

LEGISLATIVE BILL 1094

Approved by the Governor April 17, 2002

Introduced by Landis, 46

AN ACT relating to banking and finance; to amend sections 8-102, 8-103, 8-116, 8-122, 8-157, 8-601, 8-815, 8-1511, 21-1335, 21-1755, 21-17,131, 62-301, 64-212, 64-213, and 77-3801, Reissue Revised Statutes of Nebraska, and sections 8-602 and 28-612, Revised Statutes Supplement, 2000; to eliminate cooperative credit associations; to harmonize provisions; to repeal the original sections; and to outright repeal sections 8-103.01, 8-117, 8-117.01, 8-122.01, and 21-1308 to 21-1332, Reissue Revised Statutes of Nebraska.

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

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

8-102. The department shall, under the laws of this state specifically made applicable to each, have general supervision and control over banks, trust companies, industrial loan and investment companies, ~~cooperative credit associations~~, credit unions, and building and loan associations; all of which are hereby declared to be quasi-public in nature and subject to regulation and control by the state.

Sec. 2. Section 8-103, Reissue Revised Statutes of Nebraska, is amended to read:

8-103. (1) The director shall have charge of and full supervision over the examination of banks and the enforcement of compliance with the statutes by banks and their holding companies in their business and functions and shall constructively aid and assist banks in maintaining proper banking standards and efficiency. The director shall also have charge of and full supervision over the examination of and the enforcement of compliance with the statutes by trust companies, building and loan associations, industrial loan and investment companies, and credit unions, ~~and cooperative credit associations~~ in their business and functions and shall constructively aid and assist trust companies, building and loan associations, ~~and industrial loan and investment companies, and cooperative credit associations~~ in maintaining proper standards and efficiency.

(2) If the director is financially interested directly or indirectly in any financial institution doing business in Nebraska, subject to his or her jurisdiction, the financial institution shall be under the direct supervision of the Governor, and as to such financial institution, the Governor shall exercise all the supervisory powers otherwise vested in the Director of Banking and Finance by the laws of this state, and reports of examination by state bank examiners, foreign state bank examiners, examiners of the Federal Reserve Board, examiners of the Office of the Comptroller of the Currency, and examiners for the Federal Deposit Insurance Corporation shall be transmitted to the Governor.

(3) (a) No person employed by the department shall be permitted to borrow money from any financial institution doing business in Nebraska subject to the jurisdiction of the department, except that persons employed by the department may borrow money in the normal course of business from the Nebraska State Employees Credit Union.

(b) In the event a loan to a person employed by the department is sold or otherwise transferred to a financial institution doing business in Nebraska and subject to the jurisdiction of the department, no violation of this section occurs if (i) the person employed by the department did not solicit the sale or transfer of the loan and (ii) the person employed by the department gives notice to the director of such sale or transfer. The director, in his or her discretion, may require such person to make all reasonable efforts to seek another lender.

(4) Any person who intentionally violates this section or who aids, abets, or assists in a violation of this section shall be guilty of a Class IV felony.

Sec. 3. Section 8-116, Reissue Revised Statutes of Nebraska, is amended to read:

8-116. (1) A charter for a bank hereafter organized shall not be issued unless the corporation applying therefor shall have a surplus of not less than fifty thousand dollars or fifty percent of its paid-up capital stock, whichever is greater, and a paid-up capital stock as follows: In villages or counties of less than one thousand inhabitants, one hundred

thousand dollars; in cities, villages, or counties of one thousand or more and less than twenty-five thousand inhabitants, not less than one hundred fifty thousand dollars; in cities or counties of twenty-five thousand or more and less than one hundred thousand inhabitants, not less than two hundred thousand dollars; and in cities or counties of one hundred thousand or more inhabitants, not less than five hundred thousand dollars. Such corporation shall also have minimum paid-in undivided profits of not less than twenty percent of its paid-up capital stock.

(2) Notwithstanding subsection (1) of this section, ~~(a) the department shall have the authority to determine the minimum amount of paid-up capital stock, surplus, and paid-in undivided profits required for any corporation applying for a bank charter, other than an applicant which has agreed to acquire substantially all of the assets and liabilities of a cooperative credit association, which amounts shall not be less than the amounts provided in subsection (1) of this section. 7 and (b) the amount of paid-up capital stock, surplus, and paid-in undivided profits required of an applicant which has agreed to acquire substantially all of the assets and liabilities of a cooperative credit association shall be five hundred thousand dollars.~~

(3) For purposes of this section, population shall be determined by the most recent federal decennial census.

Sec. 4. Section 8-122, Reissue Revised Statutes of Nebraska, is amended to read:

8-122. (1) After the examination and approval by the department of the application required by section 8-120, if the department upon investigation and after the public hearing on the application shall be satisfied that the stockholders and officers of the corporation applying for such charter are parties of integrity and responsibility, that the requirements of section 8-702 have been met, and that the public necessity, convenience, and advantage will be promoted by permitting such corporation to engage in business as a bank, the department shall, upon the payment of the required fees, and, upon the filing with the department of a statement, under oath, of the president, secretary, or treasurer, that the paid-up capital stock, surplus, and undivided profits have been paid in, as determined by the department in accordance with section 8-116, issue to such corporation a charter to transact the business of a bank in this state provided for in its articles of incorporation. ~~(a) In the case of a bank organized to merge with an existing bank, there shall be a rebuttable presumption that the public necessity, convenience, and advantage will be met by the merger of the two banks, except that such presumption shall not apply when the new bank that is formed by the merger is at a different location than that of the former existing bank. Any application for merger under this subdivision subsection shall be subject to section 8-1516.~~

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

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

Sec. 5. Section 8-157, Reissue Revised Statutes of Nebraska, is amended to read:

8-157. (1) Except as provided in subsections (2) through (11) of this section and ~~sections 8-122.01 and section 8-2104~~, the general business of every bank shall be transacted at the place of business specified in its charter.

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

(b) With the approval of the director, any bank located in a Class I or Class III county may establish and maintain in Class I and Class III

counties an unlimited number of detached branch banks at which all banking transactions allowed by law may be made.

(c) (i) With the approval of the director, any bank located in a Class II county may establish and maintain not more than the number of detached branch banks permitted under subdivision (2) (c) (ii) of this section at which all banking transactions allowed by law may be made.

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

(B) If the bank is located within the zoning jurisdiction of a city of the primary class or is located within an unincorporated city or unincorporated area in a county which contains a city of the primary class, such bank may establish and maintain not more than nine such detached branch banks and such detached branch banks may also be within the corporate limits of such city if the bank was in existence at such location prior to April 4, 1996.

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

(e) Any detached branch bank established and maintained by a bank pursuant to an acquisition or merger under sections 8-1506 to 8-1510 or an acquisition under section 8-1515 shall not be subject to the limitations as to location and number of locations of detached branch banks contained in subdivisions (b), (c), and (d) of this subsection.

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

(g) For purposes of this section:

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

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

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

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

(3) With the approval of the director, a bank may acquire another financial institution in Nebraska as the result of a purchase or merger pursuant to section 8-1516. Any detached branch banks established and maintained by a bank pursuant to a purchase or merger under section 8-1516 shall not be subject to the limitations as to location and number of locations of detached branch banks contained in subdivisions (2) (b), (2) (c), and (2) (d) of this section. If the acquired institution is in a Class I county or in a Class III county, following a purchase or merger pursuant to this subsection the acquiring bank may establish and maintain a mobile branch bank and detached branches to the same extent that the acquired institution could have established and maintained a mobile branch bank and detached branches as provided in subdivisions (2) (b) and (2) (f) of this section or section 8-345.02

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

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

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

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

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

For purposes of this subsection, financial institution means a bank, savings bank, building and loan association, or savings and loan association organized under the laws of this state or organized under the laws of the United States to do business in this state.

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

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

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

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

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

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

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

For purposes of this subsection:

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

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

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

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

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

(11) Upon receiving an application for a detached branch bank to be established pursuant to subdivision (2)(b), (2)(c), or (2)(d) of this section, the director shall hold a public hearing on the matter if he or she determines, in his or her discretion, that the condition of the applicant bank warrants a hearing. If the director determines that the condition of the bank

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

Sec. 6. Section 8-601, Reissue Revised Statutes of Nebraska, is amended to read:

8-601. (1) To pay the salary and necessary expense of examiners and examiners' helpers and such sum, if any, as may be required, in excess of the sum appropriated for the Department of Banking and Finance, for the payment of the salaries of the Director of Banking and Finance, his or her deputies, attorneys, and assistants, there shall be levied upon the banks, organized under the laws of this state, and trust companies, building and loan associations, industrial loan and investment companies, credit unions, ~~cooperative credit associations,~~ and holding companies, if any, of such institutions, organized under the laws of this state or authorized to do business in this state, an assessment each year based upon two factors: (a) A single assessment fee based upon the asset size of the institution, except that in determining the asset size of a holding company, the assets of any financial institution or holding company otherwise assessed pursuant to this section and the assets of any nationally chartered financial institution shall be excluded; and (b) an assessment based upon the number of hours spent on the examination. The assessment shall be a sum determined by the director and approved by the Governor as set forth in this subsection and subject to the additional assessments and adjustments referred to in subsection (3) of this section.

(2) The assessment referred to in subsection (1) of this section and the additional assessments provided for by subsection (3) of this section shall be paid by such banks, trust companies, building and loan associations, industrial loan and investment companies, credit unions, ~~cooperative credit associations,~~ and holding companies, if any, of such institutions on the order of the director to the State Treasurer who shall place the same in the Financial Institution Assessment Cash Fund, which is hereby created and which shall be used solely for the purposes hereinafter specified. The amount of the assessment shall be the sum estimated by the director as necessary for the fiscal year to pay the following items: (a) Salaries of examiners and examiners' helpers; (b) the necessary expenses incurred by examiners and examiners' helpers in the discharge of their duties incident to the examination of the institutions enumerated in this section; and (c) such sum, if any, as may be required, in excess of the sum appropriated for the department, for the payment of the salary and expenses of the director, his or her deputies, attorneys, and assistants, and in addition there shall be included in the assessment to be paid by banks organized under the laws of this state, the salaries and expenses of examiners and examiners' helpers attending a school for examiners. As soon as reasonably possible after June 30 of each year, the director shall estimate the total sum required for the above purposes. The director shall also estimate the total number of days to be used by examiners and examiners' helpers in the examination and supervision of the institutions enumerated in this section during the fiscal year, taking into account the experience of the preceding year. The total estimated fund shall be divided by the total number of days estimated, as above specified, and the quotient shall be the unit of assessment against the individual institutions, which unit is hereinafter referred to as the per diem unit. The assessment upon each institution shall be based upon a percentage fee of total assets in each institution and a per diem fee for the number of hours spent in examination as determined by the director. The director shall set the per diem fee based on (i) the number of per diem units required to examine the respective institutions during the fiscal year for which the estimate is made, taking into account the experience of the previous year, and (ii) in case of institutions organized under the laws of the states other than the State of Nebraska, the estimated traveling expense involved in making the examination. If the estimated sum levied and collected is insufficient to defray the

expenditures, as provided in this section, for the fiscal year for which it was made, a special assessment may be levied and collected in like manner for the balance of the fiscal year.

(3) At the end of the fiscal year for which the assessment is made, the director shall forward to each of such institutions subject to such an assessment, as provided for by subsections (1) and (2) of this section, a statement for as many per diem units as the days actually used in the examination of the institution exceeds that which was estimated, under the provisions of subsection (2) of this section, which shall be paid on the demand of the director in the same manner as the original assessment. If the number of days actually used is less than that estimated for any such institution, the difference shall stand to the credit of such institution for a subsequent year's assessment. In case an extra examination of any institution should become necessary and be made, the reasonable cost thereof shall be determined and shall be paid by the institution so examined.

Sec. 7. Section 8-602, Revised Statutes Supplement, 2000, 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;

(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)~~ (5) For affixing certificate and seal, five dollars;

~~(7)~~ (6) 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)~~ (7) For making substitution of securities held by it and issuing a receipt, fifteen dollars;

~~(9)~~ (8) For issuing a certificate of approval to a credit union, ten dollars;

~~(10)~~ (9) 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~~ section 8-201, 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~~ section 8-201 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)~~ (10) For registering a statement of intention to engage in the business of making personal loans pursuant to section 8-816, fifty dollars;

~~(12)~~ (11) To meet the expense of safekeeping securities as provided in section 8-210, the company, national bank, 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)~~ (12) 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)~~ (13) For investigating an application for approval to establish or acquire a detached branch bank pursuant to section 8-157, two hundred fifty dollars;

~~(15)~~ (14) For filing a notice to establish an automatic teller machine, fifteen dollars;

~~(16)~~ (15) For investigating a notice of acquisition of control under subsection (1) of section 8-1502, five hundred dollars;

~~(17)~~ (16) For investigating an application for a cross-industry merger under section 8-1510, five hundred dollars;

~~(18)~~ (17) 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;

~~(19)~~ (18) For investigating an application for a purchase of an eligible savings association under section 8-1515, five hundred dollars;

~~(20)~~ (19) For investigating an application or a notice to establish a branch trust office, five hundred dollars; and

~~(21)~~ (20) 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. 8. Section 8-815, Reissue Revised Statutes of Nebraska, is amended to read:

8-815. As used in sections 8-815 to 8-829, unless the context otherwise requires:

(1) Department shall mean the Department of Banking and Finance;

(2) Bank shall mean the banks, and trust companies, and ~~cooperative credit associations,~~ organized under the laws of this state, and national banking associations doing business in this state and shall include national banking associations;

(3) Registered bank shall mean any bank which has in effect a registration under sections 8-816 and ~~§-817~~ 45-1003;

(4) Unregistered bank shall mean any bank which has not registered under sections 8-816 and ~~§-817~~ 45-1003 or the registration of which is not in effect because of action taken under section 8-827;

(5) Personal loan shall mean a loan, and the contract evidencing the same, which is repayable, pursuant to a contract or understanding, in two or more equal or unequal installments, and within one hundred forty-five months, but shall not include any loan on which the interest does not exceed sixteen percent per annum. Personal loan shall include loans for the purchase of mobile homes even though the loan is not repayable within one hundred forty-five months. Personal loan shall include loans or advances initiated by credit card or other type of transaction card, including, but not limited to, those loan transactions initiated through electronic impulse; and

(6) Transaction card shall mean a device or means used to access a prearranged revolving credit plan account.

Sec. 9. Section 8-1511, Reissue Revised Statutes of Nebraska, is amended to read:

8-1511. For purposes of sections 8-1511 to 8-1513, unless the context otherwise requires:

(1) Affiliated bank or thrift institution shall mean (a) if the bank or thrift institution is a subsidiary of a state bank, national banking association, or thrift institution, the parent bank or thrift institution as the case may be and (b) if the bank or thrift institution is a subsidiary of a bank or thrift institution holding company, the principal subsidiary of the holding company which is a bank or thrift institution as the case may be;

(2) Association of banks or thrift institutions shall mean two or more banks or thrift institutions formed for the purpose of acquiring and holding all or substantially all of the voting stock of one newly established bank pursuant to sections 8-1512 and 8-1513;

(3) Bank or banking corporation shall mean the principal office of (a) any national bank doing business in this state, (b) any corporation which is chartered to conduct a bank in this state as provided in Chapter 8, article 1, (c) any association of banks, (d) a bank holding company as defined in the Nebraska Bank Holding Company Act of 1995, or (e) an out-of-state bank holding

company as defined in the Nebraska Bank Holding Company Act of 1995;

(4) Qualifying association shall mean an association, corporation, partnership, limited liability company, or other entity which at all times maintains an office in this state at which it employs at least fifty persons in this state and which pursuant to contract or otherwise offers at least the following services to banks: (a) The distribution, as agent for a bank, of credit cards or transaction cards; (b) the preparation of periodic statements of amounts due under such account; (c) the receipt from credit card or transaction card holders of amounts paid on or with respect to such accounts; and (d) the maintenance of financial records reflecting the status of such accounts from time to time;

(5) Thrift institution shall mean (a) any corporation which is chartered as a building and loan association, savings and loan association, savings bank, or credit union, ~~or cooperative credit association~~ under the laws of the United States, any other state, or the District of Columbia and whose operations are principally conducted outside of Nebraska, (b) any holding company of a thrift institution with subsidiaries whose operations are principally conducted outside of Nebraska, or (c) any association of thrift institutions; and

(6) Transaction card shall mean a device or means used to access a prearranged revolving credit plan account.

Sec. 10. Section 21-1335, Reissue Revised Statutes of Nebraska, is amended to read:

21-1335. Every cooperative corporation that shall organize under sections 21-1333 to 21-1339 shall have power (1) to have succession by its corporate name, (2) to sue and be sued, (3) to make and use a common seal and alter the same at its pleasure, (4) to regulate and limit the right of stockholders to transfer their stock, (5) to appoint such subordinate officers and agents as the business of the corporation shall require and to allow them suitable compensation, (6) to adopt bylaws for the management and regulation of the affairs of the company, (7) to purchase, hold, sell, assign, or transfer the shares of the capital stock of other cooperative companies which it may own, and while owner of such stock to exercise all the rights, powers, and privileges of ownership, including the right to vote thereon, (8) to provide that each individual stockholder may be limited to one vote per person regardless of the number of shares of stock which he or she may own, (9) to prohibit proxy voting and to permit voting by mail under such regulations as shall be provided for in the bylaws, (10) to engage in any activity in connection with the purchase, lease or acquisition of agricultural and grazing lands and to improve or develop such land and to mortgage, or otherwise encumber the same, (11) to contract with its members and with other cooperative organizations organized hereunder for the sale, purchase or lease of such lands with such provisions for periodical payments, reserves, reamortization, supervision of the use of the lands, crop programming, and other factors as shall be agreed upon by such contracting parties, (12) to make contracts with the United States or the State of Nebraska, or any agency thereof, for the purpose of effectuating any plan for rural rehabilitation or with any nonprofit corporation organized for such purpose, (13) to provide that continued membership in such cooperative farm land company shall be dependent upon the performance by members of contracts entered into between themselves and said cooperative farm land company, (14) to purchase, own, sell, lease, mortgage, or otherwise acquire and convey real or personal property or any interest therein, (15) to borrow money necessary or convenient to the accomplishment of the purposes of this corporation and to secure the payment thereof by mortgage, pledge or conveyance in trust, of the whole or any part of the property of the corporation, and (16) to do each and everything necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated and to contract accordingly, and in addition to exercise and possess all powers, rights, and privileges granted by the laws of this state to ordinary corporations and to corporations organized under sections 21-1301 to ~~21-1332~~ 21-1306 and 21-1401 to 21-1414, and any amendments thereto.

Sec. 11. Section 21-1755, Reissue Revised Statutes of Nebraska, is amended to read:

21-1755. With the approval of the department, a central credit union established under section 21-1752 may purchase the assets, assume the liabilities, and accept the membership of a credit union. ~~or cooperative credit association.~~ Such purchase shall be approved by at least a two-thirds majority of the board of directors or the duly appointed trustees of the credit union ~~or association~~ to be sold.

Sec. 12. Section 21-17,131, Reissue Revised Statutes of Nebraska, is amended to read:

21-17,131. As used in sections 21-17,127 to 21-17,145, unless the context otherwise requires:

(1) Depository institution shall mean any credit union, ~~cooperative credit association, bank chartered under section 8-122 which has acquired substantially all of the assets and liabilities of a cooperative credit association,~~ trust company, savings and loan association, building and loan association, industrial loan and investment company chartered and existing under the laws of Nebraska, or bank which has acquired substantially all of the assets and liabilities of an industrial loan and investment company;

(2) Account shall mean any account of any member or depositor of a member depository institution into which are deposited shareholdings, savings, or deposits of that member, except that in the case of a bank which has acquired substantially all of the assets and liabilities of an industrial loan and investment company, account shall mean only the certificates of indebtedness outstanding at the time of acquisition;

(3) Corporation shall mean a corporation formed pursuant to sections 21-17,127 to 21-17,145;

(4) Department shall mean the Department of Banking and Finance;

(5) Covered claim shall mean any unpaid shareholdings, savings, or deposits of a member or depositor of a member depository institution and which is not in excess of the applicable amounts to which sections 21-17,127 to 21-17,145 apply as established by the plan of operation of the corporation, if such depository institution becomes insolvent and goes into voluntary liquidation or is placed in involuntary liquidation by order of the department after July 10, 1976;

(6) Member depository institution shall mean any depository institution authorized and chartered under the laws of this state so long as it maintains insurance in full force and effect pursuant to sections 21-17,127 to 21-17,145; and

(7) Shares, savings, and deposit capital shall mean the aggregate total of shares, savings, and deposits held by the member depository institution, except that in the case of a bank acquiring substantially all of the assets and liabilities of an industrial loan and investment company, the term shall mean only the certificates of indebtedness outstanding at the time of acquisition.

Sec. 13. Section 28-612, Revised Statutes Supplement, 2000, 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 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)~~ (e) Any credit union transacting business in this state under the Credit Union Act.

Sec. 14. Section 62-301, Reissue Revised Statutes of Nebraska, is amended to read:

62-301. (1) For the purposes of the Uniform Commercial Code and section 62-301.01, the following days shall be holidays: New Year's Day, January 1; Birthday of Martin Luther King, Jr., the third Monday in January; President's Day, the third Monday in February; Arbor Day, the last Friday in April; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veterans Day, November 11, and the federally recognized holiday

therefor, or either of them; Thanksgiving Day, the fourth Thursday in November; the day after Thanksgiving; and Christmas Day, December 25. If any such holiday falls on Sunday, the following Monday shall be a holiday. If the date designated by the state for observance of any legal holiday enumerated in this section, except Veterans Day, is different from the date of observance of such holiday pursuant to a federal holiday schedule, the federal holiday schedule shall be observed.

(2) Any bank doing business in this state may, by a brief written notice at, on, or near its front door, fully dispense with or restrict, to such extent as it may determine, the hours within which it will be open for business.

(3) Any bank may close on Saturday if it states such fact by a brief written notice at, on, or near its front door. When such bank will, in observance of such a notice, not be open for general business, such day shall, with respect to the particular bank, be the equivalent of a holiday as fully as if such day were listed in subsection (1) of this section, and any act authorized, required, or permitted to be performed at, by, or with respect to such bank which will, in observance of such notice, not be open for general business, acting in its own behalf or in any capacity whatever, may be performed on the next succeeding business day and no liability or loss of rights on the part of any person shall result from such delay.

(4) Any bank which, by the notice provided for by subsection (3) of this section, has created the holiday for such bank may, without destroying the legal effect of the holiday for it and solely for the convenience of its customers, remain open all or part of such day in a limited fashion by treating every transaction with its customers on such day as though the transaction had taken place immediately upon the opening of such bank on the first following business day.

(5) Whenever the word bank is used in this section it shall include industrial loan and investment company, building and loan association, savings and loan association, credit union, savings bank, trust company, investment company, ~~cooperative credit association~~, and any other type of financial institution.

Sec. 15. Section 64-212, Reissue Revised Statutes of Nebraska, is amended to read:

64-212. It shall be lawful for a member or shareholder, an appointive officer, elective officer, agent, director, or employee of an insurance company, ~~a cooperative credit association~~, or a credit union who is a notary public to take the acknowledgment of any person to any written instrument executed to or by the said association, insurance company, or credit union and to administer an oath to any shareholder, director, elected or appointed officer, employee, or agent of such ~~association~~, insurance company, or credit union.

Sec. 16. Section 64-213, Reissue Revised Statutes of Nebraska, is amended to read:

64-213. Acknowledgments heretofore taken of any person to any written instrument given to or by an insurance company, ~~cooperative credit association~~, or credit union, or any oath administered to any member, director, elected officer, shareholder, appointive officer, employee, or agent of an insurance company, ~~cooperative credit association~~, or credit union, by any notary public, who was a member, shareholder, appointive officer, agent, or employee of said association, the insurance company or credit union, and not a director or elected officer thereof, shall be deemed to be lawful, valid, and binding.

Sec. 17. Section 77-3801, Reissue Revised Statutes of Nebraska, is amended to read:

77-3801. For purposes of sections 77-3801 to 77-3807, unless the context otherwise requires:

(1) All terms shall have the same meaning as provided in the Nebraska Revenue Act of 1967;

(2) Average deposits shall mean (a) for a financial institution on a calendar year, the total of the deposits held on the last day of the preceding year and the last day of each calendar quarter, divided by five or (b) for a financial institution on a fiscal year other than a calendar year, the total of the deposits held on the last day of the preceding fiscal year, the last day of each calendar quarter within the fiscal year, and the last day of the fiscal year, divided by the number of amounts added together;

(3) Deposits shall mean the amount of money placed in the custody of a financial institution for safety or convenience that may be withdrawn at the will of the depositor or under the rules or regulations agreed upon by the financial institution and the depositor. Deposits shall also include amounts for which a certificate may be issued and which are payable on demand, on

certain notice, or at a fixed future date or time. Deposits shall not include any money placed in a fiduciary capacity in the custody of a trust department of any financial institution having trust powers granted by appropriate regulatory authority which is not placed by the trust department as a deposit in such financial institution;

(4) Financial institution shall mean:

(a) Any bank, building and loan association, ~~cooperative credit association~~, credit union, industrial loan and investment company, savings and loan association, or savings bank chartered or qualified to do business in this state, or any subsidiary of such financial institution; or

(b) Any bank, bank holding company or subsidiary of a bank holding company as defined in 12 U.S.C. 1841, as such section existed on the effective date of this act, affiliate of a bank holding company as defined in 12 U.S.C. 221a, as such section existed on the effective date of this act, building and loan association, ~~cooperative credit association~~, credit union, industrial loan and investment company, savings and loan association, or savings bank which is not chartered to do business in this state but maintains a permanent place of business in this state and actively solicits deposits from residents of this state for an affiliate, regardless of whether the affiliate maintains an office in this state, in which event the deposits of the affiliate shall be deemed deposits of such institution;

(5) Net financial income shall mean the income of the financial institution, including its subsidiaries, after ordinary and necessary expenses but before income taxes and extraordinary gains or losses. Net financial income shall include, but not be limited to, income from fiduciary activities, interest, rent, or service charges. Ordinary and necessary expenses shall include, but not be limited to, fees, depreciation on furniture and equipment, interest, salaries and benefits, and supplies. Income and expenses shall be computed according to the regular books and records of the institution; and

(6) Subsidiary shall not include any bank, bank holding company, or savings and loan association which is owned fifty percent or more by a mutual savings and loan association and which does not actively solicit deposits from residents of this state.

Sec. 18. Original sections 8-102, 8-103, 8-116, 8-122, 8-157, 8-601, 8-815, 8-1511, 21-1335, 21-1755, 21-17,131, 62-301, 64-212, 64-213, and 77-3801, Reissue Revised Statutes of Nebraska, and sections 8-602 and 28-612, Revised Statutes Supplement, 2000, are repealed.

Sec. 19. The following sections are outright repealed: Sections 8-103.01, 8-117, 8-117.01, 8-122.01, and 21-1308 to 21-1332, Reissue Revised Statutes of Nebraska.