

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 341**

Introduced by Lindstrom, 18; at the request of the Governor.

Read first time January 12, 2017

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to banks and banking; to amend section 8-139,
- 2 Reissue Revised Statutes of Nebraska; to change provisions relating
- 3 to executive officer license revocation and suspension; to provide a
- 4 civil penalty; to provide powers and duties for the Department of
- 5 Banking and Finance and the Director of Banking and Finance; to
- 6 provide for an exemption from the license requirement as prescribed;
- 7 to define a term; and to repeal the original section.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-139, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 8-139 (1) No loan or investment shall be made by a bank, directly  
4 or indirectly, without the approval of an active executive officer.  
5 Executive officers of banks shall be persons of good moral character,  
6 known integrity, business experience and responsibility, and be capable  
7 of conducting the affairs of a bank on sound banking principles. ~~Except~~  
8 as provided in subsection (2) of this section, no ~~no~~ person shall act as  
9 an active executive officer of any bank until such bank ~~has applied~~ shall  
10 apply for and ~~obtained~~ obtain from the department a license for such  
11 person to ~~so~~ act as an active executive officer. If the department, upon  
12 investigation, is ~~shall~~ be satisfied that any active executive officer of  
13 a bank is conducting ~~the~~ its business of the bank in an unsafe or  
14 unauthorized manner, or is endangering the interests of the stockholders  
15 or depositors of the bank, the department ~~may~~ shall have authority to  
16 revoke ~~the such~~ license of such active executive officer or suspend the  
17 ability of such active executive officer to continue to act as an active  
18 executive officer. Any person whose license has been revoked or whose  
19 authority has been suspended by the department under this subsection or  
20 who lacks a license and on whose behalf no election was made under  
21 subsection (2) of this act and who ~~acts or attempts~~ shall act or attempt  
22 to act as an active executive officer of a any bank is , ~~except under a~~  
23 license from the department, or anyone who shall permit or assist such  
24 person to act or attempt to act as such, shall be guilty of a Class III  
25 felony. As part of any order of revocation or suspension under this  
26 subsection, the director may levy a civil penalty against the active  
27 executive officer personally in an amount not to exceed ten thousand  
28 dollars. The civil penalty shall not be paid out of the assets of the  
29 bank in which the active executive officer is employed or otherwise  
30 performing services pursuant to contract. The department shall remit the  
31 civil penalty collected to the State Treasurer for distribution in

1 accordance with Article VII, section 5, of the Constitution of Nebraska.  
2 Any person whose authority has been revoked or suspended with prejudice  
3 under this section shall not be eligible to act as an executive officer  
4 at any other bank without authorization to do so from the department. The  
5 department may make and enforce reasonable regulations and prescribe  
6 forms to be used to carry out the intent of this ~~subsection~~ section.

7 (2) A bank has the right, on or after the effective date of this  
8 act, to elect for its active executive officers to be exempt from the  
9 requirement to apply for and obtain a license from the department. An  
10 election, once made, shall remain in effect with respect to all active  
11 executive officers of the bank until and unless the election is revoked  
12 by the bank. An election or revocation shall be made in a form and manner  
13 established by the department. Within thirty days after revoking such  
14 election, such bank shall apply for and obtain from the department a  
15 license for any person acting or desiring to act as an active executive  
16 officer of the bank.

17 (3) For purposes of this section, active executive officer means any  
18 employee of a bank or any person under contract to perform services for a  
19 bank who is determined by the department to be a policy-dominant  
20 individual in the bank or who exercises (a) management functions, (b)  
21 major policymaking functions, or (c) substantial employee supervision,  
22 including the power to terminate employment. An active executive officer  
23 includes, but is not limited to, a president, a vice-president, a  
24 cashier, an assistant cashier, a chief executive officer, a loan officer,  
25 or an investment officer.

26 Sec. 2. Original section 8-139, Reissue Revised Statutes of  
27 Nebraska, is repealed.