c) of this section.

(5) A bank holding company which acquired an institution or which formed a bank which acquired an institution under sections 8-1506 to 8-1510 or which acquired any assets and liabilities from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation prior to January 1, 1994, shall not have such acquisition or formation count against the limitations set forth in subdivision (2)(c) of this section.

Sec. 71. Section 8-911, Reissue Revised Statutes of Nebraska, is amended to read:

8-911. (1) Upon compliance with all other provisions of the Nebraska Bank Holding Company Act of 1995 and any other applicable law, an out-of-state bank holding company may acquire a bank or banks under the act only if the bank or banks to be acquired have been chartered for five years or more. ~~In determining whether a bank has been chartered for five years or more, a bank that has been chartered solely for the purpose of, and does not~~

open for business prior to acquiring all or substantially all of the assets of an existing bank shall be deemed to have been in existence for the same period of time as the bank to be acquired

(2) An out-of-state bank holding company shall not, directly or indirectly, form, charter, or establish a bank in Nebraska or cause a bank in Nebraska to be formed, chartered, or established unless (a) the bank is formed, chartered, or established solely for the purpose of acquiring all or substantially all of the assets of a bank which has been chartered for five years or more and (b) the bank does not open for business prior to such acquisition.

Sec. 72. Section 8-1602, Reissue Revised Statutes of Nebraska, is amended to read:

8-1602. A banker's bank may be formed with the approval of the department and subject to requirements and procedures for the issuance of a new bank charter or the transfer of an existing bank charter as provided in ~~sections 8-101 to 8-1,139~~ the Nebraska Banking Act. A banker's bank shall be a bank which is:

- (1) Insured by the Federal Deposit Insurance Corporation;
- (2) Owned exclusively by other Nebraska banks, except to the extent directors' qualifying shares are required by law; and
- (3) Directly and through all its subsidiaries engaged exclusively in providing services for other banks and their officers, directors, and employees.

Sec. 73. Section 8-1603, Reissue Revised Statutes of Nebraska, is amended to read:

8-1603. A banker's bank shall be subject to ~~sections 8-101 to 8-1,139~~ the Nebraska Banking Act and the rules and regulations adopted and promulgated by the department.

Sec. 74. Section 8-2102, Reissue Revised Statutes of Nebraska, is amended to read:

8-2102. For purposes of the Interstate Branching By Merger Act of 1997, unless the context otherwise requires:

- (1) Department means the Department of Banking and Finance;
- (2) Director means the Director of Banking and Finance;
- (3) Home state means (a) with respect to a state chartered bank, the state in which the bank is chartered and (b) with respect to a national bank, the state in which the main office of the bank is located;
- (4) Home state regulator means, with respect to an out-of-state state chartered bank, the bank supervisory agency of the state in which such bank is chartered;
- (5) Host state means a state, other than the home state of a bank, in which the bank maintains, or seeks to establish and maintain, a branch;
- (6) Interstate merger transaction means a merger or consolidation of two or more banks, at least one of which is a Nebraska bank and at least one of which is an out-of-state bank, and the conversion of the main office and the branches of any bank involved in such merger or consolidation into branches of the resulting bank;
- (7) Nebraska bank means a bank whose home state is Nebraska;
- (8) Nebraska state chartered bank means a corporation which is chartered to conduct a bank in this state pursuant to ~~sections 8-101 to 8-1,139~~ the Nebraska Banking Act;
- (9) Out-of-state bank means a bank whose home state is a state other than Nebraska;
- (10) Out-of-state state chartered bank means a bank chartered under the laws of any state other than Nebraska;
- (11) Resulting bank means a bank that has resulted from an interstate merger transaction under the ~~act~~ Interstate Branching By Merger Act of 1997; and
- (12) State means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

Sec. 75. Section 21-17,115, Reissue Revised Statutes of Nebraska, is amended to read:

21-17,115. Notwithstanding any of the other provisions of the Credit Union Act or any other Nebraska statute, any credit union incorporated under the laws of the State of Nebraska and organized under the provisions of the act shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of ~~March 27, 1997~~ the operative date of this section, by a federal credit union doing business in Nebraska on the condition that such rights, powers, privileges, benefits, and immunities shall not relieve such credit union from payment of state taxes assessed under any

applicable laws of this state.

Sec. 76. Section 21-2028, Reissue Revised Statutes of Nebraska, is amended to read:

21-2028. (1) A corporate name:

(a) Shall contain the word corporation, incorporated, company, or limited, or the abbreviation corp., inc., co., or ltd., or words or abbreviations of like import in another language, except that a corporation organized to conduct a banking business under ~~sections 8-101 to 8-112~~ the Nebraska Banking Act may use a name which includes the word bank without using any such words or abbreviations; and

(b) May not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 21-2024 and its articles of incorporation.

(2) Except as authorized by subsections (3) and (4) of this section, a corporate name shall be distinguishable upon the records of the Secretary of State from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under section 21-2029 or 21-2030;

(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state;

(e) A trade name registered in this state pursuant to sections 87-208 to 87-220; and

(f) Any other business entity name registered or filed with the Secretary of State pursuant to Nebraska law.

(3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon his or her records from one or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:

(a) The other corporation or business entity consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation or business entity that is used in this state if the other corporation or business entity is incorporated or authorized to transact business in this state and the proposed user corporation has:

(a) Merged with the other corporation or business entity;

(b) Been formed by reorganization of the other corporation or business entity; or

(c) Acquired all or substantially all of the assets, including the name, of the other corporation or business entity.

(5) The Business Corporation Act shall not be construed to control the use of fictitious names.

Sec. 77. Section 28-612, Revised Statutes Supplement, 1996, is amended to read:

28-612. (1) A person commits a Class IV felony if he or she:

(a) Willfully and knowingly subscribes to, makes, or causes to be made any false statement or entry in the books of an organization; or

(b) Knowingly subscribes to or exhibits false papers with the intent to deceive any person or persons authorized to examine into the affairs of any such organization; or

(c) Makes, states, or publishes any false statement of the amount of the assets or liabilities of any such organization; or

(d) Fails to make true and correct entry in the books and records of such organization of its business and transactions in the manner and form prescribed by the Department of Banking and Finance; or

(e) Mutilates, alters, destroys, secretes, or removes any of the books or records of such organization, without the consent of the Director of Banking and Finance.

(2) As used in this section, organization means:

(a) Any trust company transacting a business under ~~sections 8-201 to 8-226~~ the Nebraska Trust Company Act; or

(b) Any association organized for the purpose set forth in section

8-302; or

(c) Any bank as defined in section 8-101; or

(d) Any cooperative credit association set forth in sections 21-1308 to 21-1331, transacting business in this state; or

(e) Any industrial loan and investment company as defined in section 8-401; or

(f) Any credit union transacting business in this state under the Credit Union Act.

Sec. 78. Section 30-3209, Revised Statutes Supplement, 1996, is amended to read:

30-3209. (1) Corporate trustees authorized by Nebraska law to exercise fiduciary powers and holding retirement or pension funds for the benefit of employees or former employees of cities, villages, school districts, public power districts, or other governmental or political subdivisions may invest and reinvest such funds in such securities and investments as are authorized for trustees, guardians, conservators, personal representatives, or administrators under the laws of Nebraska. Retirement or pension funds of such cities, villages, districts, or subdivisions may be invested in annuities issued by life insurance companies authorized to do business in Nebraska. Any Except as provided in subsection (2) of this section, any other retirement or pension funds of cities, including cities operating under home rule charters, villages, school districts except as provided in section 79-9,107, public power districts, and all other governmental or political subdivisions may be invested and reinvested, as the governing body of such city, village, school district, public power district, or other governmental or political subdivision may determine, in the following classes of securities and investments: ~~(1)~~ (a) Bonds, notes, or other obligations of the United States or those guaranteed by or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof; ~~(2)~~ (b) bonds or other evidences of indebtedness of the State of Nebraska and full faith and credit obligations of or obligations unconditionally guaranteed as to principal and interest by any other state of the United States; ~~(3)~~ (c) bonds, notes, or obligations of any municipal or political subdivision of the State of Nebraska which are general obligations of the issuer thereof and revenue bonds or debentures of any city, county, or utility district of this state when the earnings available for debt service have, for a five-year period immediately preceding the date of purchase, averaged not less than one and one-half times such debt service requirements; ~~(4)~~ (d) bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration; ~~(5)~~ (e) certificates of deposit of banks which are members of the Federal Deposit Insurance Corporation or capital stock financial institutions, and if the amount deposited exceeds the amount of insurance available thereon, then the excess shall be secured in the same manner as for the deposit of public funds; ~~(6)~~ (f) accounts with building and loan associations or federal savings and loan associations in the State of Nebraska to the extent that such accounts are insured by the Federal Deposit Insurance Corporation; ~~(7)~~ (g) bonds or other interest-bearing obligations of any corporation organized under the laws of the United States or any state thereof if ~~(a)~~ (i) at the time the purchase is made, they are given, by at least one statistical organization whose publication is in general use, one of the three highest ratings given by such organization and ~~(b)~~ (ii) not more than five percent of the fund shall be invested in the obligations of any one issuer; ~~(8)~~ (h) direct short-term obligations, generally classified as commercial paper, of any corporation organized or existing under the laws of the United States or any state thereof with a net worth of ten million dollars or more; and ~~(9)~~ (i) preferred or common stock of any corporation organized under the laws of the United States or of any state thereof with a net worth of ten million dollars or more if ~~(a)~~ (i) not more than fifty percent of the total investments at the time such investment is made is in this class and not more than five percent is invested in each of the first five years and ~~(b)~~ (ii) not more than five percent thereof is invested in the securities of any one corporation. Notwithstanding the percentage limits stated in this ~~section~~ subsection, the cash proceeds of the sale of such preferred or common stock may be reinvested in any securities authorized under this subdivision. No city, village, school district, public power district, or other governmental subdivision or the governing body thereof shall be authorized to sell any securities short, buy on margin, or buy, sell, or engage in puts and calls. The provisions of section 77-2366 shall apply to deposits in capital stock financial institutions.

(2) Notwithstanding the limitations prescribed in subsection (1) of

this section, trustees holding retirement or pension funds for the benefit of employees or former employees of any city of the metropolitan class or metropolitan utilities district shall invest such funds in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. Such investments shall not be made for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. The trustees shall not buy on margin, buy call options, or buy put options. The trustees may lend any security if cash, United States Government obligations, or United States Government agency obligations with a market value equal to or exceeding the market value of the security lent are received as collateral. If shares of stock are purchased under this subsection, all proxies may be voted by the trustees. The asset allocation restrictions set forth in subsection (1) of this section shall not be applicable to the funds of pension or retirement systems administered by or on behalf of a city of the metropolitan class or metropolitan utilities district.

Sec. 79. Section 52-202, Reissue Revised Statutes of Nebraska, is amended to read:

52-202. Any person who makes, alters, repairs, or in any way enhances the value of any vehicle, automobile, machinery, or farm implement or tool or shoes a horse or horses or mule or mules, at the request of or with the consent of the owner or owners thereof, shall have a lien upon such vehicle, automobile, machinery, farm implement or tool, horse or horses, or mule or mules, in cases when he or she has parted with the possession thereof, for his or her reasonable or agreed charges for work done or material furnished. The person making such repairs, furnishing such material, or performing such work shall file in the office of the clerk of the county in which such work was done, material was furnished, or property is kept ~~Secretary of State~~, within sixty days after performing such work or furnishing such material, a verified statement containing (1) the name and address and the social security number or federal tax identification number of such person, (2) the name and address and the social security number or federal tax identification number, if known, of the person for whom the work was done or the material was furnished, (3) a description of the work done or material furnished, (4) a description of the article so made, repaired, altered, or enhanced in value or for which material was furnished or upon which such work was performed, and (5) the amount due for such work done or material furnished. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the work was done or material was furnished.

Sec. 80. Section 52-203, Reissue Revised Statutes of Nebraska, is amended to read:

52-203. Such lien shall be in force from and after the date it is filed as aforesaid, and shall be prior and paramount to all other liens upon such property except those previously filed in such office or in the office where such lien was required to be filed prior to the operative date of this section, and shall be treated in all respects as a secured transaction as provided in article 9, Uniform Commercial Code, and may be foreclosed as a secured transaction as provided in article 9, Uniform Commercial Code, except that such foreclosure proceedings shall be instituted within one year after the filing of such lien and the lien shall be subject to the rights of purchasers of the property against which the lien is filed when the purchasers acquired the property prior to the filing of the lien without knowledge or notice of the rights of the persons performing the work or furnishing the material. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 81. Section 52-501, Reissue Revised Statutes of Nebraska, is amended to read:

52-501. (1) The owner or operator of any threshing machine or combine used in threshing, combining, or hulling grain or seed, (2) the owner or operator of any mechanical cornpicker or mechanical cornhusker used in picking or husking corn, and (3) the owner or operator of any cornsheller used in shelling corn shall have and hold a lien upon such grain, seed, or corn which he or she shall thresh, combine, hull, pick, husk, or shell with such machine or machines to secure the payment to him or her by the owner of such grain, seed, or corn of such charges for such threshing, combining, hulling, picking, husking, or shelling as may be agreed upon or, if no charges are agreed upon, for such charges as may be reasonable for such threshing, combining, hulling, picking, husking, or shelling. Such owner or operator of a threshing machine, combine, mechanical cornpicker, mechanical cornhusker, or cornsheller, so used in threshing, combining, hulling, picking, husking, or

shelling grain, seed, or corn, shall file in the office of the county clerk of the county where such threshing, combining, hulling, picking, husking, or shelling was done Secretary of State a notice of such lien, which notice shall designate (a) the name and address and the social security number or federal tax identification number of such owner or operator, (b) the name and address and the social security number or federal tax identification number, if known, of the person for whom the threshing, combining, hulling, picking, husking, or shelling was done, (c) the amount due for such services, (d) the amount of grain, seed, or corn covered by the lien, (e) the place where the grain, seed, or corn is located, and (f) the date on which the threshing, combining, hulling, picking, husking, or shelling was done. Such notice shall be filed within thirty days after the threshing, combining, hulling, picking, husking, or shelling was done. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the threshing, combining, hulling, picking, husking, or shelling was done. In the event the person for whom the threshing, combining, hulling, picking, husking, or shelling was done desires to sell or deliver the grain, seed, or corn so threshed, picked, husked, hulled, shelled, or combined to a grain elevator or to any other person, such person desiring to sell or deliver the grain, seed, or corn shall notify the consignee or purchaser that the threshing, combining, hulling, picking, husking, or shelling bill has not been paid, and the lien given in this section on such grain, seed, or corn shall shift therefrom to the purchase price thereof in the hands of the purchaser or consignee above mentioned. In the event the grain, seed, or corn is sold or consigned with the consent or knowledge of the person entitled to a lien thereon, as provided in this section, within thirty days after the date of such threshing, combining, hulling, picking, husking, or shelling, such lien shall not attach to the grain, seed, or corn or to the purchase price thereof unless the person entitled to the lien notifies the purchaser in writing of the lien. The lien may be foreclosed in the manner and form provided for the foreclosure of secured transactions as provided in article 9, Uniform Commercial Code, except that such foreclosure shall be instituted within thirty days after the filing of the lien. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 82. Section 52-701, Reissue Revised Statutes of Nebraska, is amended to read:

52-701. Whenever any person shall procure, contract with, or hire any person licensed to practice veterinary medicine and surgery to treat, relieve, or in any way take care of any kind of livestock, such veterinarian shall have a first, paramount, and prior lien upon such livestock so treated for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of the services and any medicines or biologics furnished. The person entitled to a lien under this section may foreclose the same in the manner provided by law for the foreclosing of secured transactions as provided in article 9, Uniform Commercial Code. Such veterinarian who wishes to use the provisions of this section shall file with the clerk of the county in which such livestock was kept Secretary of State, within ninety days from the furnishing of the services and any medicines or biologics, a statement verified by affidavit of his or her account containing (1) the name and address and the social security number or federal tax identification number of such veterinarian, (2) the name and address and the social security number or federal tax identification number, if known, of the person to whom the services and medicines or biologics were furnished, (3) a correct description of the livestock to be charged with the lien, and (4) the amount of the services and medicines or biologics furnished. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the services and medicines or biologics were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 83. Section 52-902, Reissue Revised Statutes of Nebraska, is amended to read:

52-902. Within six months after the fuel or lubricant, referred to in section 52-901, has been furnished, the person selling such fuel or lubricant shall file with the clerk of the county in which the crop, referred to in section 52-901, is produced Secretary of State a verified notice of such lien, which notice shall show (1) the name and address and the social security number or federal tax identification number of the person claiming the lien, (2) the name and address and the social security number or federal tax identification number, if known, of the person to whom such fuel or lubricant

has been furnished for use in farm machinery in the production of crops, (3) a description of the land upon which such crop or crops were grown, (4) the amount of fuel or lubricant furnished, and (5) the amount due for furnishing such products. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the fuel or lubricant was furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 84. Section 52-1001, Reissue Revised Statutes of Nebraska, is amended to read:

52-1001. (1) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the register of deeds of the county in which the real property subject to the liens is situated Secretary of State and may be filed by electronic means.

(2) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the register of deeds of the county where the person against whose interest the lien applies resides at the time of filing the notice of lien or, if the person against whose interest the lien applies is a corporation, a partnership, or a limited liability company, in the office of the register of deeds of the county where the principal executive office in this state is located Secretary of State and may be filed by electronic means.

Sec. 85. Section 52-1003, Reissue Revised Statutes of Nebraska, is amended to read:

52-1003. (1) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (2) of this section is presented to the register of deeds Secretary of State, he or she shall endorse thereon his or her identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the district director or title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.

(2) If a refiled notice of federal lien referred to in subsection (1) of this section is presented for filing to the register of deeds Secretary of State as specified in section 52-1001, he or she shall file the refiled notice or the certificate with and cross reference the original notice of lien on the state's central index system and shall enter the refiled notice or the certificate with the date of filing in an alphabetical federal lien index. on the line where the original notice of lien is entered.

(3)(a) Upon request of any person, the register of deeds shall issue his or her certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien, filed under the Uniform Federal Tax Lien Registration Act on or after January 1, 1970, or under the Uniform Federal Lien Registration Act on or after July 9, 1988, and before July 1, 1999, naming a particular person and, if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate shall be one dollar and fifty cents. Upon request the register of deeds shall furnish a copy of any notice of federal lien or notice or certificate affecting a federal lien for a fee of one dollar per page.

(b) Upon the request of any person, the Secretary of State shall provide information as provided in section 9-411, Uniform Commercial Code, and charge such fees, provided in such section, on any notice of lien or certificate or notice affecting any lien filed under the Uniform Federal Lien Registration Act on or after July 1, 1999.

(4) The register of deeds Secretary of State and his or her employees or agents shall be exempt from all personal liability as a result of any error or omission in providing information as required by this section except in cases of willful misconduct or gross negligence.

Sec. 86. Section 52-1004, Reissue Revised Statutes of Nebraska, is amended to read:

52-1004. The fee for filing and indexing each notice of lien or certificate or notice affecting the lien shall be:

(1) For a lien on real estate or on tangible or intangible personal property, the same as set forth in section 9-403, Uniform Commercial Code;

(2) For a certificate of discharge or subordination, the same as set forth in section 9-403, Uniform Commercial Code; and

(3) For all other notices, including a certificate of release or

nonattachment, the same as set forth in section 9-403, Uniform Commercial Code.

The register of deeds Secretary of State shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them.

Sec. 87. Section 52-1008, Reissue Revised Statutes of Nebraska, is amended to read:

52-1008. When a federal lien registered pursuant to the Uniform Federal Lien Registration Act is satisfied, the holder of the lien may on written demand by the debtor send the debtor a termination statement to the effect that he or she no longer claims a security interest under the lien, which shall be identified by file number.

On presentation to the register of deeds Secretary of State of such a termination statement, he or she shall note it in the index. If the register of deeds Secretary of State has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 88. Section 52-1102, Reissue Revised Statutes of Nebraska, is amended to read:

52-1102. Any lien under section 52-1101 shall be perfected by filing a notice of lien with the county clerk of the county where the land is located upon which the crops are growing or are to be planted Secretary of State. The notice of lien shall state (1) the name and address and the social security number or federal tax identification number, if known, of the person to whom any product, machinery, or equipment was furnished or for whom work or labor was done, (2) the name and address and the social security number or federal tax identification number of the person claiming the lien, (3) the last date upon which such product, machinery, or equipment was furnished or work or labor done under the contract, (4) the amount due for the product, machinery, or equipment furnished or work or labor done, and (5) the legal description of the land upon which the crops are growing or are to be planted. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the product, machinery, or equipment was furnished or for whom the work or labor was done. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 89. Section 52-1202, Reissue Revised Statutes of Nebraska, is amended to read:

52-1202. The lien provided in section 52-1201 may be perfected by filing a notice of the lien with the county clerk of the county where the crop is growing or will be grown Secretary of State within sixty days of the last date on which (1) the seed was furnished or (2) the meter was read with respect to the electrical power or energy furnished.

The notice of lien shall state (a) the name and address and the social security number or federal tax identification number of the person claiming the lien, (b) the name and address and the social security number or federal tax identification number, if known, of the person to whom the seed or electrical power or energy has been furnished, (c) the contract price or reasonable value of the seed or electrical power or energy, (d) the type and amount of the seed and the date of delivery of the seed or the type and amount of the electrical power or energy and the period during which such power or energy was furnished, and (e) the legal description of the land upon which the crop is growing or will be grown. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the seed or electrical power and energy was furnished. The fee for filing, amending, or releasing the lien shall be as provided in section 9-403, Uniform Commercial Code.

Sec. 90. Section 52-1307, Reissue Revised Statutes of Nebraska, is amended to read:

52-1307. Effective financing statement shall mean means a statement that:

- (1) Is an original or reproduced copy thereof;
- (2) Is signed and filed by the secured party in the office of the county clerk in the county of the debtor's residence or, if the debtor is not a resident of this state, in the office of the county clerk in any county in which any of the farm products are used or produced Secretary of State;
- (3) Is signed by the debtor;
- (4) Contains (a) the name and address of the secured party, (b) the name and address of the debtor, (c) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the

Internal Revenue Service taxpayer identification number of such debtor, (d) a description of the farm products subject to the security interest, (e) each county in Nebraska where the farm product is used or produced or to be used or produced, (f) crop year unless every crop of the farm product in question, for the duration of the effective financing statement, is to be subject to the particular security interest, (g) further details of the farm product subject to the security interest if needed to distinguish it from other quantities of such product owned by the same person or persons but not subject to the particular security interest, and (h) such other information that the Secretary of State may require to comply with section 1324 of the Food Security Act of 1985, Public Law 99-198, or to more efficiently carry out his or her duties under sections 52-1301 to 52-1321;

(5) Shall be amended in writing, within three months, similarly signed and filed, to reflect material changes;

(6) Remains effective for a period of five years from the date of filing, subject to extensions for additional periods of five years each by refiling or filing a continuation statement within six months before the expiration of the five-year period;

(7) Lapses on either the expiration of the effective period of the statement or the filing of a notice signed by the secured party that the statement is terminated, whichever occurs first;

(8) Is accompanied by the requisite filing fee set by section 52-1313; and

(9) Substantially complies with the requirements of this section even though it contains minor errors that are not seriously misleading.

An effective financing statement may, for any given debtor or debtors, cover more than one farm product located in more than one county.

Sec. 91. Section 52-1312, Reissue Revised Statutes of Nebraska, is amended to read:

52-1312. The Secretary of State shall design and implement a central filing system for effective financing statements. The Secretary of State shall be the system operator. ~~County clerks, for purposes of section 1324 of the Food Security Act of 1985, Public Law 99-198, shall be designees of the State of Nebraska to perform the functions set out in sections 52-1301 to 52-1321.~~ The system shall provide a means for filing effective financing statements or notices of such financing statements on a statewide basis. The system shall include requirements:

(1) That an effective financing statement or notice of such financing statement shall be filed in the office of the county clerk in the county of the debtor's residence or, if the debtor is not a resident of this state, in the office of the county clerk in any county in which any of the farm products are used or produced ~~Secretary of State.~~ A debtor's residence shall be presumed to be the residence shown on the filing. The showing of an improper residence shall not affect the validity of the filing. The county clerk ~~filing officer~~ shall mark the statement or notice with a consecutive file number and with the date and hour of filing and shall hold the statement or notice or a microfilm or other photographic copy thereof for public inspection. In addition, the county clerk ~~filing officer~~ shall index the statements and notices according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement;

(2) That the county clerks transmit to the Secretary of State on the day received sufficient information from all effective financing statements filed pursuant to subdivision (1) of this section to permit the compilation of the master list required by subdivision (3) of this section;

~~(3) That the Secretary of State compile all such statements or notices information from all effective financing statements or notices filed with the Secretary of State into a master list (a) organized according to farm product, (b) arranged within each such product (i) in alphabetical order according to the last name of the individual debtors or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors, (ii) in numerical order according to the social security number of the individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors, (iii) geographically by county, and (iv) by crop year, and (c) containing the information referred to in subdivision (4) of section 52-1307;~~

~~(3) That the Secretary of State cause the information on the master list to be published in lists (a) by farm product arranged alphabetically by debtor and (b) by farm product arranged numerically by the debtor's social security number for individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service~~

taxpayer identification number of such debtors. If a registered buyer so requests, the list or lists for such buyer may be limited to any county or group of counties where the farm product is used or produced or to any crop year or years or a combination of such identifiers;

~~(5)~~ (4) That all buyers of farm products, commission merchants, selling agents, and other persons may register with the Secretary of State to receive lists described in subdivision ~~(4)~~ (3) of this section. Any buyer of farm products, commission merchant, selling agent, or other person conducting business from multiple locations shall be considered as one entity. Such registration shall be on an annual basis. The Secretary of State shall provide the form for registration which shall include the name and address of the registrant and the list or lists described in subdivision ~~(4)~~ (3) of this section which such registrant desires to receive. A registration shall not be completed until the form provided is properly completed and received by the Secretary of State accompanied by the proper registration fee. The fee for annual registration shall be thirty dollars.

A registrant shall pay an additional annual fee to receive quarterly lists described in subdivision ~~(4)~~ (3) of this section. For each farm product list provided on microfiche, the annual fee shall be twenty-five dollars. For each farm product list provided on paper, the annual fee shall be ~~one hundred dollars, and beginning for calendar year 1989, the annual fee shall be two hundred dollars.~~ The annual fee for a special list which is a list limited to fewer than all counties or less than all crop years shall be one hundred fifty dollars for each farm product.

The Secretary of State shall maintain a record of the registrants and the lists and contents of the lists received by the registrants for a period of five years;

~~(6)~~ (5) That the lists as identified pursuant to subdivision ~~(5)~~ (4) of this section be distributed by the Secretary of State on a quarterly basis and be in written or printed form. A registrant may choose in lieu of receiving a written or printed form to receive statewide lists on microfiche. The Secretary of State may provide for the distribution of the lists on any other medium and establish reasonable charges therefor. The distribution shall be made by either certified or registered mail, return receipt requested.

The Secretary of State shall, by rule and regulation, establish the dates upon which the quarterly distributions will be made, the dates after which a filing of an effective financing statement will not be reflected on the next quarterly distribution of lists, and the dates by which a registrant must complete a registration to receive the next quarterly list; and

~~(7)~~ (6) That the Secretary of State remove lapsed and terminated effective financing statements or notices of such financing statements from the master list prior to preparation of the lists required to be distributed by subdivision ~~(6)~~ (5) of this section.

The Secretary of State shall apply to the Secretary of the United States Department of Agriculture for certification of the central filing system.

The Secretary of State shall deposit any funds received pursuant to subdivision ~~(5)~~ (4) of this section in the Uniform Commercial Code Cash Fund.

Sec. 92. Section 52-1313, Reissue Revised Statutes of Nebraska, is amended to read:

52-1313. (1) Presentation for filing of an effective financing statement and the acceptance of the statement by the ~~county clerk~~ Secretary of State constitutes filing under sections 52-1301 to 52-1321.

(2) The fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing of an effective financing statement, an amendment, or a continuation statement shall be five dollars. There shall be no fee for the filing of a termination statement.

(3) ~~The fees set forth in subsection (2) of this section shall apply to filing of all instruments on paper no smaller than eight by five inches and no larger than eight and one-half by eleven inches in size. For instruments filed on paper of any other size, there shall be added to the fee for filing the sum of three dollars. The fee for attachments to all instruments submitted for filing shall be fifty cents per page, for the first five pages of attachments.~~

(4) ~~Any county clerk receiving a fee under subsection (2) of this section shall, on a monthly basis, forward two dollars of each fee to the Secretary of State for deposit in the Uniform Commercial Code Cash Fund and shall deposit the balance in the county general fund.~~

~~(5) The Secretary of State shall deposit any fees received pursuant to subsection (4) of this section in the Uniform Commercial Code Cash Fund.~~

Sec. 93. Section 52-1315, Reissue Revised Statutes of Nebraska, is amended to read:

52-1315. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall notify the debtor in writing of his or her right to have a notice of lapse of his or her effective financing statement filed which shall lead to the removal of his or her name from the files and lists compiled by the Secretary of State. In lieu of such notice, the secured party may acquire a waiver of the debtor of such right and a request by the debtor that his or her effective financing statement be retained on file. Such notice may be given or waiver acquired by the secured party at any time prior to the time specified in this subsection for giving the notice.

(2) If the secured party does not furnish the notice or obtain the waiver specified in subsection (1) of this section, the secured party shall, within ten days of final payment of all secured obligations, provide the debtor with a written notification of the debtor's right to have a notice of lapse filed. The secured party shall on written demand by the debtor send the debtor a notice of lapse to the effect that he or she no longer claims a security interest under the effective financing statement, which shall be identified by file number. The notice of lapse need only be signed by the secured party.

(3) If the affected secured party fails to send a notice of lapse within ten days after proper demand, pursuant to subsection (2) of this section, he or she shall be liable to the debtor for any loss caused to the debtor by such failure.

(4) On presentation to the ~~county clerk~~ Secretary of State of a notice of lapse, he or she shall treat it as a termination statement and note it in the index. If he or she has received the notice of lapse in duplicate, he or she shall return one copy of the notice of lapse to the filing party stamped to show the time of receipt thereof.

(5) There shall be no fee for filing a notice of lapse or termination statement.

Sec. 94. Section 52-1316, Revised Statutes Supplement, 1997, is amended to read:

52-1316. (1) Oral and written inquiries regarding information provided by the filing of effective financing statements may be made at any county clerk's office or the office of the Secretary of State during regular business hours. The fee for furnishing file information shall be two dollars and fifty cents for each debtor name searched by the county clerk or Secretary of State. Written confirmation of an oral or written inquiry shall be mailed no later than the end of the next business day after the inquiry is received.

(2) The Secretary of State shall provide a system that assigns an identifying number to each inquiry made pursuant to subsection (1) of this section. Such number shall be given to the inquiring party at the time of the oral response and shall be included in the written confirmation. The Secretary of State and the county clerks shall maintain a record of inquiries made under this section identifying who made the inquiry, on whom the inquiry was made, and the date of the inquiry.

(3) The Secretary of State may provide for a computerized system for inquiry and confirmation which may be used in lieu of the inquiry and confirmation under subsection (1) of this section. When such a system is implemented and used, it shall have the same effect as an inquiry and confirmation under subsection (1) of this section.

(4) There shall be no fee charged for actual inspection of records of effective financing statements kept by the county clerk or the Secretary of State for the inspection of ten names or less per day by a single person. There shall be a uniform fee, in addition to any other charge for services payable to the county clerk or the Secretary of State, of one dollar per name for each inspection in excess of ten names per day by a single person.

(5) The county clerk and Secretary of State and their employees or agents shall be exempt from all personal liability as a result of any error or omission in providing information as required by this section except in cases of willful misconduct or gross negligence.

(6) Fees received pursuant to this section by county clerks shall be deposited in the county general fund. Of the fees received pursuant to this section by the Secretary of State for furnishing file information by electronic or other means, one dollar and fifty cents of each fee shall be deposited in the Uniform Commercial Code Cash Fund and one dollar of each fee shall be deposited in the Records Management Cash Fund.

Sec. 95. An effective financing statement filed on or before the operative date of this section, in accordance with section 52-1307, which has not lapsed on or before the operative date of this section, may be continued

by the filing of a continuation statement in accordance with section 52-1314 in the office of the Secretary of State.

Sec. 96. Section 54-201, Reissue Revised Statutes of Nebraska, is amended to read:

54-201. (1) When any person, firm, corporation, partnership, or limited liability company not provided for in subsection (2) of this section shall procure, contract with, or hire any other person to feed and take care of any kind of livestock, the person so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such livestock for the feed and care bestowed by him or her upon the same for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of such feed and care, as long as the holders of any prior liens shall have agreed in writing to the contract for the feed and care of the livestock involved. The person, firm, corporation, partnership, or limited liability company entitled to a lien under this section may foreclose the same in the manner provided by law for foreclosure of secured transactions as provided in article 9, Uniform Commercial Code. Prior to removal of such livestock from his or her premises, the person, firm, corporation, partnership, or limited liability company entitled to a lien shall file in the office of the ~~county clerk~~ Secretary of State an affidavit containing the name and address and the social security number or federal tax identification number of such person, firm, corporation, partnership, or limited liability company and the name and address and the social security number or federal tax identification number, if known, of the person for whom the feeding and keeping were furnished and describing the livestock and setting forth the amount justly due for the feeding and keeping of the same. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feeding and keeping were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

(2) When any person, firm, corporation, partnership, or limited liability company whose residence or principal place of business is located outside the State of Nebraska shall procure, contract with, or hire any other person, firm, corporation, partnership, or limited liability company within the State of Nebraska to feed and take care of any kind of livestock, the person so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such livestock for the feed and care bestowed by him or her upon the same for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of such feed and care. The person, firm, corporation, partnership, or limited liability company entitled to a lien under this subsection may foreclose the same in the manner provided by law for the foreclosure of secured transactions as provided in article 9, Uniform Commercial Code. Prior to removal of such livestock from his or her premises, the person, firm, corporation, partnership, or limited liability company entitled to a lien shall file in the office of the ~~county clerk~~ Secretary of State an affidavit containing the name and address and the social security number or federal tax identification number of such person, firm, corporation, partnership, or limited liability company and the name and address and the social security number or federal tax identification number, if known, of the person for whom the feeding and keeping were furnished and describing the livestock and setting forth the amount justly due for the feeding and keeping of the same. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feeding and keeping were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 97. Section 54-208, Reissue Revised Statutes of Nebraska, is amended to read:

54-208. When any person, firm, partnership, limited liability company, or corporation contracts or agrees with another to deliver any feed or feed ingredients for any kind of livestock, the person, firm, partnership, limited liability company, or corporation so procured, contracted with, agreed with, or hired shall have a lien upon such livestock for the feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients for the agreed-upon contract price or, in case no price has been agreed upon, for the reasonable value of such feed or feed ingredients and related delivery costs, which shall be a first, paramount, and prior lien if the holders of any prior liens have agreed in writing to the contract for the

feed or feed ingredients and related delivery costs. The lien may only be foreclosed against the person who has contracted or agreed for such feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients.

Such person, firm, partnership, limited liability company, or corporation delivering feed or feed ingredients or incurring delivery costs shall file a notice in the office of the ~~county clerk of the county in which such livestock are located~~ Secretary of State. Such notice of lien shall designate:

(1) The name and address and the social security number or federal tax identification number of such person, firm, partnership, limited liability company, or corporation;

(2) The name and address and the social security number or federal tax identification number, if known, of the person for whom such feed or feed ingredients were delivered;

(3) The amount due for such feed or feed ingredients covered by the lien;

(4) The place where such livestock are located;

(5) A reasonable description of such livestock including the number and type of such livestock; and

(6) The last date on which such feed or feed ingredients were delivered.

The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feed or feed ingredients were delivered.

Such lien shall attach and have priority as of the date of the filing if filed in the manner provided in this section and may be foreclosed in the manner and form provided for the foreclosure of secured transactions in article 9, Uniform Commercial Code.

The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Nothing in this section shall be construed to amend or repeal section 54-201 relating to agisters' liens.

Sec. 98. Section 59-1803, Revised Statutes Supplement, 1996, is amended to read:

59-1803. Issuance of a charitable gift annuity does not constitute:

(1) Engaging in business as a trust company subject to sections ~~8-201 to 8-233~~ the Nebraska Trust Company Act;

(2) Engaging in the business of insurance subject to Chapter 44;

(3) Engaging in an act in violation of sections 59-801 to 59-831; or

(4) Engaging in an act in violation of the Uniform Deceptive Trade Practices Act. Conduct other than issuance of a charitable gift annuity, including the marketing of a charitable gift annuity, is not exempt from application of the Uniform Deceptive Trade Practices Act pursuant to this subdivision.

Sec. 99. Section 77-3902, Reissue Revised Statutes of Nebraska, is amended to read:

77-3902. For purposes of the Uniform State Tax Lien Registration and Enforcement Act:

(1) Appropriate filing officer shall mean the ~~clerk of any county in which the taxpayer resides, in which the principal office of the corporation is located, or in which the registered agent is located or the register of deeds of any county in which real property belonging to the taxpayer is situated~~ Secretary of State; and

(2) Any reference to tax, taxes, fee, or tax program shall be construed to include any tax or fee which is imposed by the laws of this state and administered or collected and enforced by the Tax Commissioner or Property Tax Administrator, unless a tax lien is otherwise provided for by law.

Sec. 100. Section 77-3903, Reissue Revised Statutes of Nebraska, is amended to read:

77-3903. (1) When a notice of a lien provided for in the Uniform State Tax Lien Registration and Enforcement Act is filed, the appropriate filing officer shall enter the notice in the ~~alphabetical~~ state's central tax lien index, showing on one line the name and residence of the person liable named in such notice, the social security number or the federal tax identification number of such person, the Tax Commissioner's or Property Tax Administrator's serial number of such notice, the date and hour of filing, and the amount due. Such filings with the Secretary of State may be filed by direct input to the Secretary of State's database or by other electronic means. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices, except that in offices filing by the

roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained. ~~The appropriate filing officer, upon the day of receipt of a lien filed pursuant to the Uniform State Tax Lien Registration and Enforcement Act, shall transmit to the Secretary of State the information required by subsection (2) of section 9-414, Uniform Commercial Code.~~

(2) The fee for filing, releasing, continuing, subordinating, or terminating such liens shall be as prescribed in section 9-403, Uniform Commercial Code. ~~The retention and distribution of such fees shall be as provided in subsection (9) (10) of section 9-403, Uniform Commercial Code.~~

(3) The appropriate filing officer shall bill the Tax Commissioner or Property Tax Administrator on a monthly basis for fees for documents filed with such officer. No payment of any fee shall be required at the time of filing any such lien document.

Sec. 101. Section 9-303, Uniform Commercial Code, is amended to read:
U9-303. When security interest is perfected; continuity of perfection.

(1) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in sections 9-115, 9-302, 9-304, 9-305 and 9-306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(2) If a security interest is originally perfected in any way permitted under this article and is subsequently perfected in some other way under this article, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this article.

Sec. 102. Section 9-312, Uniform Commercial Code, is amended to read:
U9-312. Priorities among conflicting security interests in the same collateral.

(1) The rules of priority stated in other sections of this part and in the following sections shall govern when applicable: section 4-210 with respect to the security interest of collecting banks in items being collected, accompanying documents, and proceeds; section 9-103 on security interests related to other jurisdictions; section 9-114 on consignments; section 9-115 on security interests in investment property.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if:

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory;

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party or (ii) before the beginning of the twenty-one-day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of section 9-304);

(c) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within twenty days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, by the taking of possession, or under section 9-115 or section 9-116 on investment property, the security interest has the same priority for the purposes of subsection (5) of this section or subsection (5) of section 9-115 with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Sec. 103. Section 9-401, Uniform Commercial Code, is amended to read:

9-401. Place of filing; erroneous filing; change of residence or place of business; removal of collateral.

(1) The proper place to file in order to perfect a security interest is as follows:

(a) ~~When the collateral is (i) equipment used in farming operations, (ii) farm products, including crops growing or to be grown, (iii) farm products which become inventory of a person engaged in farming, (iv) accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or (v) consumer goods, then in the office of the county clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county clerk in the county where the goods are kept or grown.~~

~~(b) When the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, or when the financing statement is filed as a fixture filing (section 9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded.~~

~~(c) (b) In all other cases, in the office of the Secretary of State.~~

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed. A debtor's residence is presumed to be the residence shown on the filing. The showing of an improper residence shall not affect the validity of the filing or the perfection of such filing.

(4) The rules stated in section 9-103 determine whether filing is necessary in this state.

(5) Notwithstanding the preceding subsections, and subject to subsection (3) of section 9-302, the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. This filing constitutes a fixture filing (section 9-313) as to the collateral described therein which is or is to become fixtures.

~~(6) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one place of business.~~

Sec. 104. Section 9-402, Uniform Commercial Code, is amended to read:

9-402. Formal requisites of financing statement; amendments; fees; mortgage as financing statement; substantial compliance; effect.

(1) A financing statement may be in a form prescribed by the Secretary of State and is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. The Secretary of State shall

require that secured party may include the social security number or the federal tax identification number of both the secured party and the debtor be provided on the financing statement and other related filings, if available. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, or when the financing statement is filed as a fixture filing (section 9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5) of this section. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic, electronic, or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original, including an electronic original, has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) proceeds under section 9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed; or
 (d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

(3) The Secretary of State shall prescribe a form substantially as follows to comply with subsection (1):

Name of debtor (or assignor)
 Address
 Name of secured party (or assignee)
 Address

1. This financing statement covers the following types (or items) of property:

(Describe)

2. (If collateral is crops) The above described crops are growing or are to be grown on:
 (Describe real estate)

3. (If applicable) The above goods are to become fixtures on (Describe real estate) and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

4. (If products of collateral are claimed) Products of the collateral are also covered.

Signature of debtor (or assignor)
 Signature of secured party (or assignee)

(4) Except as provided in this subsection, a financing statement may be amended by filing a writing signed by both the debtor and the secured party, except that an amendment filed to show a change of the name of the secured party, the address of the secured party, or both is sufficient when it is signed only by the secured party. The Secretary of State may adopt rules and regulations for the change of a secured party's name or address on multiple financing statements by use of a single amendment, including a reasonable fee for processing of the amendment. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. Except as provided in this subsection, the fee for such filings shall be as provided in subsection (5) of section 9-403. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, or a financing statement filed as a fixture filing (section 9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for

record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, limited liability company, or corporate name of the debtor, whether or not it adds other trade names or the names of the partners or members. Where the debtor so changes his or her name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. The failure to include the social security number or the federal tax identification number shall not render any filing unperfected.

Sec. 105. Section 9-403, Uniform Commercial Code, is amended to read:
9-403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer; uniform fees; fee distribution.

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) Except as provided in subsection (6) of this section, a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five-year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2) of this section. Any such continuation statement must be signed by the secured party, identify the original statement by file number, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsections (2) and (3) of section 9-405, including payment of the required fee, or reflect that the person signing the continuation statement is a successor of the secured party of record. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The provisions of this subsection shall be applied retroactively to any continuation statement filed before the operative date of this section and to any claim or cause of action which has not been finally adjudicated on the operative date of this section.

~~(4)~~ Except (4)(a) Until July 1, 1999, except as provided in

subsection (7) of this section, a filing officer shall mark each statement or other document with a consecutive file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(b) Beginning July 1, 1999, except as provided in subsection (7) of this section, a filing officer shall mark or identify each statement or other document with a consecutive file number and with the date and hour of filing and shall make available the statement or a microfilm or other photographic or electronically reproduced copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) (a) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement, an amendment, a separate statement of assignment, a continuation statement, a partial release, or a full release shall be six dollars. There shall be no fee for the filing of a termination statement. The uniform fee for each name more than one required to be indexed shall be four dollars. The secured party may at his or her option show a trade name for any person and an extra uniform indexing fee of four dollars shall be paid with respect thereto.

(b) The uniform fee for filing and indexing and for stamping a copy furnished by a lienholder to show the date and place of filing of a lien or an amendment, a lien-notification statement, a separate statement of assignment, a certificate of discharge or subordination, a notice, a certificate of release or nonattachment, partial release, or full release of a lien filed pursuant to Chapter 52, article 2, 5, 7, 9, 10, 11, 12, or 14, Chapter 54, article 2, or Chapter 77, article 39, shall be six dollars. The uniform fee for each name more than one required to be indexed shall be four dollars.

(6) If the debtor is a transmitting utility (subsection (5) of section 9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he or she were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

(8) The provisions of subsections (2) and (3) of this section shall not apply to mortgages or deeds of trust and instruments supplementary or amendatory thereto covering real estate as well as personal property where such property constitutes a portion of the property used in carrying on the business of a public utility or a gas or oil pipeline system and which are executed to secure the payment of money. The lien of such mortgages or deeds of trust and amendments and supplements thereto shall continue in force and effect as to the personal property described therein, together with any interest of the mortgagor in real estate therein described even if the same has been on file five years or more. The instruments filed shall disclose that the mortgagor or grantor therein is then carrying on the business of a public utility or an oil or gas pipeline system or such fact shall be disclosed by an affidavit of the mortgagor or grantor to that effect filed for record with the county clerk.

(9) ~~Any~~ Until July 1, 1999, any county clerk receiving a fee under subsection (5) of this section for filing any document from which information is required to be transmitted to the Secretary of State shall on a monthly basis forward two dollars of each four-dollar fee and three dollars of each six-dollar fee received pursuant to subsection (5) of this section to the Secretary of State for deposit in the Uniform Commercial Code Cash Fund.

~~(10)~~ The (10) (a) Until July 1, 1999, the Secretary of State shall deposit two dollars of each four-dollar fee and three dollars of each six-dollar fee received pursuant to subsection (5) of this section in the Uniform Commercial Code Cash Fund.

(b) Beginning July 1, 1999, the Secretary of State shall deposit each fee received pursuant to subsection (5) of this section in the Uniform Commercial Code Cash Fund.

Sec. 106. Section 9-404, Uniform Commercial Code, is amended to read:

9-404. Termination statement; fee.

(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must on written demand by the debtor send the debtor a termination statement to the effect that he or she no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with subsection (2) of section 9-405, including payment of the required fee, or reflect that the person signing the termination statement is a successor of the secured party of record. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he or she shall be liable to the debtor for any loss caused to the debtor by such failure and for reasonable attorney's fees and court costs.

(2) On presentation to the filing officer of such a termination statement he or she must note it in the index. If he or she has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof.

(3) The fee for such filings shall be as provided in subsection (5) of section 9-403.

Sec. 107. Section 9-405, Uniform Commercial Code, is amended to read:

9-405. Assignment of security interest; duties of filing officer; fees.

~~(1) A (1)(a) Until July 1, 1999, a financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in section 9-403(4) subsection (4) of section 9-403.~~

(b) Beginning July 1, 1999, a financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark or identify the same as provided in subsection (4) of section 9-403.

~~(2) A (2)(a) Until July 1, 1999, a secured party may assign of record all or a part of his or her rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement as provided in section 9-403. He or she shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, he or she shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he or she shall index the assignment of the financing statement under the name of the assignee. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of section 9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than sections 1-105, 1-201, 2-107, 9-102 to 9-106, 9-114, 9-203 to 9-205, 9-301, 9-302, 9-304 to 9-308, 9-312, 9-313, 9-318, 9-401 to 9-407, 9-409, 9-501, 9-502, 9-504, and 9-505.~~

(b) Beginning July 1, 1999, a secured party may assign of record all or a part of his or her rights under a financing statement by the filing in the office of the Secretary of State of a separate written statement of

assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark or identify such separate statement as provided in subsection (4) of section 9-403. He or she shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, he or she shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he or she shall index the assignment of the financing statement under the name of the assignee. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of section 9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than sections 1-105, 1-201, 2-107, 9-102 to 9-106, 9-114, 9-203 to 9-205, 9-301, 9-302, 9-304 to 9-308, 9-312, 9-313, 9-318, 9-401 to 9-407, 9-409, 9-501, 9-502, 9-504, and 9-505.

(3) After the disclosure or filing of an assignment under this section the assignee is the secured party of record. A successor of a secured party of record shall be deemed to be the secured party of record without the necessity of disclosure or filing of an assignment under this section.

(4) The fee for such filings shall be as provided in subsection (5) of section 9-403.

Sec. 108. Section 9-406, Uniform Commercial Code, is amended to read:

9-406. Release of collateral; duties of filing officer; fees.

A secured party of record may by his or her signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsections (2) and (3) of section 9-405, including payment of the required fee, or reflect that the person signing the statement of release is a successor of the secured party of record. Upon presentation of such a statement of release to the filing officer he or she shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing or the financing statement. The fee for such filing shall be as provided in subsection (5) of section 9-403.

Sec. 109. Section 9-408, Uniform Commercial Code, is amended to read:

9-408. Uniform size for instrument; filing nonuniform size; filing fee; attachments; Attachments; filing fee.

The fees set forth in the Uniform Commercial Code, article 9, part 47, shall apply to filing of all instruments on paper no smaller than eight by five inches and no larger than eight and one-half by eleven inches in size. For instruments filed on paper of any other size there shall be added to the uniform fee for filing the sum of three dollars. The fee for attachments to all instruments submitted for filing shall be fifty cents per page, for the first five pages of attachments.

Sec. 110. Section 9-412, Uniform Commercial Code, is amended to read:

9-412. Filings; statements filed prior to July 1, 1983 July 1, 1999; how treated.

A filing which is made in the proper place in this state prior to July 1, 1983, continues to be effective even though under sections 9-401, and 9-410 to 9-412 the place of filing has been changed. The effectiveness of any financing statement or continuation statement filed prior to July 1, 1983, may be continued by a continuation statement or amended as permitted by the Uniform Commercial Code, except that if sections 9-401 and 9-410 to 9-412 require a filing in an office where there was no previous financing statement, a new financing statement meeting the requirements of 9-403, except as provided in this section, shall be filed in that office. Such new financing statement operating as a continuation statement may be filed within six months before the perfection of the security interest would otherwise lapse. Any

such financing statement may be signed by either the debtor or the secured party. It shall identify the original financing statement and any amendment or continuation thereof, state the office where and the date when each filing was made, and state the filing number thereof. (1) A financing statement or continuation statement which was filed in the proper place in this state prior to the operative date of this section, which has not lapsed by December 31, 1999, and for which the place of filing has been changed pursuant to section 9-401 shall lose its perfection unless a new continuation statement is filed with the Secretary of State on or after the operative date of this section but on or before December 31, 1999. Such continuation statement shall identify the original statement by county, file number, and date and time of filing, list the collateral of the original filing and include a statement that the original financing statement is still effective. The filing of a new continuation statement shall preserve the priority of the original filing and shall be effective for five years from the expiration of the original filing or any continuation statement filed before the operative date of this section.

(2) The effectiveness of a financing statement or continuation statement which was filed in the proper place in this state prior to the operative date of this section, that lapses on or after the operative date of this section, but on or before December 31, 1999, and for which the place of filing has been changed pursuant to section 9-401 may be continued by the filing of a continuation statement with the Secretary of State in accordance with the provisions of subsection (3) of section 9-403. If the effectiveness of a financing statement or continuation statement is continued by the filing of a continuation statement prior to the operative date of this section, such financing statement or continuation statement must be continued by the timely filing of a continuation statement in accordance with the provisions of subsection (1) of this section.

(3) The priority of a security interest is not affected by the fact that a continuation statement filed in accordance with this section is filed at a different place than the original financing statement.

Sec. 111. Section 9-413, Uniform Commercial Code, is amended to read:
9-413. Filing system; legislative intent.

It is the intent of the Legislature to establish a comprehensive and efficient system that will simplify the filing of security interests and the retrieval of information concerning security interests. Such a system will allow a party to perfect its security interest with a single filing at one location and eliminate any need for the filing of security interests at multiple locations. Such a system will also allow for the filing of statutory liens and effective financing statements pursuant to section 52-1307 at the same location. The system shall be designed so that ease of filing and retrieval of information by users of the system be given priority.

It is the intent of the Legislature to create a readily available system of filing under the Uniform Commercial Code which will provide for original filings to be made in the office of the county clerk where the debtor resides when the collateral is:

- (1) Equipment used in farming operations;
- (2) Farm products, including, but not limited to, crops growing or to be grown;
- (3) Farm products which have become inventory of a person engaged in farming;
- (4) Accounts or general intangibles arising out of or relating to the sale of farm products by a person engaged in farming; or
- (5) Consumer goods.

The original filing in all other cases shall be in the office of the Secretary of State except when the collateral is that described in subdivision (1)(a) of section 9-401.

It is the intent of the Legislature that sufficient information relative to items described in subdivisions (1) to (4) of this section be transmitted by the county clerk to the Secretary of State

It is the intent of the Legislature that sufficient information relative to filings under the Uniform Commercial Code and filings of statutory liens be provided to and retained by the Secretary of State to permit determination of whether or not financing statements, assignments, and other Uniform Commercial Code documents and statutory liens and amendments, releases, and terminations of such statutory liens have been filed and where they are located and that the information be readily accessible by various means of inquiry, including, but not limited to, in person, mail, and telephone and other electronic media including computers.

It is further the intent of the Legislature that the Secretary of State implement a system to accept direct filings, paper filings, and filings

by electronic media and to accommodate the filing of statutory liens and financing statements, amendments to financing statements, continuation statements, termination statements, releases of collateral, and amendments, releases, and terminations of statutory liens with the Secretary of State.

Sec. 112. Section 9-414, Uniform Commercial Code, is amended to read:

9-414. Filing information; county clerk; register of deeds; Secretary of State; duties. + fees-

(1) Upon receipt of a financing statement, an amendment to a financing statement, an assignment, a continuation statement, a termination statement, or a release of collateral, relating to (a) equipment used in farming operations; (b) farm products, including crops growing or to be grown; (c) farm products which become inventory of a person engaged in farming; or (d) accounts or general intangibles arising from or relating to the sale of farm products by a farmer, each county clerk shall on the day of receipt transmit to the Secretary of State the following document information:

(i) Identification of the document and the county where the original document may be found;

(ii) Document number;

(iii) Name and address of the debtor or debtors;

(iv) Name and address of the creditor or creditors;

(v) Type or types of goods covered;

(vi) Date and time of filing; and

(vii) Social security number or federal tax identification number of the debtor or debtors, if available.

(2) Upon receipt of a lien filed pursuant to Chapter 52, article 2, 5, 7, 9, 10, 11, 12, or 14, Chapter 54, article 2, or Chapter 77, article 39, or an amendment, release, or termination of such lien, the county clerk or register of deeds shall on the day of receipt transmit to the Secretary of State the following document information:

(a) Identification of the document and the county where the original document may be found;

(b) Document number;

(c) Name and address of the debtor or debtors;

(d) Name and address of the lienholder or lienholders;

(e) Type or types of property covered;

(f) Date and time of filing;

(g) Social security number or federal tax identification number of the debtor or debtors, if known; and

(h) Social security number or federal tax identification number of the lienholder or lienholders.

(1) Upon receipt of a financing statement, an amendment to a financing statement, an assignment, a continuation statement, a termination statement, or a release of collateral, relating to any collateral except collateral described in subdivision (1)(a) of section 9-401, the Secretary of State shall on the day of receipt record and index the following document information:

(a) Identification of the document and the fact that the original document was filed with the Secretary of State;

(b) Document number;

(c) Name and address of the debtor or debtors;

(d) Name and address of the creditor or creditors;

(e) Type or types of goods covered;

(f) Date and time of filing; and

(g) Social security number or federal tax identification number of the debtor or debtors, if available.

(2) Upon receipt of a lien filed pursuant to Chapter 52, article 2, 5, 7, 9, 10, 11, 12, or 14, Chapter 54, article 2, or Chapter 77, article 39, an amendment, release, or termination of such lien, the Secretary of State shall on the day of receipt record and index the following document information:

(a) Identification of the document and the fact that the original document was filed with the Secretary of State;

(b) Document number;

(c) Name and address of the debtor or debtors;

(d) Name and address of the lienholder or lienholders;

(e) Type or types of property covered;

(f) Date and time of filing;

(g) Social security number or federal tax identification number of the debtor or debtors, if known; and

(h) Social security number or federal tax identification number of the lienholder or lienholders.

~~(3) For each filing, amendment, separate statement of assignment, certificate of discharge or subordination, notice, certificate of release or nonattachment, partial release, or full release of a lien filed pursuant to Chapter 52, article 27, 57, 77, 97, 107, 117, 127, or 147, Chapter 54, article 27, or Chapter 77, article 39, the county clerk or register of deeds shall charge such fees as are set forth in section 9-403. The retention and distribution of such funds shall be the same as is provided for fees under subsection (4) of section 9-403.~~

~~(4) Upon receipt of information transmitted pursuant to this section, the (3) The Secretary of State shall record and index the information received under subsections (1) and (2) of this section so that such information shall be available for the following types of inquiry: In person, written, and telephone and other electronic medium media, including computers, except that information relative to security interests in crops growing or to be grown shall continue to be available for inquiry in the same manner as provided in section 9-411 before July 1, 1983.~~

Sec. 113. Section 9-415, Uniform Commercial Code, is amended to read:
9-415. Secretary of State; implementation of centralized computer system.

The Secretary of State shall implement a centralized computer system for the accumulation and dissemination of information relative to financing statements and other necessary Uniform Commercial Code documents for any type of collateral except collateral described in subdivision (1)(a) of section 9-401, whenever the collateral is equipment used in farming operations, farm products, farm products which have become inventory of a person engaged in farming, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer. Such a system shall include the entry of information relative to notice of liens into the computer system by the Secretary of State pursuant to section 9-414 by county clerks and the dissemination of such information by a computer system or systems, telephone, mail, and such other means of communication as may be deemed appropriate. Such system shall be designed as an interactive system.

Computer access to information regarding obligations of debtors shall be made available twenty-four hours a day on every day of the year. The Secretary of State shall provide information from the system by telephone during normal business hours.

The centralized computer system implemented pursuant to this section shall include information relative to effective financing statements as provided in sections 52-1301 to 52-1321 and statutory liens as provided in sections 52-1601 to 52-1605.

Sec. 114. Section 9-420, Uniform Commercial Code, is amended to read:
9-420. Uniform Commercial Code Cash Fund; created; use; Secretary of State; furnish printers duties; fees.

(1) There is hereby created the Uniform Commercial Code Cash Fund. All funds received pursuant to sections 9-403, 9-408, and 9-411, Uniform Commercial Code, and sections 52-1312, 52-1313, 52-1316, and 52-1602 shall be placed in the fund and used by the Secretary of State to carry out subsection (2) of this section, sections 9-401, 9-403, and 9-411 to 9-415, Uniform Commercial Code, and sections 52-1301 to 52-1321, except that transfers from the Uniform Commercial Code Cash Fund to the General Fund may be made at the direction of the Legislature and except as otherwise specifically provided by law.

~~42) (2)(a) The Secretary of State shall furnish each county clerk a printer compatible with the centralized computer system established pursuant to section 9-415, Uniform Commercial Code.~~

(b) Not later than June 30, 1999, the Secretary of State shall furnish each county clerk with computer terminal hardware compatible with the centralized computer system established pursuant to section 9-415, Uniform Commercial Code, for inquiries and searches of information in such centralized computer system. The terminals shall be readily and reasonably available and accessible to members of the public for such inquiries and searches.

(c) On and after July 1, 1999, the fees charged by county clerks for inquiries and other services regarding information in the centralized computer system shall be the same as set forth for filing officers in section 9-411, Uniform Commercial Code, so the county clerk is able to mail written confirmation of inquiries by the end of the next business day as required by section 52-1316.

Sec. 115. Sections 79 to 97, 99, 100, 103, 104, 109 to 113, and 116 of this act become operative on July 1, 1999. Sections 1 to 66, 68 to 70, 72 to 74, 76 to 78, 98, 101, 102, 114, and 117 of this act become operative three calendar months after the adjournment of this legislative session. The other

sections of this act become operative on their effective date.

Sec. 116. Original sections 52-202, 52-203, 52-501, 52-701, 52-902, 52-1001, 52-1003, 52-1004, 52-1008, 52-1102, 52-1202, 52-1307, 52-1312, 52-1313, 52-1315, 54-201, 54-208, 77-3902, and 77-3903, Reissue Revised Statutes of Nebraska, section 52-1316, Revised Statutes Supplement, 1997, and sections 9-401, 9-402, 9-408, and 9-412 to 9-415, Uniform Commercial Code, are repealed.

Sec. 117. Original sections 8-101, 8-113 to 8-115, 8-121, 8-124, 8-126, 8-128, 8-132, 8-159 to 8-162, 8-169, 8-185, 8-187, 8-190, 8-193, 8-197, 8-198, 8-1,102 to 8-1,104, 8-1,116, 8-1,119, 8-1,120, 8-201, 8-203, 8-205 to 8-206, 8-209, 8-211 to 8-215, 8-218, 8-219, 8-222, 8-223, 8-225, 8-229.01, 8-230, 8-602, 8-909, 8-910, 8-1602, 8-1603, 8-2102, and 21-2028, Reissue Revised Statutes of Nebraska, sections 28-612, 30-3209, and 59-1803, Revised Statutes Supplement, 1996, and sections 9-303, 9-312, and 9-420, Uniform Commercial Code, are repealed.

Sec. 118. Original sections 8-355, 8-911, and 21-17,115, Reissue Revised Statutes of Nebraska, and sections 9-403 to 9-406, Uniform Commercial Code, are repealed.

Sec. 119. Since an emergency exists, this act takes effect when passed and approved according to law.