

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 140

Introduced by Williams, 36.

Read first time January 09, 2017

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to banking and finance; to amend sections
2 8-101.01, 8-102, 8-104, 8-105, 8-106, 8-107, 8-109, 8-110, 8-111,
3 8-112, 8-113, 8-114, 8-116.01, 8-118, 8-119, 8-120, 8-122, 8-124,
4 8-124.01, 8-125, 8-126, 8-127, 8-129, 8-130, 8-132, 8-133, 8-137,
5 8-138, 8-139, 8-141, 8-143, 8-143.01, 8-144, 8-145, 8-147, 8-148,
6 8-148.01, 8-148.02, 8-148.04, 8-148.05, 8-148.07, 8-148.08, 8-150,
7 8-152, 8-158, 8-160, 8-161, 8-163, 8-164, 8-166, 8-167, 8-168,
8 8-169, 8-170, 8-171, 8-173, 8-174, 8-175, 8-177, 8-178, 8-179,
9 8-180, 8-182, 8-183, 8-183.04, 8-183.05, 8-184, 8-185, 8-186, 8-187,
10 8-188, 8-189, 8-190, 8-191, 8-192, 8-193, 8-194, 8-195, 8-196,
11 8-197, 8-198, 8-199, 8-1,100, 8-1,101, 8-1,102, 8-1,103, 8-1,104,
12 8-1,105, 8-1,106, 8-1,107, 8-1,108, 8-1,109, 8-1,110, 8-1,111,
13 8-1,112, 8-1,113, 8-1,115, 8-1,116, 8-1,117, 8-1,118, 8-1,119,
14 8-1,124, 8-1,125, 8-1,126, 8-1,127, 8-1,128, 8-1,129, 8-1,131,
15 8-1,133, 8-1,134, 8-1,135, 8-1,136, 8-1,137, 8-1,138, 8-1,139,
16 8-206, 8-207, 8-603, 8-701, 8-815, 8-820, 8-822, 8-826, 8-828,
17 8-2401, 28-612, 30-2602.02, 30-2640, 45-902, 45-919, 45-1103, and
18 49-1497, Reissue Revised Statutes of Nebraska, and sections 8-101,
19 8-103, 8-108, 8-116, 8-117, 8-128, 8-135, 8-153, 8-157, 8-157.01,
20 8-162.02, 8-167.01, 8-318, 8-601, 8-602, 8-702, 8-1401, 9-701,
21 45-335, and 45-1002, Revised Statutes Cumulative Supplement, 2016;
22 to change provisions of the Nebraska Banking Act; to change
23 provisions relating to Department of Banking and Finance and

1 Director of Banking and Finance powers and duties, the management of
2 banks and other financial institutions, safe deposit boxes, and the
3 registration of mortgage loan originators; to adopt certain federal
4 provisions; to change provisions relating to merger and
5 consolidation of banks; to change provisions relating to department
6 fees, assessments and fines; to change provisions relating to banks
7 as personal representatives or administrators, bank records and
8 files, bank subsidiary corporations, rewards, and certain notice to
9 the Governor; to change and eliminate state provisions relating to
10 the Federal Banking Act of 1933; to change and eliminate provisions
11 relating to personal loans by banks and trust companies and the
12 violation of such provisions; to change provisions relating to trust
13 company powers; to change provisions relating to confidential
14 records or information; to eliminate a duty of the department to
15 issue a certificate and other approval duties; to redefine a term;
16 to provide for applicability; to harmonize provisions; to repeal the
17 original sections; and to outright repeal sections 8-121, 8-151,
18 8-1,120, 8-1,121, 8-816, 8-819, and 8-827, Reissue Revised Statutes
19 of Nebraska.

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

1 Section 1. Section 8-101.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 ~~8-101.01~~ Sections 8-102 ~~8-101~~ to 8-1,140 and sections 1, 2, 37, and
4 51 of this act shall be known and may be cited as the Nebraska Banking
5 Act.

6 Sec. 2. Section 8-101, Revised Statutes Cumulative Supplement, 2016,
7 is amended to read:

8 ~~8-101~~ For purposes of the Nebraska Banking Act, unless the context
9 otherwise requires:

10 (1) Access device means a code, a transaction card, or any other
11 means of access to a customer's account, or any combination thereof, that
12 may be used by a customer for the purpose of initiating an electronic
13 funds transfer at an automatic teller machine or a point-of-sale
14 terminal;

15 (2) Acquiring financial institution means any financial institution
16 establishing a point-of-sale terminal;

17 (3) Automatic teller machine means a machine established and located
18 in the State of Nebraska, whether attended or unattended, which utilizes
19 electronic, sound, or mechanical signals or impulses, or any combination
20 thereof, and from which electronic funds transfers may be initiated and
21 at which banking transactions as defined in section 8-157.01 may be
22 conducted. An unattended automatic teller machine shall not be deemed to
23 be a branch operated by a financial institution;

24 (4) Automatic teller machine surcharge means a fee that an operator
25 of an automatic teller machine imposes upon a consumer for an electronic
26 funds transfer, if such operator is not the financial institution that
27 holds an account of such consumer from which the electronic funds
28 transfer is to be made;

29 (5) Bank or banking corporation means any incorporated banking
30 institution which was incorporated under the laws of this state as they
31 existed prior to May 9, 1933, and any corporation duly organized under

1 the laws of this state for the purpose of conducting a bank within this
2 state under the act. Bank means any such banking institution which is, in
3 addition to the exercise of other powers, following the practice of
4 repaying deposits upon check, draft, or order and of making loans;

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

10 (7) Capital or capital stock means capital stock;

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

17 (9) Department means the Department of Banking and Finance;

18 (10) Director means the Director of Banking and Finance;

19 (11) Financial institution means a bank, savings bank, building and
20 loan association, savings and loan association, or credit union, whether
21 chartered by the United States, the department, or a foreign state
22 agency; any other similar organization which is covered by federal
23 deposit insurance; or a trust company;

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

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

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

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

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

19 (17) Order includes orders transmitted by electronic transmission;

20 (18) Point-of-sale terminal means an information processing terminal
21 which utilizes electronic, sound, or mechanical signals or impulses, or
22 any combination thereof, which are transmitted to a financial institution
23 or which are recorded for later transmission to effectuate electronic
24 funds transfer transactions for the purchase or payment of goods and
25 services and which are initiated by an access device. A point-of-sale
26 terminal is not a branch operated by a financial institution. Any
27 terminal owned or operated by a seller of goods and services shall be
28 connected directly or indirectly to an acquiring financial institution;
29 and

30 (19) Switch means any facility where electronic impulses or other
31 indicia of a transaction originating at an automatic teller machine are

1 received and are routed and transmitted to a financial institution or
2 data processing center, wherever located. A switch may also be a data
3 processing center.

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

9 ~~(2) Capital or capital stock means capital stock;~~

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

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

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

19 ~~(6) Order includes orders transmitted by electronic transmission;~~

20 ~~(7) Automatic teller machine means a machine established and located~~
21 ~~in the State of Nebraska, whether attended or unattended, which utilizes~~
22 ~~electronic, sound, or mechanical signals or impulses, or any combination~~
23 ~~thereof, and from which electronic funds transfers may be initiated and~~
24 ~~at which banking transactions as defined in section 8-157.01 may be~~
25 ~~conducted. An unattended automatic teller machine shall not be deemed to~~
26 ~~be a branch operated by a financial institution;~~

27 ~~(8) Automatic teller machine surcharge means a fee that an operator~~
28 ~~of an automatic teller machine imposes upon a consumer for an electronic~~
29 ~~funds transfer, if such operator is not the financial institution that~~
30 ~~holds an account of such consumer from which the electronic funds~~
31 ~~transfer is to be made;~~

1 ~~(9) Data processing center means a facility, wherever located, at~~
2 ~~which electronic impulses or other indicia of a transaction originating~~
3 ~~at an automatic teller machine are received and either authorized or~~
4 ~~routed to a switch or other data processing center in order to enable the~~
5 ~~automatic teller machine to perform any function for which it is~~
6 ~~designed;~~

7 ~~(10) Point-of-sale terminal means an information processing terminal~~
8 ~~which utilizes electronic, sound, or mechanical signals or impulses, or~~
9 ~~any combination thereof, which are transmitted to a financial institution~~
10 ~~or which are recorded for later transmission to effectuate electronic~~
11 ~~funds transfer transactions for the purchase or payment of goods and~~
12 ~~services and which are initiated by an access device. A point-of-sale~~
13 ~~terminal is not a branch operated by a financial institution. Any~~
14 ~~terminal owned or operated by a seller of goods and services shall be~~
15 ~~connected directly or indirectly to an acquiring financial institution;~~

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

24 ~~(12) Financial institution means a bank, savings bank, building and~~
25 ~~loan association, savings and loan association, or credit union, whether~~
26 ~~chartered by the United States, the department, or a foreign state~~
27 ~~agency; any other similar organization which is covered by federal~~
28 ~~deposit insurance; or a trust company;~~

29 ~~(13) Financial institution employees includes parent holding company~~
30 ~~and affiliate employees;~~

31 ~~(14) Switch means any facility where electronic impulses or other~~

1 ~~indicia of a transaction originating at an automatic teller machine are~~
2 ~~received and are routed and transmitted to a financial institution or~~
3 ~~data processing center, wherever located. A switch may also be a data~~
4 ~~processing center;~~

5 ~~(15) Impulse means an electronic, sound, or mechanical impulse, or~~
6 ~~any combination thereof;~~

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

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

21 ~~(18) Acquiring financial institution means any financial institution~~
22 ~~establishing a point-of-sale terminal; and~~

23 ~~(19) Access device means a code, a transaction card, or any other~~
24 ~~means of access to a customer's account, or any combination thereof, that~~
25 ~~may be used by a customer for the purpose of initiating an electronic~~
26 ~~funds transfer at an automatic teller machine or a point of sale~~
27 ~~terminal.~~

28 Sec. 3. Section 8-102, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 8-102 The department shall, under the laws of this state
31 specifically made applicable to each, have general supervision and

1 control over banks, trust companies, credit unions, ~~and~~ building and loan
2 associations, and savings and loan associations, ÷ all of which are
3 hereby declared to be quasi-public in nature and subject to regulation
4 and control by the state.

5 Sec. 4. Section 8-103, Revised Statutes Cumulative Supplement, 2016,
6 is amended to read:

7 8-103 (1)(a) ~~(1)~~ The director shall have charge of and full
8 supervision over the examination of banks and the enforcement of
9 compliance with the statutes by banks and their holding companies in
10 their business and functions and shall constructively aid and assist
11 banks in maintaining proper banking standards and efficiency.

12 (b) The director shall also have charge of and full supervision over
13 the examination of and the enforcement of compliance with the statutes by
14 trust companies, building and loan associations, savings and loan
15 associations, and credit unions in their business and functions and shall
16 constructively aid and assist trust companies, building and loan
17 associations, savings and loan associations, and credit unions in
18 maintaining proper standards and efficiency.

19 (2) If the director is financially interested directly or indirectly
20 in any financial institution chartered by the department ~~doing business~~
21 ~~in Nebraska, subject to his or her jurisdiction~~, the financial
22 institution shall be under the direct supervision of the Governor, and as
23 to such financial institution, the Governor shall exercise all the
24 supervisory powers otherwise vested in the director ~~Director of Banking~~
25 ~~and Finance~~ by the laws of this state, and reports of examination by
26 state bank examiners, foreign state bank examiners, examiners of the
27 Federal Reserve Board, examiners of the Office of the Comptroller of the
28 Currency, examiners of the Federal Deposit Insurance Corporation, and
29 examiners of the Consumer Financial Protection Bureau shall be
30 transmitted to the Governor.

31 (3)(a) No person employed by the department shall ~~be permitted to~~

1 borrow money from any financial institution chartered by doing business
2 ~~in Nebraska subject to the jurisdiction of~~ the department, except that
3 any such person ~~persons employed by the department~~ may borrow money in
4 the normal course of business from the Nebraska State Employees Credit
5 Union. If the credit union is acquired by, or merged into, a Nebraska
6 state-chartered credit union, persons employed by the department may
7 borrow money in the normal course of business from the successor credit
8 union.

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

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

21 Sec. 5. Section 8-104, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 8-104 The director shall, before assuming the duties of office, take
24 and subscribe to the constitutional oath of office, ~~and~~ file the oath
25 ~~same~~ in the office of the Secretary of State, and ~~shall~~ be bonded or
26 insured as required by section 11-201.

27 Sec. 6. Section 8-105, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 8-105 (1) The director may employ such deputies, counsels,
30 examiners, and other assistants as he or she may need to discharge in a
31 proper manner the duties imposed upon him or her by law. ~~Neither the~~

1 ~~director, nor any deputy or assistant, shall employ any person who at the~~
2 ~~time of hire is a relative of the director or a relative of any deputy or~~
3 ~~assistant in the work of the department.~~ The deputies, counsels,
4 examiners, and other assistants shall perform such duties as are ~~shall be~~
5 assigned to them. The employment of any person in the work of the
6 department is subject to section 49-1499.07.

7 (2) Deputies ~~The deputies~~ and financial institution examiners hired
8 after ~~March 4, 2003,~~ shall hold office at the will of the director and
9 shall receive such salary as set by the director and approved by the
10 Governor based upon the level of credentials for the positions.—Each
11 employee who is employed as a deputy or a financial institution examiner
12 on ~~March 4, 2003,~~ may elect to become employed at will. The election to
13 become employed at will may be made at any time upon notification to the
14 director in writing, but once made, such election shall be final. Until
15 the election to be employed at will is made, the employee shall be
16 treated as continuing participation in the State Personnel System. The
17 director shall, with the approval of the Governor, fix the compensation
18 of the other examiners and assistants, which shall be paid either monthly
19 or on a biweekly basis.

20 (3) ~~(2)~~ The deputies, counsels, examiners, and other assistants,
21 before assuming the duties of office, shall be bonded or insured as
22 required by section 11-201.

23 Sec. 7. Section 8-106, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 8-106 The director may adopt and promulgate rules and regulations
26 ~~shall have the power to make such rules and to establish such regulations~~
27 for the governance ~~government~~ of banks under his or her supervision as
28 may in his or her judgment seem wise and expedient and which do not in
29 any way conflict with any of the provisions of law. In adopting and
30 promulgating ~~making~~ such rules and regulations, the director shall
31 consider generally recognized sound banking principles, the financial

1 soundness of banks, competitive conditions, and general economic
2 conditions.

3 Sec. 8. Section 8-107, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 8-107 The department has the authority ~~shall have power~~ to require
6 the officers of any bank, or any of them, to open and keep such books or
7 accounts as the department in its discretion may determine and prescribe
8 for the purpose of keeping accurate and convenient records of the
9 transactions and accounts of such bank. Any bank that refuses or neglects
10 to open and keep such books or accounts as may be prescribed by the
11 department shall be subject to a penalty of ten dollars for each day it
12 neglects or fails to open and keep such books and accounts after
13 receiving written notice from the department. Such penalty may be
14 collected in the manner prescribed for the collection of fees for the
15 examination of such bank.

16 Sec. 9. Section 8-108, Revised Statutes Cumulative Supplement, 2016,
17 is amended to read:

18 8-108 (1)(a) ~~(1)~~ The director, his or her deputy, or any duly
19 appointed examiner has the authority ~~shall have power~~ to make a thorough
20 examination into all the books, papers, and affairs of any bank or other
21 financial institution chartered by the department in Nebraska ~~subject to~~
22 ~~the department's jurisdiction,~~ or its holding company, if any, and in so
23 doing to administer oaths and affirmations, to examine on oath or
24 affirmation the officers, agents, and clerks of such financial
25 institution or its holding company, if any, touching the matter which
26 they may be authorized and directed to inquire into and examine, and to
27 subpoena the attendance of any person or persons in this state to testify
28 under oath or affirmation in relation to the affairs of such financial
29 institution or its holding company, if any. The director, deputy, or
30 examiner has ~~Such powers shall include, but not be limited to,~~ the
31 authority to examine and monitor by electronic means the books, papers,

1 and affairs of any financial institution or the holding company of a
2 financial institution. The director may provide any examination or report
3 to the Federal Deposit Insurance Corporation, the Federal Reserve Board,
4 the Comptroller of the Currency, the Consumer Financial Protection
5 Bureau, or a foreign state agency ~~The examination may be in the presence~~
6 ~~of at least two members of the board of directors of the institution or~~
7 ~~its holding company, if any, undergoing such examination, and it shall be~~
8 ~~the duty of the examiner to incorporate in his or her report the names of~~
9 ~~the directors in whose presence the examination was made.~~

10 (b) ~~(2)~~ The director may accept any examination or report from a
11 foreign state agency and may accept any examination or report from the
12 Federal Deposit Insurance Corporation, the Federal Reserve Board, the
13 Comptroller of the Currency, or the Consumer Financial Protection Bureau
14 in lieu of an examination or report required under the Nebraska Banking
15 Act. Any such examination or report accepted by the director remains the
16 property and confidential record of the foreign state agency or federal
17 agency which provided the examination or report to the director. A
18 request or subpoena for any such examination or report shall be directed
19 to the foreign state agency or federal agency which provided the
20 examination or report to the director , ~~or a foreign state agency.~~

21 ~~(3) The director may provide any such examination or report to the~~
22 ~~Federal Deposit Insurance Corporation, the Federal Reserve Board, the~~
23 ~~Comptroller of the Currency, the Consumer Financial Protection Bureau, or~~
24 ~~a foreign state agency.~~

25 (2) The department has the authority ~~shall have power~~ to examine the
26 books, papers, and affairs of any electronic data processing center which
27 has contracted with a financial institution to conduct the financial
28 institution's electronic data processing business. The department may
29 charge the electronic data processing center for the time spent by
30 examiners in such examination at the rate set forth in section 8-606 for
31 examiners' time spent in examinations of financial institutions.

1 Sec. 10. Section 8-109, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-109 If any financial institution ~~bank~~ examiner ~~has~~ shall have
4 knowledge of the insolvency or unsafe condition of any financial
5 institution chartered by the department, bank under state supervision, or
6 that there are bad or doubtful assets in any such financial institution,
7 ~~bank, or that any such financial institution the bank~~ or any of its
8 officers has violated any law governing the conduct of the financial
9 institution bank, or that it is unsafe and inexpedient to permit any such
10 financial institution bank to continue business, and the financial
11 institution examiner fails to immediately shall fail to forthwith report
12 such fact in writing over his or her signature to the director
13 ~~department, he or she is shall be~~ guilty of a Class II misdemeanor and
14 shall forfeit his or her office.

15 Sec. 11. Section 8-110, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 8-110 The department shall require each ~~state~~ bank to obtain a
18 fidelity bond, naming the bank as obligee, in an amount to be fixed by
19 the director ~~department~~. The bond shall be issued by an authorized
20 insurer and shall be conditioned to protect and indemnify the bank from
21 loss which it may sustain, of money or other personal property, including
22 that for which the bank is responsible through or by reason of the fraud,
23 dishonesty, forgery, theft, embezzlement, wrongful abstraction,
24 misapplication, misappropriation, or any other dishonest or criminal act
25 of or by any of its officers or employees. Such bond may contain a
26 deductible clause in an amount to be approved by the director. An
27 executed copy of the bond shall be filed with and approved by the
28 director and shall remain a part of the records of the department. The
29 director may provide for such copies to be filed electronically. If the
30 premium of the bond is not paid, the bond shall not be canceled or
31 subject to cancellation unless at least ten days' advance notice, in

1 writing, is filed with the department. No bond which is current with
2 respect to premium payments shall be canceled or subject to cancellation
3 unless at least forty-five days' advance notice, in writing, is filed
4 with the department. The bond shall ~~always~~ be open to public inspection
5 during the office hours of the department. In the event a bond is
6 canceled, the director ~~department~~ may take whatever action he or she ~~it~~
7 deems appropriate in connection with the continued operation of the bank
8 involved.

9 Sec. 12. Section 8-111, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-111 The director may convey any real estate title ~~to~~ which is
12 vested in the department ~~Department of Banking and Finance~~ by operation
13 of law or otherwise. Such conveyance shall be signed by the director,
14 sealed with the seal of the department, and acknowledged by the director.

15 Sec. 13. Section 8-112, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 8-112 (1) The director shall keep, as records of his or her office,
18 proper books showing all acts, matters, and things done under the
19 jurisdiction of the department. Neither the director nor anyone connected
20 with the department shall in any instance disclose the name of any
21 customer, including a depositor, debtor, beneficiary, member, or account
22 holder ~~depositor or debtor~~ of any financial institution or other entity
23 regulated by the department or the amount of any deposit, debt, or
24 account holdings of any of them ~~his or her deposit or debt to anyone,~~
25 except insofar as may be necessary in the performance of his or her
26 official duty, except that the department may maintain a record of
27 debtors ~~borrowers~~ from the financial institutions ~~in this state~~ and may
28 give information concerning the total liabilities of any such debtor
29 ~~borrowers~~ to any financial institution owning obligations of such debtor
30 ~~borrowers~~.

31 (2) Examination reports, investigation reports, and documents and

1 information relating to such reports are confidential records of the
2 department and may be released or disclosed only (a) insofar as is
3 necessary in the performance of the official duty of the department or
4 (b) pursuant to a properly issued subpoena to the department and upon
5 entry of a protective order from a court of competent jurisdiction to
6 protect and keep confidential the names of borrowers or depositors or to
7 protect the public interest.

8 (3) Examination reports, investigation reports, and documents and
9 information relating to such reports remain confidential records of the
10 department, even if such examination reports, investigation reports, and
11 documents and information relating to such reports are transmitted to a
12 financial institution or other entity regulated by the department which
13 is the subject of such reports or documents and information, and may not
14 be otherwise released or disclosed by any such financial institution or
15 other entity regulated by the department.

16 (4) The restrictions listed in subsections (2) and (3) of this
17 section shall also apply to any representative or agent of the financial
18 institution or other entity regulated by the department.

19 (5) If examination reports, investigation reports, or documents and
20 information relating to such reports are subpoenaed from the department,
21 the party issuing the subpoena shall give notice of the issuance of such
22 subpoena at least three business days in advance of the entry of a
23 protective order to the financial institution or other entity regulated
24 by the department which is the subject of such reports or documents and
25 information, unless the financial institution or other entity regulated
26 by the department is already a party to the underlying proceeding or
27 unless such notice is otherwise prohibited by law or by court order.

28 Sec. 14. Section 8-113, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 8-113 (1) No individual, firm, company, corporation, or association
31 doing business in the State of Nebraska, unless organized as a bank under

1 the Nebraska Banking Act or the authority of the federal government, or
2 as a building and loan association, savings and loan association, or
3 savings bank under Chapter 8, article 3, or the authority of the federal
4 government, shall use the word bank or any derivative thereof as any part
5 of a title or description of any business activity.

6 (2) This section does not apply to:

7 (a) Banks, building and loan associations, savings and loan
8 associations, or savings banks chartered and supervised by a foreign
9 state agency;

10 (b) Bank holding companies registered pursuant to section 8-913 if
11 the term holding company is also used as any part of the title or
12 description of any business activity or if the derivative banc is used;

13 (c) Affiliates or subsidiaries of (i) a bank organized under the
14 Nebraska Banking Act or the authority of the federal government or
15 chartered and supervised by a foreign state agency, (ii) a building and
16 loan association, savings and loan association, or savings bank organized
17 under Chapter 8, article 3, or the authority of the federal government or
18 chartered and supervised by a foreign state agency, or (iii) a bank
19 holding company registered pursuant to section 8-913 if the term holding
20 company is also used as any part of the title or description of any
21 business activity or if the derivative banc is used;

22 (d) Organizations substantially owned by (i) a bank organized under
23 the Nebraska Banking Act or the authority of the federal government or
24 chartered and supervised by a foreign state agency, (ii) a building and
25 loan association, savings and loan association, or savings bank organized
26 under Chapter 8, article 3, or the authority of the federal government or
27 chartered and supervised by a foreign state agency, (iii) a bank holding
28 company registered pursuant to section 8-913 if the term holding company
29 is also used as any part of the title or description of any business
30 activity or if the derivative banc is used, or (iv) any combination of
31 entities listed in subdivisions (i) through (iii) of this subdivision;

1 (e) Mortgage bankers licensed or registered under the Residential
2 Mortgage Licensing Act, if the word mortgage immediately precedes the
3 word bank or its derivative;

4 (f) Organizations which are described in section 501(c)(3) of the
5 Internal Revenue Code as defined in section 49-801.01, which are exempt
6 from taxation under section 501(a) of the code, and which are not
7 providing or arranging for financial services subject to the authority of
8 the department, a foreign state agency, or the federal government;

9 (g) Trade associations which are exempt from taxation under section
10 501(c)(6) of the code and which represent a segment of the banking or
11 savings and loan industries, and any affiliate or subsidiary thereof;

12 (h) Firms, companies, corporations, or associations which sponsor
13 incentive-based solid waste recycling programs that issue reward points
14 or credits to persons for their participation therein; and

15 (i) Such other firms, companies, corporations, or associations as
16 have been in existence and doing business prior to December 1, 1975,
17 under a name composed in part of the word bank or some derivative
18 thereof.

19 (3) This section does not apply to an individual, firm, company,
20 corporation, or association doing business in Nebraska which uses the
21 word bank or any derivative thereof as any part of a title or description
22 of any business activity if such use is unlikely to mislead or confuse
23 the public or give the impression that such individual, firm, company,
24 corporation, or association is lawfully organized and operating as a bank
25 under the Nebraska Banking Act or the authority of the federal
26 government, or as a building and loan association, savings and loan
27 association, or savings bank under Chapter 8, article 3, or the authority
28 of the federal government.

29 (4) Any violation of this section ~~is shall be~~ a Class V misdemeanor.

30 Sec. 15. Section 8-114, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 8-114 ~~(1) It is shall be~~ unlawful for any person to conduct a bank
2 within this state except by means of a corporation duly organized for
3 such purpose under the laws of this state. It ~~is shall be~~ unlawful for
4 any corporation to receive money upon deposit or conduct a bank under the
5 laws of this state until such corporation has complied with all the
6 provisions and requirements of the Nebraska Banking Act.

7 (2) Any violation of this section ~~is shall be~~ a Class V misdemeanor
8 for each day of the continuation of such offense and ~~is be~~ cause for the
9 appointment of a receiver as provided in the act to wind up such banking
10 business.

11 Sec. 16. Section 8-116, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 8-116 (1) Except as provided in subsection (2) of this section, a
14 charter for a bank shall not be issued unless the corporation applying
15 therefor has surplus and paid-up capital stock in an amount not less than
16 the amount necessary for compliance with subsection (1) of section 8-702
17 for the insurance of deposits.

18 (2) The ~~director has department shall have~~ the authority to
19 determine the minimum amount of paid-up capital stock and surplus
20 required for any corporation applying for a bank charter, which amount
21 shall not be less than the amount provided in subsection (1) of this
22 section.

23 Sec. 17. Section 8-116.01, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 8-116.01 With the approval of the director, any bank may at any
26 time, through action of its board of directors and without requiring any
27 action of its stockholders, issue and sell its capital notes or
28 debentures. Such capital notes or debentures shall be subordinate and
29 subject to the claims of depositors and may be subordinated and subjected
30 to the claims of other creditors. ~~The capital stock of any bank as such~~
31 ~~term capital stock is used respectively in sections 8-116, 8-118, and~~

1 ~~8-127, the capital of any corporation transacting a banking business as~~
2 ~~the term capital is used in section 8-187, and the capital of a bank as~~
3 ~~the term capital is used in section 8-132, shall be deemed to be~~
4 ~~unimpaired when the amount of such capital notes and debentures as~~
5 ~~represented by cash or sound assets exceeds the impairment as found by~~
6 ~~the department.~~ Before any such capital notes or debentures are retired
7 or paid by the bank, any existing deficiency of its capital, disregarding
8 the notes or debentures to be retired, must be paid in, in cash, to the
9 end that the sound capital assets shall at least equal the capital or
10 capital stock of the bank ~~in the sense such terms capital and capital~~
11 ~~stock are used in the respective sections named.~~ Such capital notes or
12 debentures shall in no case be subject to any assessment. The holders of
13 such capital notes or debentures shall not be held individually
14 responsible as such holders for any debts, contracts, or engagements of
15 such bank and shall not be held liable for assessments to restore
16 impairments in the capital of such bank.

17 Sec. 18. Section 8-117, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 8-117 (1)(a) The director may grant approval for a conditional bank
20 charter which may remain inactive for an initial period of up to eighteen
21 months.

22 (b) The purpose for which a conditional bank charter may be granted
23 is limited to the acquisition or potential acquisition of a financial
24 institution which (i) is located in this state or which has a branch in
25 this state and (ii) has been determined to be troubled or failing by its
26 primary state or federal regulator.

27 (2) A person or persons organizing for and desiring to obtain a
28 conditional bank charter shall make, under oath, and transmit to the
29 department an application prescribed by the department, to include, but
30 not be limited to:

31 (a) The name of the proposed bank;

1 (b) A draft copy of the articles of incorporation of the proposed
2 bank;

3 (c) The names, addresses, financial condition, and business history
4 of the proposed stockholders, officers, and directors of the proposed
5 bank;

6 (d) The sources and amounts of capital that would be available to
7 the proposed bank; and

8 (e) A preliminary business plan describing the operations of the
9 proposed bank.

10 (3) Upon receipt of a substantially completed application for a
11 conditional bank charter and payment of the fee required by section
12 8-602, the director may, in his or her discretion, hold a public hearing
13 on the application. If a hearing is to be held, notice of the filing of
14 the application and the date of hearing thereon shall be published by the
15 department for three weeks in a minimum of two newspapers with general
16 circulation in Nebraska. The newspapers shall be selected at the
17 director's discretion, except that the director shall consider the county
18 or counties of residence of the proposed members of the board of
19 directors of the proposed conditional bank charter in making such
20 selection. The date for hearing the application shall be not less than
21 thirty days after the last publication of notice of hearing. Notice shall
22 also be sent by first-class mail to the main office of all financial
23 institutions doing business in the state. Electronic mail may be used if
24 a financial institution agrees in advance to receive such notice by
25 electronic mail.

26 (4) If the director determines that a hearing on the application for
27 a conditional bank charter is not necessary, then the department shall
28 publish a notice of the proposed application in a minimum of two
29 newspapers of general circulation in Nebraska. The newspapers shall be
30 selected in accordance with subsection (3) of this section. The
31 department shall send notice of the application by first-class mail to

1 the main office of all financial institutions doing business in the
2 state. Electronic mail may be used if a financial institution agrees in
3 advance to receive such notice by electronic mail. If the director
4 receives a substantive objection to the application within fifteen days
5 after the publication or notice, whichever occurs last, a hearing shall
6 be scheduled on the application.

7 (5) The expense of any publication and mailing required by this
8 section shall be paid by the applicant but payment shall not be a
9 condition precedent to approval by the director.

10 (6) If the director ~~department~~ upon investigation and after any
11 public hearing on the application is satisfied that (a) the stockholders,
12 officers, and directors of the proposed corporation applying for such
13 conditional bank charter are parties of integrity and responsibility, (b)
14 the applicant has sufficient sources and amounts of capital available to
15 the proposed bank, and (c) the applicant has a business plan describing
16 the operations of the proposed bank that indicates the proposed bank has
17 a reasonable probability of usefulness and success, the department shall,
18 upon the payment of any required fees and costs, grant a conditional bank
19 charter effective for a period not to exceed eighteen months from the
20 date of issuance.

21 (7) A conditional bank charter may be converted to a full bank
22 charter upon proof satisfactory to the director ~~department~~ that:

23 (a) The financial institution to be acquired is in a troubled or
24 failing status as required by subsection (1) of this section;

25 (b) The requirements of section 8-110 have been met;

26 (c) The requirements of section 8-702 have been met;

27 (d) Capital stock and surplus in amounts determined pursuant to
28 section 8-116 have been paid in;

29 (e) The fees required by section 8-602 have been paid to the
30 department; and

31 (f) Any other conditions imposed by the director have been complied

1 with.

2 (8) A conditional bank charter may be extended for successive
3 periods of one year if the holder of the charter files a written request
4 for an extension of such charter at least ninety days prior to the
5 expiration date of such charter. Such request shall be accompanied by (a)
6 any information deemed necessary by the director ~~department~~ to assure the
7 department ~~itself~~ that the requirements of subsection (6) of this section
8 continue to be met and (b) the fee required by section 8-602.

9 (9) The department shall issue a notice of expiration of a
10 conditional bank charter if eighteen months have passed since the
11 issuance of such charter and the holder of such charter (a) has not
12 converted to a full bank charter pursuant to subsection (7) of this
13 section, (b) has not made a request for an extension pursuant to
14 subsection (8) of this section, or (c) has made a request for an
15 extension pursuant to subsection (8) of this section which was not
16 approved by the director ~~department~~.

17 Sec. 19. Section 8-118, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 8-118 (1) It shall be unlawful for any person for hire (a) ~~(1)~~ to
20 promote or attempt to promote the organization of a corporation to
21 conduct the business of a bank in this state or (b) ~~(2)~~ to sell the
22 capital stock of such a corporation prior to the issuance of a charter to
23 such corporation authorizing its operation as a bank.

24 (2) Any person violating the provisions of this section is ~~shall be~~
25 guilty of a Class II misdemeanor.

26 Sec. 20. Section 8-119, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 8-119 No corporation organized for the purpose of conducting a bank
29 under the laws of this state shall be granted the ~~certificate provided in~~
30 ~~section 8-121, or the charter provided in section 8-122,~~ until the
31 corporation has ~~there shall have been~~ filed with the department a

1 statement, under oath, of the president or cashier of such corporation
2 that no premium, bonus, commission, compensation, reward, salary, or
3 other form of remuneration has been paid, or promised to be paid, to any
4 person for selling the stock of such corporation. The president or
5 cashier of any such corporation who shall be found guilty of filing a
6 false statement under the provisions of this section ~~is shall be~~ guilty
7 of a Class I misdemeanor. ~~If Whenever,~~ after such ~~certificate and~~ charter
8 ~~has shall have~~ been delivered, the director determines ~~department shall~~
9 ~~determine,~~ after a public hearing, that such statement is false, the
10 department ~~it~~ shall cancel such ~~certificate and~~ charter, and a receiver
11 shall be appointed for such corporation in the manner provided for in
12 case of a corporation which is conducting a bank in an unsafe or
13 unauthorized manner.

14 Sec. 21. Section 8-120, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 8-120 (1) Every corporation organized for and desiring to conduct a
17 bank or to conduct a bank for purposes of a merger with an existing bank
18 shall make under oath and transmit to the department a complete detailed
19 application giving (a) the name of the proposed bank; (b) a ~~certified~~
20 copy of the proposed articles of incorporation; (c) the names of the
21 stockholders; (d) the county, city, or village and the exact location
22 therein in which such bank is proposed to be located; (e) the nature of
23 the proposed banking business; (f) the proposed amounts of paid-up
24 capital stock and surplus, and the items of actual cash and property, as
25 reported and approved at a meeting of the stockholders, to be included in
26 such amounts; and (g) a statement that at least twenty percent of the
27 amounts stated in subdivision (f) of this subsection have in fact been
28 paid in to the corporation by its stockholders.

29 (2) In the case of a merger, the existing bank which is to be merged
30 into shall complete an application and meet the requirements of this
31 section.

1 (3) This section also applies when application is made for transfer
2 of a bank charter and move of a bank's main office to any location other
3 than (a) within the corporate limits of the city or village of its
4 original charter, (b) within the county in which it is located if such
5 bank charter is not located in a city or village, or (c) as provided in
6 subdivision (6) of section 8-115.01.

7 Sec. 22. Section 8-122, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 8-122 (1) After the examination and approval by the Director of
10 Banking and Finance ~~department~~ of the application required by section
11 8-120, if the director ~~department~~ upon investigation and after any public
12 hearing on the application held pursuant to section 8-115.01 shall be
13 satisfied that the stockholders, directors, and officers of the
14 corporation applying for such charter are parties of integrity and
15 responsibility, that the requirements of section 8-702 have been met, and
16 that the public necessity, convenience, and advantage will be promoted by
17 permitting such corporation to engage in business as a bank, the
18 department shall, upon the payment of the required fees, and, upon the
19 filing with the department of a statement, under oath, of the president,
20 secretary, or treasurer, that the paid-up capital stock and surplus have
21 been paid in, as determined by the Director of Banking and Finance
22 ~~department~~ in accordance with section 8-116, issue to such corporation a
23 charter to transact the business of a bank in this state provided for in
24 its articles of incorporation. In the case of a bank organized to merge
25 with an existing bank, there shall be a rebuttable presumption that the
26 public necessity, convenience, and advantage will be met by the merger of
27 the two banks, except that such presumption shall not apply when the new
28 bank that is formed by the merger is at a different location than that of
29 the former existing bank. Any application for merger under this
30 subsection shall be subject to section 8-1516.

31 (2) On payment of the required fees and the receipt of the charter,

1 such corporation may begin to conduct a bank.

2 Sec. 23. Section 8-124, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 8-124 (1) ~~The affairs and business of any bank chartered after~~
5 ~~September 2, 1973, or which has had transfer of twenty five percent or~~
6 ~~more of voting shares after September 2, 1973,~~ shall be managed or
7 controlled by a board of directors of not less than five and not more
8 than twenty-five ~~fifteen~~ members, who shall be selected at such time and
9 in such manner as may be provided by the articles of incorporation of the
10 corporation and in conformity with the Nebraska Banking Act. The board of
11 directors shall select a president. No person shall act as president if
12 he or she is not a member of the board of directors ~~Any bank chartered~~
13 ~~before September 2, 1973, may have a minimum of three directors and not~~
14 ~~more than fifteen directors so long as it does not have transfer of~~
15 ~~twenty-five percent or more voting shares, with such directors selected~~
16 ~~as provided in this section. Any vacancy on the board shall be filled~~
17 ~~within ninety days by appointment by the remaining directors, and any~~
18 ~~director so appointed shall serve until the next election of directors,~~
19 ~~except that if the vacancy created leaves a minimum of five directors,~~
20 ~~appointment shall be optional.~~

21 ~~The board shall appoint a secretary and, from among its own members,~~
22 ~~select a president. Such officers shall hold their office at the pleasure~~
23 ~~of the board of directors.~~

24 (2) The board of directors shall hold at least one regular meeting
25 in each calendar quarter, and at one of such meetings in each year a
26 thorough examination of the books, records, funds, and securities held by
27 the bank shall be made and recorded in detail upon its record book. In
28 lieu of the one annual examination required, the board of directors may
29 accept one annual audit by an accountant or accounting firm approved by
30 the Director of Banking and Finance.

31 Sec. 24. Section 8-124.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 8-124.01 At any time that a vacancy on the board of directors of a
3 bank occurs, the bank shall, within thirty days, notify the department of
4 the vacancy. Vacancies shall be filled within ninety days by appointment
5 by the remaining directors, and any director so appointed shall serve
6 until the next election of directors, except that if the vacancy created
7 leaves a minimum of five directors, appointment shall be optional. When
8 the vacancy has been filled, the bank shall make application to notify
9 the department for approval ~~that the vacancy has been filled and include~~
10 ~~in the notice the name, address, and occupation of the director appointed~~
11 in accordance with section 8-126.

12 Sec. 25. Section 8-125, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-125 A full and complete record of the proceedings and business of
15 all meetings of the board of directors shall be recorded in ~~spread upon~~
16 the bank's minutes. Such record of the meetings shall show the gross
17 earnings and disposition thereof by indicating expenses and taxes paid,
18 worthless items charged off, depreciation in assets, amount carried to
19 surplus fund, and amount of dividend, and shall also indicate the amount
20 of undivided profits remaining. Published statements of assets and
21 liabilities shall show for undivided profits only the net amount after
22 deducting all expenses.

23 Sec. 26. Section 8-126, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 8-126 (1) A majority of the members of the board of directors of
26 any bank ~~transacting business under the Nebraska Banking Act~~ shall have
27 their residences in this state or within twenty-five miles of the main
28 office of the bank. Reasonable efforts shall be made to acquire members
29 of such board of directors from the county in which the main office of
30 such bank is located and from counties in which branches of such bank are
31 located.

1 (2) Directors of banks shall be persons of good moral character,
2 known integrity, business experience, and responsibility. No person shall
3 act as a member of the board of directors of any bank until such bank
4 applies for and obtains approval from the department ~~Department~~ of
5 ~~Banking and Finance~~.

6 (3) If the department, upon investigation, determines that any
7 director of a bank is conducting the business of the bank in an unsafe or
8 unauthorized manner or is endangering the interests of the stockholders
9 or depositors, the Director of Banking and Finance ~~has the department~~
10 ~~shall have~~ authority, following notice and opportunity for hearing, to
11 revoke such approval to act as a member of the board of directors.

12 (4) The director ~~department~~ may adopt and promulgate rules and
13 regulations and prescribe forms to carry out this section.

14 Sec. 27. Section 8-127, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 8-127 ~~(1) Every The president and cashier, or the business manager,~~
17 ~~of every~~ bank shall cause to be kept at all times a full and correct list
18 of the names and residences of all its stockholders, the number of shares
19 held by each, and the amount of paid-up capital represented thereby. Such
20 list shall be subject to the inspection of all stockholders of the bank
21 during all business hours, and shall be kept in the business office where
22 all stockholders may have ready access to it.

23 (2) Any person violating this section ~~is shall be~~ guilty of a Class
24 III misdemeanor.

25 Sec. 28. Section 8-128, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 8-128 The paid-in capital stock of any bank may be increased or
28 decreased in the following manner: The stockholders at any regular
29 meeting or at any special meeting duly called for such purpose shall by
30 vote of those owning two-thirds of the capital stock authorize an officer
31 of the bank ~~the president or cashier~~ to notify the department of the

1 proposed increase or reduction of paid-in capital stock, and a notice
2 containing a statement of the amount of any proposed reduction of paid-in
3 capital stock shall be published for two weeks in some newspaper
4 published and of general circulation in the county where the main office
5 of such bank is located. Reduction of paid-in capital stock shall be
6 discretionary with the director ~~department~~, but shall be denied if
7 granting the same would reduce the paid-in capital stock below the
8 requirements of the Nebraska Banking Act or would impair the security of
9 the depositors. The bank shall notify the department when the proposed
10 increase or decrease of the paid-in capital stock has been consummated.

11 Sec. 29. Section 8-129, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-129 Whenever the director deems ~~shall deem~~ it expedient, he or she
14 may call a meeting of the stockholders of any bank ~~organized under the~~
15 ~~laws of this state,~~ by sending mailing notice of such meeting to each
16 stockholder five days previous thereto. All necessary expenses incurred
17 in the giving of such notice shall be borne by the bank whose
18 stockholders are required to convene.

19 Sec. 30. Section 8-130, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 8-130 Any bank or trust company, organized ~~incorporated~~ under the
22 laws of this state, may ~~shall have power to~~ subscribe to the capital
23 stock of the Federal Reserve Bank of Kansas City, Missouri, and become a
24 member of the federal reserve system created and organized under an act
25 of Congress of the United States, approved December 23, 1913, and known
26 as the Federal Reserve Act, and may ~~shall have power to~~ assume such
27 liabilities and to exercise such powers as a member of such system as are
28 prescribed by the provisions of such act, or amendments thereto. So long
29 as such bank or trust company shall remain a member of such system, it
30 shall be subject to examination by the legally constituted authorities,
31 and to all provisions of such Federal Reserve Act and regulations made

1 pursuant thereto by the Federal Reserve Board which are applicable to
2 such bank or trust company as a member of the federal reserve system. The
3 director state authorities may, in his or her ~~their~~ discretion, accept
4 examinations and audits made under the provisions of the Federal Reserve
5 Act in lieu of examinations required of banks or trust companies
6 organized under the laws of this state.

7 Sec. 31. Section 8-132, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 8-132 (1) The available funds of a bank shall consist of cash on
10 hand and balances due from other solvent banks ~~approved by the~~
11 ~~department~~. Cash shall include lawful money of the United States and
12 exchange for any clearinghouse association. Whenever the available funds
13 or any reserve of any bank are deemed deficient by the director
14 ~~department~~, such bank shall not make any new loans or discount otherwise
15 than by discounting or purchasing bills of exchange payable at sight or
16 make any dividends of its profits until it has on hand available funds
17 and reserve deemed sufficient for operation by the director department.
18 The department shall notify any bank, in case its available funds or
19 reserves are deemed deficient or its capital is impaired, to make good
20 such available funds, reserves, or capital within such time as the
21 director department may direct, and any failure of such bank to make good
22 any deficiency in the amount of its available funds, reserve, or capital
23 within the time directed shall be cause for the department director to
24 take possession of such bank, declare it insolvent, and liquidate it as
25 provided in the Nebraska Banking Act.

26 (2) The capital of any bank shall be deemed to be unimpaired when
27 the amount of capital notes and debentures as represented by cash or
28 sound assets exceeds an impairment as found by the department.

29 Sec. 32. Section 8-133, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-133 (1)(a) Except as provided in this section, a (1) A state-

1 chartered bank may pay interest at any rate on any deposits made or
2 retained in the bank.

3 (b) A bank shall not pay to any officer, director, principal
4 stockholder, or employee a greater rate of interest on the deposits of
5 such officer, director, principal stockholder, or employee than that paid
6 to other depositors on similar deposits with such bank. Any person who
7 causes the payment of a greater rate of interest on such deposits is
8 guilty of a Class IV felony. Any officer, director, principal
9 stockholder, or employee who requests or receives a greater rate of
10 interest on his or her deposits than that paid to other depositors on
11 similar deposits with such bank is guilty of a Class IV felony.

12 (2) Any officer, director, principal stockholder, or employee of a
13 bank or any other person who, directly or indirectly, and either
14 personally or for the bank, ~~pays any money, gives any consideration of~~
15 ~~value, or pledges any assets of the bank,~~ except as provided in this
16 section or otherwise by law, ~~as an inducement, in addition to the legal~~
17 ~~interest,~~ for making or retaining a deposit in the bank is shall be
18 guilty of a Class IV felony. Any depositor who accepts any such pledge of
19 assets is inducement shall be guilty of a Class IV felony. Deposits made
20 in violation of this section are shall not be entitled to priority of
21 payment from the assets of the bank. ~~In determining the maximum interest~~
22 ~~that may be paid on deposits, the bank shall consider generally~~
23 ~~recognized sound banking principles, the financial soundness of banks,~~
24 ~~competitive conditions, and general economic conditions.~~

25 (3) A bank may secure deposits made by a trustee under 11 U.S.C. 101
26 et seq. by pledge of the assets of the bank or by furnishing a surety
27 bond as provided in 11 U.S.C. 345.

28 (4) A bank may also secure deposits made by the United States
29 Secretary of the Interior on behalf of any individual Indian or any
30 Indian tribe under 25 U.S.C. 162a by a pledge of the assets of the bank
31 or by furnishing an acceptable bond as provided in 25 U.S.C. 162a.

1 (5) A bank may secure deposits by a pledge of the assets of the bank
2 or by furnishing an acceptable bond as provided in the Public Funds
3 Deposit Security Act.

4 (6) (4) Nothing in this section shall prohibit a bank or any
5 officer, director, stockholder, or employee thereof from providing to a
6 depositor a guaranty bond which provides coverage for the deposits of the
7 depositor which are in excess of the amounts insured by the Federal
8 Deposit Insurance Corporation.

9 (7) Nothing in this section shall prohibit a bank or any officer,
10 director, stockholder, or employee thereof from providing to a depositor
11 or an irrevocable, nontransferable, unconditional standby letter of
12 credit issued by the Federal Home Loan Bank of Topeka which provides
13 coverage for the deposits of the depositor which are in excess of the
14 amounts insured by the Federal Deposit Insurance Corporation. Any bank
15 which offers letters of credit for consideration to depositors pursuant
16 to this section shall post a notice in the lobby of each office of such
17 bank stating that letters of credit issued by the Federal Home Loan Bank
18 of Topeka which provide coverage for deposits in excess of the amounts
19 insured by the Federal Deposit Insurance Corporation may be available to
20 depositors of the bank. Provision of a letter of credit issued by the
21 Federal Home Loan Bank of Topeka by a bank to a depositor shall be at the
22 discretion of the bank. The notice required under this section shall be
23 sufficient if made in substantially the following form:

24 (8) For purposes of this section, principal stockholder means a
25 person owning ten percent or more of the voting shares of the bank.

26 Notice

27 This bank is a member of the Federal Home Loan Bank of Topeka and
28 offers for consideration Federal Home Loan Bank of Topeka letters of
29 credit which provide coverage for deposits in excess of the amounts
30 insured by the Federal Deposit Insurance Corporation. Please contact a
31 representative of the bank to determine if such a letter of credit is

1 ~~available to you.~~

2 Sec. 33. Section 8-135, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

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

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

13 (b) Electronic means through:

14 (i) Preauthorized direct withdrawal;

15 (ii) An automatic teller machine;

16 (iii) A debit card;

17 (iv) A transfer by telephone;

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

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

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

24 (3) ~~(2)~~ This section shall not be construed to affect the rights,
25 liabilities, or responsibilities of participants in an electronic fund
26 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
27 et seq., as the act existed on January 1, 2017 ~~2016~~, and shall not affect
28 the legal relationships between a minor and any person other than the
29 bank.

30 Sec. 34. Section 8-137, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 8-137 No officer or employee of any bank shall certify any check
2 drawn upon such bank unless the person, firm, or corporation drawing the
3 check has on deposit with the bank at the time such check is certified an
4 amount of credit, on the depositors' ledger of such bank, subject to the
5 payment of such check, equal to the amount specified in such check. The ;
6 ~~but the~~ amount of such check shall not be recoverable from the payee or
7 holder except in case of fraud. Whenever a check drawn upon any bank is
8 certified by any officer or employee of such bank, the amount of the
9 check thereof shall be immediately charged against the account of the
10 person, firm, or corporation drawing the check same.

11 Sec. 35. Section 8-138, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-138 No bank shall accept or receive on deposit for any purpose any
14 money, bank bills, United States treasury notes or currency, or other
15 notes, bills, checks, drafts, credits, or currency, when such bank is
16 insolvent. If ; ~~and if~~ any bank receives or accepts ~~shall receive or~~
17 ~~accept~~ on deposit any such deposits when such bank is insolvent, the
18 officer, agent, or employee knowingly receiving or accepting or being
19 accessory to, ~~or~~ permitting, or conniving at the receiving or accepting
20 on deposit of such bank ~~therein or thereby~~, any such deposit, is ~~shall be~~
21 guilty of a Class III felony.

22 Sec. 36. Section 8-139, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-139 (1) No loan or investment shall be made by a bank, directly
25 or indirectly, without the approval of an active executive officer.

26 (2) Executive officers of banks shall be persons of good moral
27 character, known integrity, business experience and responsibility, and
28 be capable of conducting the affairs of a bank on sound banking
29 principles.

30 (3) No person shall act as an active executive officer of any bank
31 until such bank shall apply for and obtain from the department a license

1 for such person to so act. If the director ~~department~~, upon
2 investigation, shall be satisfied that any active executive officer of a
3 bank is conducting its business in an unsafe or unauthorized manner, or
4 is endangering the interests of the stockholders or depositors, the
5 department ~~has the shall have~~ authority to revoke such license.

6 (4) Any person who acts or attempts ~~shall act or attempt~~ to act as
7 an active executive officer of any bank, except under a license from the
8 department, or anyone who permits or assists ~~shall permit or assist~~ such
9 person to act or attempt to act as such, is ~~shall be~~ guilty of a Class
10 III felony.

11 (5) The director ~~department~~ may adopt and promulgate rules and make
12 ~~and enforce reasonable~~ regulations and prescribe forms to be used to
13 carry out the intent of this section.

14 Sec. 37. Any financial institution chartered by the department that
15 employs a mortgage loan originator, as defined in section 45-702, shall
16 register such employee with the Nationwide Mortgage Licensing System and
17 Registry, as defined in section 45-702, by furnishing the following
18 information concerning the employee's identity to the Nationwide Mortgage
19 Licensing System and Registry:

20 (1) Fingerprints for submission to the Federal Bureau of
21 Investigation, and any governmental agency or entity authorized to
22 receive such information, for a state and national criminal history
23 background check; and

24 (2) Personal history and experience, including authorization for the
25 Nationwide Mortgage Licensing System and Registry to obtain information
26 related to any administrative, civil, or criminal findings by any
27 governmental jurisdiction.

28 Sec. 38. Section 8-141, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 8-141 (1) No bank shall directly or indirectly loan to any single
31 corporation, limited liability company, firm, or individual, including in

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

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

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

31 (c) Obligations of any person, partnership, limited liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (6) For purposes of this section:

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

19 (b) Loan includes:

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

23 (ii) To the extent specified by rule and ~~7~~ regulation~~7~~ or order of
24 the director ~~department~~, any liability of a state bank to advance funds
25 to or on behalf of a person pursuant to a contractual commitment; and

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

30 (c) Unimpaired capital and unimpaired surplus means (i) the bank's
31 tier 1 and tier 2 capital included in the bank's risk-based capital under

1 the capital guidelines of the appropriate federal banking agency, based
2 on the bank's most recent consolidated report of condition filed under 12
3 U.S.C. 1817(a)(3), and (ii) the balance of the bank's allowance for loan
4 and lease losses not included in the bank's tier 2 capital for purposes
5 of the calculation of risk-based capital by the appropriate federal
6 banking agency, based on the bank's most recent consolidated report of
7 condition filed under 12 U.S.C. 1817(a)(3). Notwithstanding the
8 provisions of section 8-1,140, the director ~~department~~ may, by order,
9 deny or limit the inclusion of goodwill in the calculation of a bank's
10 unimpaired capital and unimpaired surplus or in the calculation of a
11 bank's paid-up capital and surplus.

12 Sec. 39. Section 8-143, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-143 If the directors of any bank knowingly violate or knowingly
15 permit any of the officers, employees, or agents of the bank to violate
16 section 8-141, all rights, privileges, and franchises of the bank shall
17 be ~~thereby~~ forfeited. Before ~~the such~~ charter of the bank is ~~shall be~~
18 declared forfeited, the such violation shall be determined and adjudged
19 by a court of competent jurisdiction in an action ~~a suit~~ brought for that
20 purpose by the Director of Banking and Finance in his or her own name. In
21 case of such violation, every director of the bank who participated in or
22 knowingly assented to the violation or permission to violate section
23 8-141 ~~same~~ shall be ~~held~~ liable in his or her personal and individual
24 capacity for all damages which the bank, its shareholders, or any other
25 person has ~~shall have~~ sustained in consequence of such violation.

26 Sec. 40. Section 8-143.01, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 8-143.01 (1) No bank shall extend credit to any of its executive
29 officers, directors, or principal shareholders or to any related interest
30 of such persons in an amount that, when aggregated with the amount of all
31 other extensions of credit by the bank to that person and to all related

1 interests of that person, exceeds the higher of twenty-five thousand
2 dollars or five percent of the bank's unimpaired capital and unimpaired
3 surplus unless (a) the extension of credit has been approved in advance
4 by a majority vote of the entire board of directors of the bank, a record
5 of which shall be made and kept as a part of the records of such bank,
6 and (b) the interested party has abstained from participating directly or
7 indirectly in such vote.

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

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

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

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

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

1 of credit;

2 (c) In any amount if the extension of credit is (i) secured by a
3 perfected security interest in bonds, notes, certificates of
4 indebtedness, or Treasury Bills of the United States or in other such
5 obligations fully guaranteed as to principal and interest by the United
6 States, (ii) secured by unconditional takeout commitments or guarantees
7 of any department, agency, bureau, board, commission, or establishment of
8 the United States or any corporation wholly owned directly or indirectly
9 by the United States, or (iii) secured by a perfected security interest
10 in a segregated deposit account in the lending bank; or

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

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

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

31 (c) Subdivisions (a) and (b) of this subsection do not apply to any

1 executive officer if such officer is excluded by a resolution of the
2 board of directors or by the bylaws of the bank from participating in the
3 major policymaking functions of the bank and does not actually
4 participate in the major policymaking functions of the bank.

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

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

21 (b) Nothing in subdivision (a) of this subsection shall prohibit any
22 extension of credit made by a bank pursuant to a benefit or compensation
23 program under the provisions of 12 C.F.R. 215.4(a)(2).

24 (8) For purposes of this section:

25 (a) Executive officer means ~~shall mean~~ a person who participates or
26 has authority to participate, other than in the capacity of director, in
27 the major policymaking functions of the bank, whether or not the officer
28 has an official title, the title designates such officer as an assistant,
29 or such officer is serving without salary or other compensation.
30 Executive officer includes ~~shall include~~ the chairperson of the board of
31 directors, the president, all vice presidents, the cashier, the corporate

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

9 (b) Unimpaired capital and unimpaired surplus means ~~shall mean~~ the
10 sum of:

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

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

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

19 (9) Any executive officer, director, or principal shareholder of a
20 bank or any other person who intentionally violates this section or who
21 aids, abets, or assists in a violation of this section is ~~shall be~~ guilty
22 of a Class IV felony.

23 (10) The Director of Banking and Finance may ~~shall have authority to~~
24 adopt and promulgate rules and regulations to carry out ~~implement~~ this
25 section, including rules and ~~or~~ regulations defining or further defining
26 terms used in this section, consistent with the provisions of 12 U.S.C.
27 84 and implementing Regulation 0 as such section and regulation existed
28 on January 1, 2017.

29 Sec. 41. Section 8-144, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-144 Any officer or employee of any bank who ~~shall~~ willfully and

1 knowingly ~~violates~~ violate any provision ~~of the provisions~~ of sections
2 8-141 to 8-143.01 shall be liable under his or her bond for any loss to
3 the bank resulting therefrom.

4 Sec. 42. Section 8-145, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 8-145 Any stockholder or director, officer, agent, or employee of
7 any bank who, for the use or benefit of himself or herself or any other
8 person other than the ~~such~~ bank, solicits, ~~or~~ asks for, or receives or
9 agrees to receive from any person, any gift or compensation or reward or
10 inducement of any kind for (1) procuring or endeavoring to procure any
11 loan from such bank to any person, ~~or~~ (2) procuring or endeavoring to
12 procure the purchase by such bank from any person of any negotiable or
13 nonnegotiable instrument of any kind by discount or otherwise, ~~or~~ (3)
14 procuring or endeavoring to procure the purchase by such bank from any
15 person of any real or personal property of any kind, or (4) procuring or
16 endeavoring to procure such bank to permit any person to overdraw his or
17 her account with such bank, ~~is shall~~ be guilty of a Class I misdemeanor.

18 Sec. 43. Section 8-147, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 8-147 (1) The aggregate amount of direct borrowing of any bank shall
21 at no time exceed the amount of its paid-up capital, surplus, undivided
22 profits, capital reserves, capital notes, and debentures, except with the
23 prior written permission of the director. Direct borrowing does shall not
24 include:

25 (a) Money borrowed on the bank's bills payable secured by (i) direct
26 or indirect obligations of the United States Government or (ii)
27 obligations guaranteed by agencies of the United States Government;

28 (b) Rediscounts, bills payable, borrowings, or other liabilities
29 with or to the federal reserve system or the federal reserve banks, if
30 the bank is a member of the federal reserve system;

31 (c) Rediscounts, bills payable, borrowings, or other liabilities

1 with or to the Federal Home Loan Bank System or the Federal Home Loan
2 Banks, if the bank is a member of the Federal Home Loan Bank System; or
3 (d) Rediscounts, bills payable, borrowings, or other liabilities
4 with or to the federal intermediate credit banks.

5 (2) The aggregate amount of the loans and investments of any bank
6 shall at no time exceed fifteen times the amount of its paid-up capital,
7 surplus, undivided profits, capital reserves, capital notes, and
8 debentures. For purposes of this section, loans and investments shall not
9 include a bank's (a) cash reserves, (b) real estate and buildings at
10 which the bank is authorized to conduct its business, (c) furniture and
11 fixtures, and (d) obligations set forth in subdivisions (1)(a), (b), and
12 (c) of this section.

13 (3) Any bank becoming a member of the federal reserve system or the
14 Federal Home Loan Bank System shall have the same privileges to the same
15 extent as national banks.

16 (4) With the prior written permission of the director, a bank may
17 rediscount paper in an amount in excess of its paid-up capital stock.

18 (5) Any transfer of assets of a bank in violation of this section is
19 ~~shall be~~ void as against the creditors of the bank.

20 (6) Any officer, director, or employee of a bank who does, or
21 permits to be done, any act in violation of this section and any other
22 person who knowingly assists in the violation of this section is ~~shall be~~
23 guilty of a Class IV felony.

24 Sec. 44. Section 8-148, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 8-148 (1) Except as provided in subsection (2) or (3) of this
27 section, a bank shall not make any loan or discount on the security of
28 the shares of its own capital stock or the capital stock of its holding
29 company, if any, be the purchaser or holder of any such shares, or
30 purchase any securities convertible into stock or, except as provided in
31 this section and sections 8-148.01, 8-148.02, 8-148.04, 8-148.06, 8-149,

1 and 21-2109, the shares of any corporation, unless such security or
2 purchase is necessary to prevent loss upon a debt previously contracted
3 in good faith. Such stock so purchased or acquired shall, within six
4 months after the time of its purchase unless written approval of a longer
5 holding period is obtained from the director, be sold or disposed of at
6 public or private sale, or in default thereof, a receiver may be
7 appointed to close up the business of the bank, except that such stock,
8 if shares of another bank or a bank holding company, shall be sold or
9 disposed of as required by the director. In no case shall the amount of
10 stock so held at any one time exceed ten percent of the paid-up capital
11 of such bank.

12 (2) Any bank may subscribe to, invest, purchase, and own shares of
13 investment companies registered under the Investment Company Act of 1940
14 when the investment companies' assets consist of and are limited to
15 obligations that are eligible for investment by the bank. The director
16 ~~department~~ may adopt and promulgate rules and regulations governing the
17 amounts, terms, and conditions of such subscriptions, investments,
18 purchases, and ownership.

19 (3) Any bank may subscribe to, invest, purchase, and own Student
20 Loan Marketing Association stock, Government National Mortgage
21 Association stock, Federal National Mortgage Association stock, Federal
22 Agricultural Mortgage Corporation stock, Federal Home Loan Mortgage
23 Corporation stock, or stock issued by any authorized agency of the United
24 States Government, including any corporation or enterprise wholly owned
25 directly or indirectly by the United States, or with the authority to
26 borrow directly from the United States treasury, which the director
27 ~~department~~ has approved by rule and regulation or order. The director
28 ~~department~~ may further adopt and promulgate rules and regulations
29 governing the amounts, terms, and conditions of such subscriptions,
30 investments, purchases, and ownerships, except that a bank shall not
31 obligate more than five percent of its capital, surplus, undivided

1 profits, and unencumbered reserves for such stock.

2 Sec. 45. Section 8-148.01, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 8-148.01 Any bank may invest not more than ten percent of its
5 capital and surplus either in stock of a corporation operating a computer
6 center or directly, alone or with others, in a computer center. With
7 written approval of the director ~~Director of Banking and Finance~~, such
8 additional percentage of its capital and surplus may be so invested as
9 the director shall approve. Such investment ~~is shall~~ not be subject to
10 the provisions of sections 8-148, 8-149, and 8-150.

11 Sec. 46. Section 8-148.02, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-148.02 Any bank may subscribe to, invest, buy, and own stock in
14 any agricultural credit corporation or livestock loan company, or its
15 affiliate, the principal business of which corporation must be the
16 extension of short and intermediate term credit to farmers and ranchers,
17 including partnerships, limited liability companies, and corporations
18 engaged in farming and ranching, for agricultural purposes, including the
19 breeding, raising, fattening, or marketing of livestock. ~~The Such~~ bank
20 shall not obligate more than thirty-five percent of its paid-up capital,
21 surplus, undivided profits, capital reserves, capital notes, and
22 debentures for such purposes, except that if ~~the such~~ bank owns at least
23 eighty percent of the voting stock of such agricultural credit
24 corporation or livestock loan company, ~~the such~~ limitation on the amount
25 of obligation for such purposes shall not apply. Such subscription,
26 investment, possession, or ownership ~~is shall~~ not be subject to the
27 provisions of sections 8-148, 8-149, and 8-150.

28 Sec. 47. Section 8-148.04, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 8-148.04 (1) Any bank may make a community development investment or
31 investments either directly or through purchasing an equity interest in

1 or an evidence of indebtedness of an entity primarily engaged in making
2 community development investments, if the following conditions are
3 satisfied:

4 (a) An investment under this subsection does not expose the bank to
5 unlimited liability; and

6 (b) The bank's aggregate investment under this subsection does not
7 exceed fifteen percent of its capital and surplus. If the bank's
8 investment in any one entity will exceed five percent of its capital and
9 surplus, the prior written approval of the director ~~department~~ must be
10 obtained.

11 (2) Nothing in this section prevents ~~shall prevent~~ a bank from
12 charging off as a contribution an investment made pursuant to subsection
13 (1) of this section.

14 (3) The ~~Such~~ subscription, investment, possession, or ownership is
15 ~~shall~~ not be subject to sections 8-148, 8-149, and 8-150.

16 (4) For purposes of this section, community development investments
17 means investments of a predominantly civic, community, or public nature
18 and not merely private and entrepreneurial.

19 Sec. 48. Section 8-148.05, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 8-148.05 (1) Any bank may deal in, underwrite, and purchase for its
22 own account qualified Canadian Government obligations to the same extent
23 that such bank may deal in, underwrite, and purchase for its own account
24 obligations of the United States Government or general obligations of any
25 state thereof.

26 (2) For purposes of this section:

27 (a) Qualified Canadian Government obligation means ~~shall mean~~ any
28 debt obligation which is backed by Canada or any Canadian province to a
29 degree which is comparable to the liability of the United States
30 Government or any state thereof for any obligation which is backed by the
31 full faith and credit of the United States Government or any state

1 thereof. Qualified Canadian Government obligations ~~shall~~ also includes
2 ~~include~~ any debt obligation of any agent of Canada or any Canadian
3 province if:

4 (i) The obligation of the ~~such~~ agent is assumed in such agent's
5 capacity as agent for Canada or any Canadian province; and

6 (ii) Canada or any Canadian province, on whose behalf such agent is
7 acting with respect to such obligation, is ultimately and unconditionally
8 liable for such obligation; and

9 (b) The term Canadian province means ~~shall mean~~ a province of Canada
10 and includes ~~shall include~~ the Yukon Territory and the Northwest
11 Territories and their successors.

12 Sec. 49. Section 8-148.07, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-148.07 A bank subsidiary corporation shall engage in only those
15 activities prescribed under subdivision (6) ~~(1)~~ of section 2 of this act
16 ~~8-101~~ or that its bank shareholder or shareholders ~~is~~ authorized to
17 perform under the laws of this state and shall engage in those activities
18 only at locations in this state where the bank shareholder or
19 shareholders could be authorized to perform activities.

20 Sec. 50. Section 8-148.08, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 8-148.08 A bank subsidiary corporation is subject to examination and
23 regulation by the department to the same extent as its bank shareholder
24 or shareholders.

25 Sec. 51. (1) Any bank may subscribe to, invest, buy, and own stock
26 of another financial institution if the transaction is part of the merger
27 or consolidation of the other financial institution with the acquiring
28 bank, or the acquisition of substantially all of the assets of the other
29 financial institution by the acquiring bank, and if:

30 (a) The merger, consolidation, or asset acquisition occurs on the
31 same day as the acquisition of the shares of the other financial

1 institution and the other financial institution will not be operated by
2 the acquiring bank as a separate entity; and

3 (b) The transaction receives the prior approval of the director.

4 (2) Any bank may subscribe to, invest, buy, and own stock of a
5 company controlling another financial institution if the transaction is
6 part of (a) the merger or consolidation of the company controlling the
7 other financial institution with the company controlling the acquiring
8 bank, or the acquisition of substantially all of the assets of the
9 company controlling the other financial institution by the company
10 controlling the acquiring bank, and (b) the merger or consolidation of
11 the other financial institution with the acquiring bank, or the
12 acquisition of substantially all of the assets of the other financial
13 institution by the acquiring bank, and if:

14 (a) The merger, consolidation, or asset acquisition occurs on the
15 same day as the acquisition of the shares of the company controlling the
16 other financial institution, and neither the company controlling the
17 other financial institution nor the other financial institution will be
18 operated by the acquiring bank as a separate entity; and

19 (b) The transaction receives the prior approval of the director.

20 (3) Any bank that acquires stock of another financial institution or
21 company controlling another financial institution pursuant to this
22 section shall not be deemed to be a bank holding company for purposes of
23 the Nebraska Bank Holding Company Act of 1995, so long as the conditions
24 of subdivision (1)(a) or (2)(a) of this section, as applicable, are
25 satisfied.

26 (4) For purposes of this section, financial institution means a
27 bank, savings bank, credit card bank, savings and loan association,
28 building and loan association, trust company, or credit union organized
29 under the laws of any state or organized under the laws of the United
30 States.

31 Sec. 52. Section 8-150, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 8-150 (1) Any bank may purchase, hold, and convey real estate that
3 is (a) acquired pursuant to ~~for the following purposes: (1) Such as is~~
4 ~~authorized by section 8-149, (b) ; (2) such as shall be conveyed to it~~
5 ~~for debts due the bank, and (c) purchased ; and (3) such as it shall~~
6 ~~purchase at sale under judgments, decrees, deeds of trust, or mortgages~~
7 ~~held by the bank or purchased shall purchase to secure debts due to it~~
8 ~~upon its securities, but the bank at such sale shall not bid a larger~~
9 ~~amount than required to satisfy such judgments or decrees with costs.~~
10 Real estate acquired in satisfaction of debts or at a sale upon
11 judgments, decrees, deeds of trust, or mortgages shall be sold at private
12 or public sale within five years unless authority shall be given in
13 writing by the director ~~department~~ to hold it for a longer period.

14 (2) The total amount of real estate held by any bank for purposes of
15 subdivisions (1)(b) ~~(2)~~ and (c) ~~(3)~~ of this section shall not be entered
16 on the records of the bank as an asset at a value greater than (a) the
17 unpaid balance of the debts due the bank plus its out-of-pocket expenses
18 incurred in acquiring clear title, (b) its judgments or decrees with
19 costs, or (c) the appraised value of such real estate, whichever is less,
20 except that a bank may expend funds as necessary for repairs or to
21 complete a project in order to market such property.

22 (3) A bank may utilize property acquired by it under subdivisions
23 (1)(b) ~~(2)~~ and (c) ~~(3)~~ of this section in any manner authorized by the
24 director ~~department~~.

25 Sec. 53. Section 8-152, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 8-152 A bank may make loans secured by real estate or may
28 participate with other financial institutions in such loans whether such
29 participation occurs at the inception of the loan or at any time after
30 the loan was made thereafter.

31 Sec. 54. Section 8-153, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2 8-153 All checks, unless sent to banks as special collection items,
3 shall have preprinted the magnetically encoded routing and transit symbol
4 of the bank and either the name of the maker or the magnetically encoded
5 account number of the maker. Except for checks sent to banks as special
6 collection items or checks presented for payment by the payee in person,
7 all checks drawn on any bank ~~organized under the laws of this state~~ shall
8 be cleared at par by the bank on which they are drawn. The term at par
9 applies only to the settlement of checks between collecting and paying or
10 remitting banks and does not apply to or prohibit a bank from deducting a
11 fee from the face amount of the check for paying the check if the check
12 is presented to the bank by the payee in person.

13 Sec. 55. Section 8-157, Revised Statutes Cumulative Supplement,
14 2016, is amended to read:

15 8-157 (1) Except as otherwise provided in this section and section
16 8-2103, the general business of every bank shall be transacted at the
17 place of business specified in its charter.

18 (2)(a)(i) Except as provided in subdivision (2)(a)(ii) of this
19 section, with the approval of the director, any bank located in this
20 state may establish and maintain in this state an unlimited number of
21 branches at which all banking transactions allowed by law may be made.

22 (ii) Any bank that owns or controls more than twenty-two percent of
23 the total deposits in Nebraska, as described in subdivision (2)(c) of
24 section 8-910 and computed in accordance with subsection (3) of section
25 8-910, or any bank that is a subsidiary of a bank holding company that
26 owns or controls more than twenty-two percent of the total deposits in
27 Nebraska, as described in subdivision (2)(c) of section 8-910 and
28 computed in accordance with subsection (3) of section 8-910, shall not
29 establish and maintain an unlimited number of branches as provided in
30 subdivision (2)(a)(i) of this section. With the approval of the director,
31 a bank as described in this subdivision may establish and maintain in the

1 county in which the main office of such bank is located an unlimited
2 number of branches at which all banking transactions allowed by law may
3 be made, except that if the main office of such bank is located in a
4 Class I or Class III county, such bank may establish and maintain in
5 Class I and Class III counties an unlimited number of branches at which
6 all banking transactions allowed by law may be made.

7 (iii) Any bank which establishes and maintains branches pursuant to
8 subdivision (2)(a)(i) of this section and which subsequently becomes a
9 bank as described in subdivision (2)(a)(ii) of this section shall not be
10 subject to the limitations as to location of branches contained in
11 subdivision (2)(a)(ii) of this section with regard to any such
12 established branch and shall continue to be entitled to maintain any such
13 established branch as if such bank had not become a bank as described in
14 subdivision (2)(a)(ii) of this section.

15 (b) With the approval of the director, any bank or any branch may
16 establish and maintain a mobile branch at which all banking transactions
17 allowed by law may be made. Such mobile branch may consist of one or more
18 vehicles which may transact business only within the county in which such
19 bank or such branch is located and within counties in this state which
20 adjoin such county.

21 (c) For purposes of this subsection:

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

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

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

31 (iv) Class IV county means a county in this state with a population

1 of less than one hundred thousand as determined by the most recent
2 federal decennial census.

3 (3) With the approval of the director, a bank may establish and
4 maintain branches acquired pursuant to section 8-1506 or 8-1516. All
5 banking transactions allowed by law may be made at such branches.

6 (4) With the approval of the director, a bank may acquire the assets
7 and assume the deposits of a branch of another financial institution in
8 Nebraska if the acquired branch is converted to a branch of the acquiring
9 bank. All banking transactions allowed by law may be made at a branch
10 acquired pursuant to this subsection.

11 (5) With the approval of the director, a bank may establish a branch
12 pursuant to subdivision (6) of section 8-115.01. All banking transactions
13 allowed by law may be made at such branch.

14 (6) The name given to any branch established and maintained pursuant
15 to this section shall not be substantially similar to the name of any
16 existing bank or branch which is unaffiliated with the newly created
17 branch and is located in the same city, village, or county. The name of
18 such newly created branch shall be approved by the director.

19 (7) A bank which has a main chartered office or an approved branch
20 located in the State of Nebraska may, through any of its executive
21 officers, including executive officers licensed as such pursuant to
22 section 8-139, or designated agents, conduct a loan closing at a location
23 other than the place of business specified in the bank's charter or any
24 branch thereof.

25 (8) A bank which has a main chartered office or approved branch
26 located in the State of Nebraska may, upon notification to the
27 department, establish savings account programs at any elementary or
28 secondary school, whether public or private, that has students who reside
29 in the same city or village as the main chartered office or branch of the
30 bank, or, if the main office of the bank is located in an unincorporated
31 area of a county, at any school that has students who reside in the same

1 unincorporated area. The savings account programs shall be limited to the
2 establishment of individual student accounts and the receipt of deposits
3 for such accounts.

4 (9) Upon receiving an application for a branch to be established
5 pursuant to subdivision (2)(a) of this section, to establish a mobile
6 branch pursuant to subdivision (2)(b) of this section, to acquire a
7 branch of another financial institution pursuant to subsection (4) of
8 this section, to establish or acquire a branch pursuant to subsection (1)
9 of section 8-2103, or to move the location of an established branch other
10 than a move made pursuant to subdivision (6) of section 8-115.01, the
11 director shall hold a public hearing on the matter if he or she
12 determines, in his or her discretion, that the condition of the applicant
13 bank warrants a hearing. If the director determines that the condition of
14 the bank does not warrant a hearing, the director shall publish a notice
15 of the filing of the application in a newspaper of general circulation in
16 the county where the proposed branch or mobile branch would be located,
17 the expense of which shall be paid by the applicant bank. If the director
18 receives any substantive objection to the proposed branch or mobile
19 branch within fifteen days after publication of such notice, he or she
20 shall hold a hearing on the application. Notice of a hearing held
21 pursuant to this subsection shall be published for two consecutive weeks
22 in a newspaper of general circulation in the county where the proposed
23 branch or mobile branch would be located. The date for hearing the
24 application shall not be more than ninety days after the filing of the
25 application and not less than thirty days after the last publication of
26 notice of hearing. The expense of any publication required by this
27 section shall be paid by the applicant but payment shall not be a
28 condition precedent to approval by the director.

29 Sec. 56. Section 8-157.01, Revised Statutes Cumulative Supplement,
30 2016, is amended to read:

31 8-157.01 (1) Any establishing financial institution may establish

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

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

23 (3)(a) Beginning November 1, 2016, (i) all automatic teller machines
24 shall be made available on a nondiscriminating basis for use by Nebraska
25 customers of a user financial institution and (ii) all Nebraska automatic
26 teller machine transactions initiated by Nebraska customers of a user
27 financial institution shall be made on a nondiscriminating basis.

28 (b) It shall not be deemed discrimination if (i) an automatic teller
29 machine does not offer the same transaction services as other automatic
30 teller machines, (ii) there are no automatic teller machine usage fees
31 charged between affiliate financial institutions for the use of automatic

1 teller machines, (iii) the automatic teller machine usage fees of an
2 establishing financial institution that authorizes and directly or
3 indirectly routes Nebraska automatic teller machine transactions to
4 multiple switches, all of which comply with the requirements of
5 subdivision (3)(d) of this section, differ solely upon the fact that the
6 automatic teller machine usage fee schedules of such switches differ from
7 one another, (iv) automatic teller machine usage fees differ based upon
8 whether the transaction initiated at an automatic teller machine is
9 subject to a surcharge or provided on a surcharge-free basis, (v) the
10 manner in which an establishing financial institution authorizes and
11 directly or indirectly routes Nebraska automatic teller machine
12 transactions results in the same automatic teller machine usage fees for
13 all user financial institutions for essentially the same service routed
14 over the same switch, or (vi) the automatic teller machines established
15 or sponsored by an establishing financial institution are made available
16 for use by Nebraska customers of any user financial institution which
17 agrees to pay the automatic teller machine usage fee and which conforms
18 to the operating rules and technical standards established by the switch
19 to which a Nebraska automatic teller machine transaction is directly or
20 indirectly routed.

21 (c) The director, upon notice and after a hearing, may terminate or
22 suspend the use of any automatic teller machine if he or she determines
23 that the automatic teller machine is not made available on a
24 nondiscriminating basis or that Nebraska automatic teller machine
25 transactions initiated at such automatic teller machine are not made on a
26 nondiscriminating basis.

27 (d) A switch (i) shall provide to all financial institutions that
28 have a main office or approved branch located in the State of Nebraska
29 and that conform to the operating rules and technical standards
30 established by the switch an equal opportunity to participate in the
31 switch for the use of and access thereto; (ii) shall implement the same

1 automatic teller machine usage fee for all user financial institutions
2 for essentially the same service; (iii) shall be capable of operating to
3 accept and route Nebraska automatic teller machine transactions, whether
4 receiving data from an automatic teller machine, an establishing
5 financial institution, or a data processing center; and (iv) shall be
6 capable of being directly or indirectly connected to every data
7 processing center for any automatic teller machine.

8 (e) The director, upon notice and after a hearing, may terminate or
9 suspend the operation of any switch with respect to all Nebraska
10 automatic teller machine transactions if he or she determines that the
11 switch is not being operated in the manner required under subdivision (3)
12 (d) of this section.

13 (f) Subject to the requirement for a financial institution to comply
14 with this subsection, no user financial institution or establishing
15 financial institution shall be required to become a member of any
16 particular switch.

17 (4) Any consumer initiating an electronic funds transfer at an
18 automatic teller machine for which an automatic teller machine surcharge
19 will be imposed shall receive notice in accordance with the provisions of
20 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
21 2017 ~~2016~~. Such notice shall appear on the screen of the automatic teller
22 machine or appear on a paper notice issued from such machine after the
23 transaction is initiated and before the consumer is irrevocably committed
24 to completing the transaction.

25 (5) A point-of-sale terminal may be established at any point within
26 this state by a financial institution, a group of two or more financial
27 institutions, or a combination of a financial institution or financial
28 institutions and a third party or parties. Such parties may contract with
29 a seller of goods and services or any other third party for the operation
30 of point-of-sale terminals.

31 (6) A seller of goods and services or any other third party on whose

1 premises one or more point-of-sale terminals are established shall not
2 be, solely by virtue of such establishment, a financial institution and
3 shall not be subject to the laws governing, or other requirements imposed
4 on, financial institutions, except for the requirement that it faithfully
5 perform its obligations in connection with any transaction originated at
6 any point-of-sale terminal on its premises.

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

11 (8)(a) Beginning September 1, 2015, and thereafter annually by
12 September 1, any entity operating as a switch in Nebraska prior to
13 September 1, 2015, regardless of whether the switch had been approved by
14 the department, shall file a notice with the department setting forth its
15 name, address, and contact information for an officer authorized to
16 answer inquiries related to its operations in Nebraska.

17 (b) On or after September 1, 2015, any entity intending to operate
18 in Nebraska as a switch shall file a notice with the department setting
19 forth its name, address, and contact information for an officer
20 authorized to answer inquiries related to its operations in Nebraska.
21 Such notice shall be filed at least thirty days prior to the date on
22 which the switch commences operations, and thereafter annually by
23 September 1.

24 (9) Nothing in this section prohibits ordinary clearinghouse
25 transactions between financial institutions.

26 (10) Nothing in this section shall prevent any financial institution
27 which has a main chartered office or an approved branch located in the
28 State of Nebraska from participating in a national automatic teller
29 machine program to allow its customers to use automatic teller machines
30 located outside of the State of Nebraska which are established by out-of-
31 state financial institutions or foreign financial institutions or to

1 allow customers of out-of-state financial institutions or foreign
2 financial institutions to use its automatic teller machines. Such
3 participation and any automatic teller machine usage fees charged or
4 received pursuant to the national automatic teller machine program or
5 usage fees charged for the use of its automatic teller machines by
6 customers of out-of-state financial institutions or foreign financial
7 institutions shall not be considered for purposes of determining (a) if
8 an automatic teller machine has been made available or Nebraska automatic
9 teller machine transactions have been made on a nondiscriminating basis
10 for use by Nebraska customers of a user financial institution or (b) if a
11 switch complies with subdivision (3)(d) of this section.

12 (11) An agreement to operate or share an automatic teller machine
13 may not prohibit, limit, or restrict the right of the operator or owner
14 of the automatic teller machine to charge a customer conducting a
15 transaction using an account from a foreign financial institution an
16 access fee or surcharge not otherwise prohibited under state or federal
17 law.

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

20 (13) Nothing in this section shall prevent a group of two or more
21 credit unions, each of which has a main chartered office or an approved
22 branch located in the State of Nebraska, from participating in a credit
23 union service organization organized on or before January 1, 2015, for
24 the purpose of owning automatic teller machines, provided that all
25 participating credit unions have an ownership interest in the credit
26 union service organization and that the credit union service organization
27 has an ownership interest in each of the participating credit unions'
28 automatic teller machines. Such participation and any automatic teller
29 machine usage fees associated with Nebraska automatic teller machine
30 transactions initiated by customers of participating credit unions at
31 such automatic teller machines shall not be considered for purposes of

1 determining if such automatic teller machines have been made available on
2 a nondiscriminating basis or if Nebraska automatic teller machine
3 transactions initiated at such automatic teller machines have been made
4 on a nondiscriminating basis, provided that all Nebraska automatic teller
5 machine transactions initiated by customers of participating credit
6 unions result in the same automatic teller machine usage fees for
7 essentially the same service routed over the same switch.

8 (14)(a) Except for any violation of this subsection, the department
9 shall take no enforcement action under this section between May 14, 2015,
10 and November 1, 2016, with respect to access to automatic teller
11 machines, Nebraska automatic teller machine usage fees, or any agreements
12 relating to Nebraska automatic teller machine usage fees which existed on
13 May 14, 2015, except for changes in automatic teller machine usage fees
14 announced prior to May 14, 2015.

15 (b) Nebraska automatic teller machine usage fees or agreements
16 relating to Nebraska automatic teller machine usage fees in effect on May
17 14, 2015, shall remain unchanged until April 1, 2016, except for changes
18 in automatic teller machine usage fees announced prior to May 14, 2015.

19 (c) There shall be a moratorium on the implementation of any
20 agreement with new members relating to Nebraska automatic teller machine
21 usage fees between May 14, 2015, and April 1, 2016, except for changes in
22 automatic teller machine usage fees announced prior to May 14, 2015.

23 (d) Any agreement implemented on or after April 1, 2016, relating to
24 Nebraska automatic teller machine usage fees shall comply with subsection
25 (3) of this section.

26 (e) Commencing November 1, 2016, Nebraska automatic teller machine
27 usage fees and any agreements relating to Nebraska automatic teller
28 machine usage fees shall comply with subsection (3) of this section.

29 (15) For purposes of this section:

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

1 purchase goods and services electronically;

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

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

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

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

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

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

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

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

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

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

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

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

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

31 Sec. 57. Section 8-158, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 8-158 Any bank may be appointed and ~~, chartered to conduct a banking~~
3 ~~business in this state and so authorized by its corporate articles,~~ shall
4 have power to act, either by itself or jointly with any natural person or
5 persons, as personal representative of the estate of any deceased person
6 or as special administrator of the estate of any deceased person under
7 the appointment of a court of record having jurisdiction of the estate of
8 such deceased person. When a bank is so appointed and an oath is required
9 to be made, whether in order to qualify or for any other purpose, the
10 president, vice president, or secretary of the bank may, on behalf of the
11 bank, make and subscribe to the required oath.

12 Sec. 58. Section 8-160, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-160 The director has the authority ~~shall have the power~~ to issue
15 to banks amendments to their charters of authority to transact trust
16 business as defined in the Nebraska Trust Company Act and has ~~shall have~~
17 general supervision and control over such trust department of banks.

18 Sec. 59. Section 8-161, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 8-161 The director, before granting to any bank the right to operate
21 a trust department, shall require such bank to make an application for
22 amendment of its charter, setting forth such information as the director
23 may require. If, upon investigation, the director is department ~~shall be~~
24 satisfied that the trust department of the bank requesting such amendment
25 will be operated by bank requesting such charter is operated by
26 stockholders, directors, and officers of integrity and responsibility,
27 the department shall, with such additional capital as the director shall
28 require, issue to such bank an amendment to its charter, entitling it to
29 operate a trust department and entitling it to transact the business
30 provided for in the Nebraska Trust Company Act.

31 Sec. 60. Section 8-162.02, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2 8-162.02 (1) A ~~state-chartered~~ bank may deposit or have on deposit
3 funds of a fiduciary account controlled by the bank's trust department
4 unless prohibited by applicable law.

5 (2) To the extent that the funds are awaiting investment or
6 distribution and are not insured or guaranteed by the Federal Deposit
7 Insurance Corporation, a ~~state-chartered~~ bank shall set aside collateral
8 as security under the control of appropriate fiduciary officers and bank
9 employees. The bank shall place pledged assets of fiduciary accounts in
10 the joint custody or control of not fewer than two of the fiduciary
11 officers or employees of the bank designated for that purpose by the
12 board of directors. The bank may maintain the investments of a fiduciary
13 account off-premises if consistent with applicable law and if the bank
14 maintains adequate safeguards and controls. The market value of the
15 collateral shall at all times equal or exceed the amount of the uninsured
16 or unguaranteed fiduciary funds awaiting investment or distribution.

17 (3) A ~~state-chartered~~ bank may satisfy the collateral requirements
18 of this section with any of the following: (a) Direct obligations of the
19 United States or other obligations fully guaranteed by the United States
20 as to principal and interest; (b) readily marketable securities of the
21 classes in which banks, trust companies, or other corporations exercising
22 fiduciary powers are permitted to invest fiduciary funds under applicable
23 state law; and (c) surety bonds, to the extent the surety bonds provide
24 adequate security, unless prohibited by applicable law.

25 (4) A ~~state-chartered~~ bank, acting in its fiduciary capacity, may
26 deposit funds of a fiduciary account that are awaiting investment or
27 distribution with an affiliated insured depository institution unless
28 prohibited by applicable law. The bank may set aside collateral as
29 security for a deposit by or with an affiliate of fiduciary funds
30 awaiting investment or distribution, as it would if the deposit was made
31 at the bank, unless such action is prohibited by applicable law.

1 (5) Public funds deposited in and held by a ~~state-chartered~~ bank are
2 not subject to this section.

3 (6) This section does not apply to a fiduciary account in which,
4 pursuant to the terms of the governing instrument, full investment
5 authority is retained by the grantor or is vested in persons or entities
6 other than the ~~state-chartered~~ bank and the bank, acting in its fiduciary
7 capacity, does not have the power to exert any influence over investment
8 decisions.

9 Sec. 61. Section 8-163, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-163 (1) No bank shall withdraw or permit to be withdrawn, either
12 in the form of dividends or otherwise, any part of its capital or surplus
13 without the written permission of the director. If losses have at any
14 time been sustained equal to or exceeding the undivided profits on hand,
15 no dividends shall be made without the written permission of the
16 director. No dividend shall be made by any bank in an amount greater than
17 the net profits on hand without the written permission of the director.

18 (2) As used in this section, net profits on hand means the remainder
19 of all earnings from current operations plus actual recoveries on loans
20 and investments and other assets after deducting from the total thereof
21 all current operating expenses, losses, and bad debts, accrued dividends
22 on preferred stock, if any, and federal and state taxes, for the present
23 and two immediately preceding calendar years.

24 Sec. 62. Section 8-164, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 8-164 The board of directors of any bank may declare dividends on
27 its capital stock but only under the following conditions:

28 (1) All bad debts required to be charged off by either the board of
29 directors or the department shall first have been charged off. All debts
30 due any bank on which interest is past due and unpaid for a period of six
31 months, unless such debts are well secured or in the process of

1 collection, shall be considered bad debts within the meaning of this
2 section; and

3 (2) Twenty percent of the net profits accumulated since the
4 preceding dividend shall first have been carried to the surplus fund
5 unless such surplus fund equals or exceeds the amount of the paid-up
6 capital stock.

7 Sec. 63. Section 8-166, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 8-166 (1) Every bank shall make to the department not less than two
10 reports during each year according to the form which may be prescribed by
11 the department, which report shall be certified as correct, in the manner
12 prescribed by the department, by the president, vice president, cashier,
13 or assistant cashier and in addition by two members of the board of
14 directors.

15 (2) The director may waive the requirements of this section if a
16 bank files its reports electronically with the Federal Deposit Insurance
17 Corporation, the Federal Reserve Board, or an electronic collection agent
18 of the Federal Deposit Insurance Corporation or the Federal Reserve
19 Board.

20 Sec. 64. Section 8-167, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 8-167 Each report required by section 8-166 shall exhibit in detail
23 and under appropriate headings the resources and liabilities of the bank
24 at the close of business on any past day specified by the call for report
25 and shall be submitted to the department within thirty days, or as may be
26 required by the department, after the receipt of requisition for the
27 report. A summary of such report in the form prescribed by the department
28 shall be published one time in a legal newspaper in the place where the
29 main office of such bank is located. If there is no legal newspaper in
30 the place where the main office of the bank is located, then such summary
31 shall be published in a legal newspaper published in the same county or,

1 if none is published in the county, in a legal newspaper of general
2 circulation in the county. Such publication shall be at the expense of
3 such bank. Proof of such publication shall be transmitted to the
4 department within thirty days, or as may be required by the director
5 ~~department~~, from the date fixed for such report.

6 Sec. 65. Section 8-167.01, Revised Statutes Cumulative Supplement,
7 2016, is amended to read:

8 8-167.01 The publication requirements of section 8-167 shall not
9 apply to any bank that makes a disclosure statement available to any
10 member of the general public upon request in compliance with the
11 disclosure of financial information provisions of 12 C.F.R. part 350, as
12 such part existed on January 1, 2017 ~~2013~~.

13 Sec. 66. Section 8-168, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 8-168 A Any bank shall ~~be required to~~ furnish such special reports
16 as may be required by the director ~~department~~ to enable the such
17 department to obtain full and complete knowledge of the condition of the
18 ~~such~~ bank.

19 Sec. 67. Section 8-169, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 8-169 Any bank that fails, neglects, or refuses ~~shall fail, neglect,~~
22 ~~or refuse~~ to make or furnish any report or any published statement
23 required by the Nebraska Banking Act shall pay to the department a
24 penalty of fifty dollars for each day such failure shall continue, unless
25 the director ~~department~~ shall extend the time for filing such report.

26 Sec. 68. Section 8-170, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 8-170 (1) Banks shall not be required to preserve or keep their
29 records or files or copies thereof for a ~~longer~~ period longer than six
30 years next after the first day of January of the year following the time
31 of the making or filing of such records or files except as provided in

1 subsection (2) of this section.

2 (2)(a) Ledger sheets showing unpaid balances in favor of depositors
3 of banks shall not be destroyed unless the bank has remitted such unpaid
4 balances to the State Treasurer in accordance with the Uniform
5 Disposition of Unclaimed Property Act. Banks shall retain a record of
6 every such remittance for ten years following the date of such
7 remittance.

8 (b) Corporate records that relate to the corporation or the
9 corporate existence of the bank shall not be destroyed.

10 (c) All records or files or copies thereof shall be readable or
11 legible.

12 Sec. 69. Section 8-171, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-171 No liability shall accrue against any bank destroying any such
15 records or files ~~after the expiration of the time provided in accordance~~
16 ~~with sections 8-170 to 8-174~~ section 8-170. In any cause or proceedings
17 in which any such records or files may be called into ~~in~~ question or be
18 demanded of the bank or any officer or employee of the bank thereof, a
19 showing that such records or files have been destroyed in accordance with
20 the terms of sections 8-170 to 8-174 shall be a sufficient excuse for the
21 failure to produce such records or files ~~them~~.

22 Sec. 70. Section 8-173, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-173 All causes of action against a bank based upon a claim or
25 claims inconsistent with an entry or entries in any bank record or
26 ledger, made in the regular course of business, shall accrue one year
27 after the date of such entry or entries. No action founded upon such a
28 cause shall ~~may~~ be brought after the expiration of five years from the
29 date of such accrual.

30 Sec. 71. Section 8-174, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 8-174 ~~Sections~~ The provisions of sections 8-170 to 8-174, so far as
2 may be permitted by the laws of the United States, shall apply to the
3 records and files of national banks.

4 Sec. 72. Section 8-175, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 8-175 Any person who ~~shall~~ willfully and knowingly subscribes
7 ~~subscribe~~ to, or makes ~~make~~, or causes ~~cause~~ to be made, any false
8 statement or false entry in the books of any bank, ~~or shall~~ knowingly
9 subscribes ~~subscribe~~ to or exhibits ~~exhibit~~ false papers with the intent
10 to deceive any person or persons authorized to examine into the affairs
11 of any such bank, makes, states, or publishes ~~or shall make, state, or~~
12 ~~publish~~ any false statement of the amount of the assets or liabilities of
13 any such bank, fails ~~or shall fail~~ to make true and correct entry in the
14 books and records of such bank of its business and transactions in the
15 manner and form prescribed by the department, mutilates, alters,
16 destroys, secretes, or removes ~~or shall mutilate, alter, destroy,~~
17 ~~secrete, or remove~~ any of the books or records of such bank without the
18 written consent of the director, or makes, states, or publishes ~~shall~~
19 ~~make, state, or publish~~ any false statement of the amount of the assets
20 or liabilities of any such bank, is ~~shall be~~ guilty of a Class III
21 felony.

22 Sec. 73. Section 8-177, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-177 Any bank, which is in good faith winding up its business for
25 the purpose of consolidating with some other financial institution ~~bank~~,
26 may transfer its resources and liabilities to the financial institution
27 ~~bank~~ with which it is in the process of consolidation, but no
28 consolidation shall be made without the consent of the director
29 ~~department~~, nor shall such consolidation operate to defeat the claim of
30 any creditor or hinder any creditor in the collection of his or her debt
31 against any such bank or financial institution ~~banks or either of them~~.

1 Sec. 74. Section 8-178, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-178 (1) Any national bank ~~banking association~~ located and doing
4 business within the State of Nebraska which follows the procedure
5 prescribed by the laws of the United States may convert into a state bank
6 or merge or consolidate with a state bank upon a vote of the holders of
7 at least two-thirds of the capital stock of such state bank when the
8 resulting state bank meets the requirements of the state law as to the
9 formation of a new state bank. If the national bank ~~banking association~~
10 has been further chartered to conduct a trust company business within a
11 trust department of the bank, the trust department to be converted shall
12 meet the requirements of state law as to the formation of a trust company
13 business within a trust department of a state bank.

14 (2) The public hearing requirement of subdivision (1) of section
15 8-115.01 and the rules and regulations of the director ~~department~~ shall
16 be required only if (a) ~~(1)~~ after publishing a notice of the proposed
17 conversion in a newspaper of general circulation in the county where the
18 main office of the national bank is located, the expense of which shall
19 be paid by the applicant bank, the director receives an objection to the
20 conversion within fifteen days after such publication or (b) ~~(2)~~ in the
21 discretion of the director, the condition of the bank warrants a hearing.
22 If the national bank has been further chartered to conduct a trust
23 company business within a trust department of the bank, the notice of the
24 proposed conversion of the national bank shall include notice that the
25 trust department will be converted in connection with the national bank
26 conversion.

27 Sec. 75. Section 8-179, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 8-179 (1) The resulting state bank under section 8-178 shall file a
30 statement with the department, under the oath of its president or
31 cashier, (a) showing that the procedure prescribed by the laws of the

1 United States and by this state have been followed, (b) setting forth in
2 the statement the matter prescribed by sections ~~8-121~~ and 8-1901 to
3 8-1903, and (c) if the national bank has been further chartered to
4 conduct a trust company business within a trust department of the bank,
5 setting forth the matter prescribed by sections 8-159 to 8-162.01. Upon
6 payment of all applicable fees, the department shall issue to such
7 corporation ~~the certificate provided for in section 8-122~~, a charter to
8 transact the business provided for in its articles of incorporation, and,
9 if applicable, a charter to conduct a trust company business within a
10 trust department of the bank.

11 (2) The department may accept good assets of any such national bank,
12 worth not less than par, in lieu of the payment otherwise provided by law
13 for the stock of such resulting bank. When the parties requesting the
14 conversion, merger, or consolidation are officers or directors of either
15 the national bank or of the state bank, they shall be accepted without
16 investigation as parties of integrity and responsibility. Unless the
17 resulting bank is at a different location than the former national or
18 state bank, the department shall recognize the public necessity,
19 convenience, and advantage of permitting the resulting bank and, if
20 applicable, the trust company business within a trust department of the
21 bank, to engage in business.

22 Sec. 76. Section 8-180, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-180 Any state bank, without the approval of any state authority,
25 may, upon a vote of the holders of at least two-thirds of its capital
26 stock, convert into and merge or consolidate with a national bank banking
27 ~~associations~~ as provided by federal law.

28 Sec. 77. Section 8-182, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 8-182 The owner of shares of a state bank which were voted against a
31 conversion into or a merger or consolidation with a national bank under

1 section 8-181 shall be entitled to receive, from the assets of such state
2 bank, the value of such stock in cash, when the conversion, merger, or
3 consolidation becomes effective, upon written demand made to the
4 resulting bank at any time within thirty days after the effective date of
5 the conversion, merger, or consolidation, accompanied by the surrender of
6 the stock certificates. The value of such shares shall be determined, as
7 of the date of the shareholders' meeting approving the conversion,
8 merger, or consolidation, by three appraisers, one to be selected by the
9 owners of two-thirds of the shares voting against the conversion, merger,
10 or consolidation, one by the board of directors of the resulting state
11 bank, and the third by the two so chosen. If the appraisal is not
12 completed within sixty days after the conversion, merger, or
13 consolidation becomes effective the department shall cause an appraisal
14 to be made and such appraisal shall then govern. The expenses of
15 appraisal shall be paid by the resulting bank.

16 Sec. 78. Section 8-183, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 8-183 Without approval by the director department, no asset shall be
19 carried on the books of the bank resulting pursuant to section 8-181
20 ~~resulting bank,~~ when the resulting bank is a state bank, at a valuation
21 higher than that on the books of the converting, merging, or
22 consolidating bank at the time of the examination, by a state or national
23 bank examiner, last occurring before the effective date of the
24 conversion, merger, or consolidation.

25 Sec. 79. Section 8-183.04, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 8-183.04 (1) Notwithstanding any other provision of the Nebraska
28 Banking Act or any other Nebraska law, a state or federal savings
29 association which was formed and in operation as a mutual savings
30 association as of July 15, 1998, may elect to retain its mutual form of
31 corporate organization upon conversion to a state bank.

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

4 (3) The amount and type of capital required for such a converted
5 savings association shall be as required for federal mutual savings
6 associations in 12 C.F.R. part 567, as such part existed on January 1,
7 2017 ~~2010~~, except that if at any time the department determines that the
8 capital of such a converted savings association is impaired, the director
9 ~~department~~ may require the members to make up the capital impairment.

10 (4) The director may ~~shall have the power to~~ adopt and promulgate
11 rules and regulations governing such converted mutual savings
12 associations. In adopting and promulgating such rules and regulations,
13 the director may consider the provisions of sections 8-301 to 8-384
14 governing savings associations in mutual form of corporate organization.

15 Sec. 80. Section 8-183.05, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 8-183.05 (1) Upon the issuance of a state bank charter to a
18 converting savings association, the corporate existence of the converting
19 savings association shall not terminate, but such bank shall be a
20 continuation of the entity so converted and all property of the converted
21 savings association, including its rights, titles, and interests in and
22 to all property of whatever kind, whether real, personal, or mixed,
23 things in action, and every right, privilege, interest, and asset of any
24 conceivable value or benefit then existing, or pertaining to it, or which
25 would inure to it, immediately, by operation of law and without any
26 conveyance or transfer and without any further act or deed, shall vest in
27 and remain the property of such converted savings association, and the
28 same shall have, hold, and enjoy the same in its own right as fully and
29 to the same extent as the same was possessed, held, and enjoyed by the
30 converting savings association.

31 (2) Upon issuance of the charter, the new state bank shall continue

1 to have and succeed to all the rights, obligations, and relations of the
2 converting savings association.

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

11 (4) Nothing in this section shall be construed to authorize a
12 converted savings association to establish branches except as permitted
13 by section 8-157 and the Interstate Branching and Merger Act. This
14 subsection shall not be construed to require divestiture of any branches
15 of a savings association in existence at the time of the conversion to a
16 state bank charter.

17 Sec. 81. Section 8-184, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 8-184 Whenever any bank shall desire to go into voluntary
20 liquidation, it shall first obtain the written consent of the director
21 ~~department~~ which may, before granting such request, order a special
22 examination of the affairs of such bank, for which the same fees may be
23 collected as in regular examination.

24 Sec. 82. Section 8-185, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 8-185 Any bank may voluntarily liquidate by paying off all its
27 depositors in full. The bank so liquidating shall file a certified
28 statement with the department, setting forth the fact that all its
29 liabilities have been paid and naming its stockholders with the amount of
30 stock held by each, and surrender its charter certificate of authority to
31 ~~transact a banking business~~. The department shall cause an examination to

1 be made of any such bank for the purpose of determining that all of its
2 liabilities, except liabilities to stockholders, have been paid. Upon
3 such examination, if it appears that all liabilities other than
4 liabilities to stockholders have been paid, the bank shall cease to be
5 subject to the Nebraska Banking Act.

6 Sec. 83. Section 8-186, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 8-186 Any bank may place its affairs and assets under the control of
9 the department by posting on its door the following notice: This bank is
10 in the hands of the Department of Banking and Finance. The posting of
11 such notice, or the taking possession of any bank by the department or by
12 any financial institution ~~bank~~ examiner shall be sufficient to place all
13 of its assets of whatever nature immediately in the possession of the
14 department, and shall operate as a bar to the levying of attachments or
15 executions thereon, and shall operate to dissolve and release all levies,
16 judgment liens, attachments, or other liens obtained through legal
17 proceedings within sixty days next preceding the posting of such notice
18 or the taking possession of such bank by the department.

19 Sec. 84. Section 8-187, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 8-187 Whenever it appears to the director ~~department~~ from any
22 examination or report provided for by the laws of this state that (1) the
23 capital of any bank is impaired, (2) ~~a~~ ~~or that such~~ bank is conducting
24 its business in an unsafe or unauthorized manner, (3) ~~a bank~~ ~~or~~ is
25 endangering the interests of its depositors, (4) ~~a bank,~~ ~~or~~ upon its
26 failure, refuses ~~of such bank~~ to make any of the reports or statements
27 required by the laws of this state, (5) ~~or if~~ the officers or employees
28 of any bank refuse to submit its books, papers, and affairs to the
29 inspection of any examiner, (6) ~~or if~~ any officer of a bank thereof
30 refuses to be examined upon oath touching the affairs of the any ~~such~~
31 bank, (7) ~~or if~~ from any examination or report provided for by law, the

1 ~~director department~~ has reason to conclude that a such bank is in an
2 unsafe or unsound condition to transact the business for which it is
3 organized, or that it is unsafe and inexpedient for the bank ~~it~~ to
4 continue its business, or (8) ~~a if any such~~ bank neglects or refuses to
5 observe any order of the director department, the department may
6 immediately forthwith take possession of the property and business of the
7 bank, ~~and shall thereafter~~ conduct the affairs of the bank, and ~~shall~~
8 retain possession of all money, rights, credits, assets, and property of
9 every description belonging to the bank, as against any mesne or final
10 process issued by any court against the bank whose property has been
11 taken, and may retain possession for a sufficient time to make an
12 examination of its affairs and dispose of such property thereof as
13 provided by law. All levies, judgment liens, attachments, or other liens
14 obtained through legal proceedings against the bank or its property,
15 acquired within sixty days next preceding the taking of possession of the
16 bank, in the event the bank is liquidated and the business of the bank is
17 not resumed or carried on after the taking of possession of the bank ~~over~~
18 ~~thereof~~ by the department, shall be void and the property affected by the
19 levy, judgment lien, attachment, or other lien so obtained shall be
20 wholly discharged and released from any levy, judgment lien, attachment,
21 or other lien therefrom. The department director shall retain possession
22 of the property and business of the bank until the bank resumes ~~shall~~
23 ~~resume~~ business or its affairs are finally liquidated under ~~as provided~~
24 ~~in~~ the Nebraska Banking Act.

25 Sec. 85. Section 8-188, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 8-188 The director, or any deputy, counsel, or any examiner
28 authorized by the director, may, on behalf of the department, take
29 possession of a bank by handing to the president, cashier, or any person
30 in charge of the bank, a written notice that the bank is in the
31 possession of the department.

1 Sec. 86. Section 8-189, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-189 Any officer, director, or employee of a bank, who attempts
4 ~~shall attempt~~ to prevent the department from taking possession of such
5 bank is, ~~shall be~~ guilty of a Class I misdemeanor.

6 Sec. 87. Section 8-190, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 8-190 Whenever any bank refuses or neglects to deliver possession of
9 its affairs, assets, or property of whatever nature to the department or
10 to any person ordered or appointed to take charge of such bank according
11 to the Nebraska Banking Act, the director shall make an application to
12 the district court of the county in which the main office of such bank is
13 located or to any judge of such court thereof for an order placing the
14 department or such person in charge thereof and of its affairs and
15 property. If the judge of the district court having jurisdiction is
16 absent from the district at the time such application is to be made, any
17 judge of the Court of Appeals or Supreme Court may grant such order, but
18 the petition and order of possession shall be immediately ~~forthwith~~
19 transmitted to the clerk of the district court of the county in which the
20 main office of such bank is located.

21 Sec. 88. Section 8-191, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 8-191 Upon taking possession of the property and business of any
24 bank, the department shall immediately ~~forthwith~~ give notice of such fact
25 by letter or electronic mail ~~telegram~~ to all banks or trust companies
26 holding or in possession of any assets of such bank, so far as known by
27 the ~~such~~ department. No bank or trust company so notified or knowing of
28 such possession by the department shall have a lien or charge for any
29 payment, advance, or clearance thereafter made, or liability thereafter
30 incurred, against any of the assets of the bank of whose property and
31 business the department shall have taken possession unless the bank be

1 continued as a going concern.

2 Sec. 89. Section 8-192, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 8-192 Upon taking charge of any bank, the director shall cause to be
5 made an inventory in triplicate of all the property, assets, and
6 liabilities of the bank so far as the property, assets, and liabilities
7 of the bank same can be ascertained. One copy of the inventory thereof
8 shall be filed with ~~in the office of~~ the director, one copy of the
9 inventory thereof retained in the bank, and, after the declaration of
10 insolvency of the bank, as provided in section 8-194, one copy of the
11 inventory shall be filed with the clerk of the district court of the
12 county in which the main office of the bank is located.

13 Sec. 90. Section 8-193, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 8-193 Whenever the officers, directors, stockholders, or owners of
16 any insolvent bank give good and sufficient bond running to the
17 department with an incorporated surety company authorized by the laws of
18 this state to transact such business, conditioned upon the full
19 settlement of all the liabilities of such bank by such officers,
20 directors, stockholders, or owners within a stated time, and the bond is
21 approved by the director ~~department~~, then the department shall turn over
22 all the assets of such bank to the officers, directors, stockholders, or
23 owners of the bank furnishing the bond, reserving the same right to
24 require report of the condition and to examine into the affairs of the
25 bank as existed in the department previous to its closing. If, upon such
26 examination, it is found by the department that the officers, directors,
27 stockholders, or owners are not closing up the affairs of the bank in
28 such manner as to discharge its liabilities and to close up its affairs
29 in a manner satisfactory to the department within a reasonable time, the
30 department shall take immediate possession of the bank for ~~the~~
31 liquidation under ~~thereof as provided in~~ the Nebraska Banking Act.

1 Sec. 91. Section 8-194, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-194 Upon determination of insolvency of any bank by the director
4 and failure of the stockholders or owners thereof to restore solvency
5 within the time and in the manner provided by law, or upon violation of
6 the laws of the state by the bank, the director shall make a finding in
7 writing of the condition of the affairs of such bank and a declaration of
8 insolvency and such finding and declaration shall be filed with the clerk
9 of the district court of the county in which the main office of such bank
10 is located.

11 Sec. 92. Section 8-195, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-195 Whenever any bank of whose property and business the
14 department director has taken possession or whose insolvency has been
15 declared under ~~as provided in~~ section 8-194 deems itself aggrieved by
16 such actions ~~thereby~~, it may, at any time not later than ten days after
17 such declaration of insolvency has been filed with the clerk of the
18 district court of the county in which the main office of the bank is
19 located, petition the district court to enjoin further proceedings. The ~~7~~
20 ~~and the~~ court, after citing the Director of Banking and Finance ~~director~~
21 to show cause why further proceedings should not be enjoined, ~~and~~ hearing
22 the allegations and proofs of the parties, and determining the facts,
23 may, upon proof by the bank, its officers, or its directors, ~~7~~ that it is
24 solvent, that the business of the bank has been and is being conducted as
25 provided by law, that it is not endangering the interests of its
26 depositors and other creditors, and that the Director of Banking and
27 Finance ~~director~~ has acted arbitrarily and abused his or her discretion
28 either by taking possession of the bank or by finding and declaring the
29 bank to be insolvent and ordering its liquidation, set aside such
30 declaration of insolvency and enjoin the director from proceeding
31 further, and direct him or her to surrender the business and property to

1 the bank. On proof that the bank is insolvent and that its stockholders
2 or owners have failed to restore solvency as provided by law, or that the
3 bank is being operated in violation of law, and that the director has
4 acted within his or her powers, the petition shall be dismissed by the
5 court.

6 Sec. 93. Section 8-196, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 8-196 An appeal under section 8-195 shall operate as a stay of
9 judgment of the district court, and no bond need be given if the appeal
10 is taken by the director. If ~~, but if~~ the appeal is taken by the such
11 bank, a bond shall be given as required by law for an appeal in civil
12 cases.

13 Sec. 94. Section 8-197, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 8-197 (1) Pending final judgment on the petition to enjoin under
16 section 8-195, the department ~~director~~ shall retain possession of the
17 property and business of the bank. If not enjoined, the director shall
18 proceed to liquidate the affairs of the such bank as provided in the
19 Nebraska Banking Act, except that: (a) ~~(1)~~ The Federal Deposit Insurance
20 Corporation may, under the laws of this state, accept the appointment as
21 receiver or liquidating agent ~~liquidator~~ of any insolvent ~~state~~ bank the
22 deposits of which are insured by the Federal Deposit Insurance
23 Corporation; or (b) ~~(2)~~ when any state bank is declared insolvent and
24 ordered to be liquidated and the deposits of such bank are not insured by
25 the Federal Deposit Insurance Corporation, then depositors and other
26 creditors of such insolvent ~~state~~ bank, representing fifty-one percent or
27 more of the deposits ~~deposit~~ and other claims in number and in amount of
28 the total thereof, shall have the right to liquidate such insolvent bank
29 by and through liquidating trustees, who shall have the same power as the
30 department and the director to liquidate such bank if, within thirty days
31 after the filing of the declaration of insolvency, articles of

1 trusteehip executed and acknowledged by fifty-one percent or more of the
2 depositors and other creditors in number, representing fifty-one percent
3 or more of the total of all deposits and claims in such bank, are filed
4 with the director. The articles creating the trusteehip shall be in
5 writing, shall name the trustees, shall state the terms and conditions of
6 such trust, and shall become effective when it is determined by the
7 director that fifty-one percent or more of the depositors and other
8 creditors in number, representing fifty-one percent or more of the total
9 of all deposits and claims in such bank, have signed and acknowledged the
10 same. All nonconsenting depositors and other creditors of the insolvent
11 bank shall be held to be subject to the terms and conditions of such
12 trusteehip to the same extent and with the same effect as if they had
13 joined in the execution thereof, and their respective claims shall be
14 treated in all respects as if they had joined in the execution of such
15 articles of trusteehip. Upon finding that such articles have been
16 executed and acknowledged as provided in this section, the director shall
17 thereupon transfer all of the assets of the insolvent bank to such
18 liquidating trustees and take their receipt therefor, and all duties and
19 responsibilities of the department and the director as otherwise provided
20 by law with respect to such liquidation shall be assumed by such
21 liquidating trustees. The director shall then be relieved from further
22 responsibility in connection therewith, and the director and the person
23 who issued the applicable bond or equivalent commercial insurance policy
24 shall be released from further liability on the director's official bond
25 or equivalent commercial insurance policy in respect to such liquidation.
26 The trustees shall then proceed to liquidate such bank as nearly as may
27 be in the manner provided by law for the liquidation of insolvent banks
28 by the department acting as receiver and liquidating agent.

29 (2) When the Federal Deposit Insurance Corporation or any party
30 other than the department is appointed receiver and liquidating agent of
31 an insolvent bank or other financial institution chartered by the

1 department, all references to the department or the director as provided
2 in the act for the liquidation of such banks and financial institutions
3 shall mean the Federal Deposit Insurance Corporation or other appointed
4 receiver and liquidating agent.

5 Sec. 95. Section 8-198, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 8-198 The department may be designated the receiver and liquidating
8 agent for any financial institution chartered by the department ~~subject~~
9 ~~to the department's jurisdiction~~ and, subject to the district court's
10 supervision and control, may proceed to liquidate such financial
11 institution or reorganize it in accordance with the Nebraska Banking Act.

12 Sec. 96. Section 8-199, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-199 Whenever the department has been designated receiver for a
15 financial ~~an~~ institution chartered by the department ~~subject to its~~
16 ~~jurisdiction~~, the department shall have all the powers and privileges
17 provided by the laws of this state with respect to any other receiver and
18 such incidental powers as shall be necessary to carry out an orderly and
19 efficient liquidation or reorganization of any such financial institution
20 for which the department may have become receiver, either by operation of
21 law or by judicial appointment. Acting by and through the director, the
22 department may in its own name as such receiver enforce on behalf of such
23 financial institution or its creditors, ~~of~~ shareholders, or owners, by
24 actions at law or in equity, all debts or other obligations of whatever
25 kind or nature due to such financial institution or the creditors or
26 shareholders thereof. In like manner, the department may make, execute,
27 and deliver any and all deeds, assignments, and other instruments
28 necessary and proper to effectuate any sale of real or personal property,
29 or the settlement of any obligations belonging or due to such financial
30 institution for which the department may have become receiver, or its
31 creditors, ~~of~~ shareholders, or owners, when such sale or settlement is

1 approved by the district court of the county in which the main office of
2 such financial institution is located. The director shall receive no
3 fees, salary, or other compensation for his or her services in connection
4 with the liquidation or reorganization of such financial institutions
5 other than his or her salary.

6 Sec. 97. Section 8-1,100, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 8-1,100 The director may, under his or her hand and official seal,
9 appoint such special deputies or assistants as he or she may find
10 necessary for the efficient and economical liquidation of insolvent
11 banks, with powers specified in the certificate of appointment, to assist
12 him or her in the liquidation. The certificate shall be filed with ~~in the~~
13 ~~office of~~ the director and a certified copy with ~~in the office of~~ the
14 clerk of the district court of the county in which the main office of
15 such bank is located. He or she may also employ such counsel and expert
16 assistance as may be necessary to perform the work of liquidation. He or
17 she shall, subject to the approval of the district court of the county in
18 which the main office of the insolvent bank is located, fix the
19 compensation for the services rendered by such special deputies,
20 assistants, and counsel, which shall be taxed as costs of the
21 liquidation. He or she may discharge such special deputies, assistants,
22 or counsel at any time or may assign them to one or more liquidations or
23 transfer them from one liquidation to another.

24 Sec. 98. Section 8-1,101, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 8-1,101 Upon the declaration of insolvency, the director shall
27 require bonds or equivalent commercial insurance policies from the
28 special deputies or assistants in sums and with such condition as the
29 director shall specify, to be approved by the district court ~~Governor~~.
30 The costs of any such bond or policy shall be taxed as costs in the
31 liquidation. Such bond or policy shall be conditioned for the faithful

1 performance of duty, and include indemnity to the department as receiver
2 and liquidating agent.

3 Sec. 99. Section 8-1,102, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 8-1,102 Upon the declaration of insolvency of a bank by the
6 director, the department shall become the receiver and liquidating agent
7 to wind up the business of that bank, and the department shall be vested
8 with the title to all of the assets of such bank wherever the assets
9 ~~wheresoever the same~~ may be situated and whatever ~~whatsoever~~ kind and
10 character such assets may be, as of the date of the filing of the
11 declaration of insolvency with the clerk of the district court of the
12 county in which the main office of such bank is located. All levies,
13 judgment liens, attachments, or other liens obtained through legal
14 proceedings against such bank or its property acquired within sixty days
15 next preceding the filing of the declaration of insolvency shall be void,
16 and the property affected by the levy, judgment lien, attachment, or
17 other lien obtained through legal proceedings, shall be wholly discharged
18 and released therefrom. If at any time within sixty days prior to the
19 taking over by the director of a bank which is later declared insolvent
20 any transfers of the assets of such bank are made to prevent liquidation
21 and distribution of such assets to the bank's creditors as provided in
22 the Nebraska Banking Act or if any transfers are made so as to create a
23 preference of one creditor over another, such transfers shall be void and
24 the director shall be entitled to recover such assets for the benefit of
25 the trust.

26 Sec. 100. Section 8-1,103, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 8-1,103 For the purpose of executing and performing any of the
29 powers and duties hereby conferred upon him or her, the director may, in
30 the name of the department or the insolvent ~~delinquent~~ bank or in his or
31 her own name as director, prosecute and defend any and all actions ~~suits~~

1 and other legal proceedings and may, in the name of the department or the
2 ~~insolvent delinquent~~ bank or in his or her own name as director, execute,
3 acknowledge, and deliver any and all deeds, assignments, releases, and
4 other instruments necessary and proper to effectuate any sale of real or
5 personal property or sale or compromise authorized by order of the court
6 as provided in the Nebraska Banking Act. Any deed or other instrument
7 executed pursuant to such authority shall be valid and effectual for all
8 purposes as though the same had been executed by the officers of the
9 ~~insolvent delinquent~~ bank by authority of its board of directors.

10 Sec. 101. Section 8-1,104, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 8-1,104 Upon taking possession of the property and business of any
13 bank, the director shall collect all money due to such bank and do such
14 other acts as are necessary to conserve its assets and business and, on
15 declaration of insolvency, he or she shall proceed to liquidate the
16 affairs of the bank under ~~thereof as provided in~~ the Nebraska Banking
17 Act. He or she shall collect all debts due to and belonging to the such
18 bank. If he or she desires to sell or compromise any or all bad or
19 doubtful debts or any or all of the real and personal property of such
20 bank, he or she shall apply to the district court of the county in which
21 the main office of the bank is located for an order permitting such sale
22 or compromise on such terms and in such manner as the court may direct.
23 All money so collected by the director may be, from time to time,
24 deposited in one or more state banks or national banks. No deposits of
25 such money shall be made unless a pledge of assets, a guaranty ~~depository~~
26 bond, or both are given as security for such deposit. All depository
27 banks are authorized to give such security. The director may invest a
28 portion or all of such money in short-time interest-bearing securities of
29 the federal government.

30 Sec. 102. Section 8-1,105, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 8-1,105 In any proceeding in connection with the insolvency,
2 liquidation, or reorganization of a bank of which a district court has
3 jurisdiction, a judge of the district court shall exercise such
4 jurisdiction in any county in the judicial district for which he or she
5 was appointed ~~elected~~ to perform any official act in the manner and with
6 the same effect as he or she might exercise in the county in which the
7 matter arose, or to which it may have been transferred, and he or she may
8 perform any such act in chambers with the same effect as in open court.

9 Sec. 103. Section 8-1,106, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-1,106 The director, within twenty days after the declaration of
12 insolvency of a bank, shall file with the clerk of the district court of
13 the county in which the main office of such bank is located, a list
14 setting forth the name and address of each of the creditors of such bank
15 as shown by the books thereof or who are known by the director to be
16 creditors, and within thirty days after filing the list of creditors, he
17 or she shall also file an order fixing the time and place for filing
18 claims against such bank. The time fixed for filing claims shall not be
19 more than sixty days nor less than thirty days from the date of the
20 filing of the order, and within seven days after the filing of such
21 order, the director shall mail to each known creditor of such bank a copy
22 of the order and a blank form for proof of claim. The director shall also
23 post a copy of the order on the door of the bank, and within two weeks
24 from the date of the order he or she shall cause notice to be given by
25 publication, in such newspapers as he or she may direct, once each week
26 for two successive weeks, calling on all persons who may have claims
27 against the bank to present them to the director within the time and the
28 place provided for in the order and to make proof thereof. Such claims
29 shall be sworn to by the creditor or his or her representative. Any
30 claim, other than claims for deposits and exchange, not presented and
31 filed within the time fixed by such order shall be forever barred. Claims

1 for deposits or exchange as shown by the books of the bank presented
2 after the expiration of the time fixed in the order for filing claims may
3 be allowed by the director upon a showing being made by the creditor,
4 within six months from the date of the expiration of the time for filing
5 claims as fixed by the order, that he or she did not have knowledge of
6 the closing of the bank and did not receive notice within time to permit
7 the filing of his or her claim before the time fixed for filing claims
8 had expired.

9 Sec. 104. Section 8-1,107, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-1,107 (1) Upon the expiration of the time fixed for presentation
12 of claims, the director shall thoroughly investigate all claims and file
13 with the clerk of the district court of the county in which the main
14 office of the insolvent ~~said~~ bank is located a complete list of all
15 claims against which he or she knows of no defense and which, in his or
16 her judgment, are valid, designating their priority of payment, together
17 with a list of the claims which, in his judgment, are invalid. He or she
18 shall also file an order allowing or rejecting such claims as classified.

19 (2) When the director reclassifies or rejects a claim, which
20 rejection shall be made when he or she doubts the legality ~~justice~~ of a
21 claim, he or she shall serve written notice of such reclassification or
22 rejection upon the claimant by either registered or certified mail and
23 file, with the clerk of the district court of the county in which the
24 main office of the bank is located, an affidavit of the service of such
25 notice, which affidavit shall be prima facie evidence of such service.
26 Such notice shall state the time and place for the filing by claimant of
27 his or her objections to the classification, reclassification, or
28 rejection of his or her claim.

29 Sec. 105. Section 8-1,108, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-1,108 Any person objecting to the classification of his or her

1 claim and the order based thereon must, within thirty days of the filing
2 of the classification and order with the clerk of the district court,
3 begin an action in that court asking to reclassify his or her claim and
4 to set aside the order of the director. Notice of this action shall be
5 given by the service of a copy of the petition therein upon the director,
6 who shall, within thirty days of such service, file his or her answer or
7 other pleading. The court shall then set the matter for hearing at the
8 earliest convenient date and shall try and determine the issues ~~and~~
9 ~~determine the same~~ according to the usual procedure in matters of equity.

10 Sec. 106. Section 8-1,109, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 8-1,109 Upon the allowance of a claim against an insolvent bank, the
13 director shall, upon request of the claimant, issue and deliver to the
14 claimant a certificate of indebtedness showing the amount of the claim,
15 the date of the allowance thereof, and whether such claim is one having
16 priority of payment or is a general claim. Any assignment of a claim or
17 certificate of indebtedness shall be filed with the director and shall
18 not be binding until so filed. Upon payment of any distribution dividend
19 on a claim, evidenced by a certificate of indebtedness, such certificate
20 shall be presented and an endorsement of such payment shall be made on
21 the certificate thereon.

22 Sec. 107. Section 8-1,110, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-1,110 The claims of depositors for deposits not otherwise secured
25 and claims of holders of exchange shall have priority over all other
26 claims, except federal, state, county, and municipal taxes. Such claims ~~7~~
27 ~~and subject to such taxes~~ shall, at the time of the declaration of
28 insolvency of a bank, be a first lien on all the assets of the bank from
29 which they are due. No ~~and thus in liquidation, but no~~ claim to priority
30 shall be allowed which is based upon any evidence of indebtedness in the
31 hands of or originally issued to any stockholder, officer, or employee of

1 such bank and which represents money obtained by such stockholder,
2 officer, or employee from himself, herself, or some other person, firm,
3 corporation, or bank in lieu of or for the purpose of effecting a loan of
4 funds to such failed bank.

5 Sec. 108. Section 8-1,111, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 8-1,111 When a bank whose deposits are insured by the Federal
8 Deposit Insurance Corporation becomes insolvent, neither the deposits in
9 the bank therein nor the exchange of such bank thereof shall be deemed to
10 be otherwise secured by reason of such insurance for purposes of section
11 8-1,110.

12 Sec. 109. Section 8-1,112, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-1,112 At any time after the expiration of the date fixed for the
15 presentation of claims, the district court may by order, upon the
16 application of the director, ~~by order~~ authorize the director to declare
17 out of the funds remaining in his or her hands, after the payment of
18 expenses, one or more distributions ~~dividends~~, and at the earliest
19 possible date the director shall declare a final distribution ~~dividend~~ as
20 may be directed by the district court of the county in which the main
21 ~~principal~~ office of such bank is located.

22 Sec. 110. Section 8-1,113, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-1,113 The director shall from time to time allocate to the various
25 banks in liquidation the expenses of the department by reason of such
26 liquidation, other than the compensation and expense of the special
27 deputy or assistant in charge and the fees for legal services directly
28 incident to the bank in liquidation. The director shall ~~and~~ certify to
29 the various district courts of the counties in which the banks in process
30 of liquidation are located the amount of the expenses ~~so~~ allocated, which
31 shall be taxed and paid as costs in the liquidation.

1 Sec. 111. Section 8-1,115, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-1,115 The director shall from time to time make and file with the
4 clerk of the district court of the county in which the main office of the
5 insolvent bank is located, a report of his or her acts of liquidation of
6 each insolvent bank. He or she shall, upon the completion of the
7 liquidation, file a final report, notice of which shall be given as the
8 court may direct, and on hearing thereon and approval thereof by the
9 court such liquidation shall be declared closed and the corporation
10 dissolved. The director shall then cancel the ~~certificate and~~ charter
11 issued to such bank pursuant to section ~~sections 8-121 and~~ 8-122.

12 Sec. 112. Section 8-1,116, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-1,116 After the department has taken possession of any bank under
15 the Nebraska Banking Act, the stockholders of the bank ~~thereof~~ may repair
16 its credit, restore or substitute its reserves, and otherwise place it in
17 safe condition. Such ~~, but such~~ bank shall not be permitted to reopen its
18 business until the director ~~department~~, after careful investigation of
19 its affairs, is of the opinion that its stockholders have complied with
20 the law, that the bank's credit and funds are in all respects repaired,
21 that its reserves are restored or are sufficiently substituted, and that
22 it should be permitted again to reopen for business, at which time
23 ~~whereupon~~ the director ~~department~~ may issue written permission for
24 resumption of business under its charter.

25 Sec. 113. Section 8-1,117, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 8-1,117 If the capital of a bank becomes impaired, whether the
28 department has ~~shall or shall not have~~ taken possession of the bank or
29 not, and if ~~, whenever~~ stockholders representing eighty-five percent or
30 more of the common capital stock of the bank, with a view of restoring
31 the impaired capital, shall, with the approval of the Department of

1 Banking and Finance, department authorize the board of directors of the
2 bank to levy and collect assessments on the common capital stock in such
3 amount as the board of directors they may determine necessary for such
4 purpose, the board of directors shall levy the assessments so authorized
5 and shall notify all common stockholders of record of the assessments
6 ~~thereof~~ by either registered or certified mail. If any common stockholder
7 ~~fails shall fail~~ to pay his or her assessment within three weeks from the
8 date of mailing such notice, the pro rata amount of such assessment shall
9 be a lien upon his or her common capital stock, and the board of
10 directors shall immediately ~~forthwith~~ sell such shares of common capital
11 stock at public or private sale without further notice and apply the
12 proceeds of the sale ~~thereof~~ to the payment of such assessment. Any
13 balance ~~, and the balance, if any,~~ shall be paid to the delinquent
14 shareholder. Nothing in this section shall be construed to authorize the
15 levy and collections of assessments on the preferred capital stock of the
16 bank.

17 Sec. 114. Section 8-1,118, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 8-1,118 If the director, with a view to restoring the solvency of
20 any bank which the department has taken possession ~~charge~~ of pursuant to
21 law, approves ~~shall approve~~ a contract or plan whereby the bank is
22 permitted to receive deposits and pay checks and do a limited banking
23 business, entered into between the unsecured depositors and unsecured
24 creditors representing eighty-five percent or more of the total amount of
25 deposits and unsecured claims of such bank on the one hand and the bank
26 or its board of directors on the other, all other depositors and
27 unsecured creditors shall be held subject to such agreement to the same
28 extent and with the same effect as if they had joined in the execution of
29 the agreement ~~thereof~~, and their claims shall be treated in all other
30 respects as if they had joined in the execution of such agreement in the
31 event such bank is permitted to reopen for business as limited by such

1 contract. All deposits received after the adoption of such plan and the
2 assets of the bank created thereby, and before the restoration of the
3 bank to solvency, shall be a trust fund for the security and the
4 repayment of the deposits so received and shall not be subject to the
5 payment of any deposit, debt, claim, or demand of the bank previously
6 created. Such money and assets shall be kept and invested in the manner
7 directed by the director. Section 8-138 does not apply to banks operating
8 under this section. Any county, city, village, township, or school
9 district through its governing body, and the state through the Governor,
10 may enter into such contract except when the funds of such county, city,
11 village, township, or school district are adequately secured. Whenever a
12 bank is permitted to operate under the provisions of this section, such
13 bank shall pay all costs incurred by the department in the approval of
14 such plan, including examiners' expenses, attorneys' fees, and clerk
15 hire, and incurred in special examinations required by the director.

16 Sec. 115. Section 8-1,119, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 8-1,119 Where no other punishment is provided in the Nebraska
19 Banking Act, any person violating any provision ~~of the provisions~~ of the
20 act ~~is shall~~ be guilty of a Class III misdemeanor.

21 Sec. 116. Section 8-1,124, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 8-1,124 As used in sections 8-1,124 to 8-1,129, unless the context
24 otherwise requires:

25 (1) Emergency means any condition or occurrence, actual or
26 threatened, which interferes physically with the conduct of normal
27 business operations at one or more or all of the offices of a financial
28 institution, or which poses an imminent or existing threat to the safety
29 or security of persons or property, or both, including, but not limited
30 to, fire, flood, earthquake, hurricane, wind, rain, snow storm, labor
31 dispute and strike, power failure, transportation failure, interruption

1 of a communication facility, shortage of fuel, housing, food,
2 transportation, or labor, robbery or attempted robbery, actual or
3 threatened enemy attack, epidemic or other catastrophe, riot, civil
4 commotion, and any other act of lawlessness or violence, actual or
5 threatened;

6 (2) Financial institution means a bank, savings bank, building and
7 loan association, savings and loan association, credit union, or trust
8 company, or any office thereof, chartered by the department;

9 (3) Office means any place at which a financial institution
10 transacts its business or conducts operations related to its business;
11 and

12 (4) Officers means the person or persons designated by the board of
13 directors, supervisory committee, or other governing body of a financial
14 institution, to act for such financial institution in an emergency or, in
15 the absence of any such designation or of such officer or officers, the
16 president or any other officer in charge of such financial institution or
17 of such office or offices.

18 ~~(1) Director shall mean the Director of Banking and Finance;~~

19 ~~(2) Bank shall mean commercial banks, or any office or facility~~
20 ~~thereof, and, to the extent that the provisions of sections 8-1,124 to~~
21 ~~8-1,129 are not inconsistent with and do not infringe upon paramount~~
22 ~~federal law, national banks;~~

23 ~~(3) Officers shall mean the person or persons designated by the~~
24 ~~board of directors, board of trustees, or other governing body of a bank,~~
25 ~~to act for such bank to carry out the provisions of sections 8-1,124 to~~
26 ~~8-1,129 or, in the absence of any such designation or of such officer or~~
27 ~~officers, the president or any other officer in charge of such bank or of~~
28 ~~such office or offices;~~

29 ~~(4) Office shall mean any place at which a bank transacts its~~
30 ~~business or conducts operations related to its business; and~~

31 ~~(5) Emergency shall mean any condition or occurrence which may~~

1 ~~interfere physically with the conduct of normal business operations at~~
2 ~~one or more or all of the offices of a bank, or which poses an imminent~~
3 ~~or existing threat to the safety or security of persons or property, or~~
4 ~~both, including but not limited to fire, flood, earthquake, hurricanes,~~
5 ~~wind, rain, snow storms, labor disputes and strikes, power failures,~~
6 ~~transportation failures, interruption of communication facilities,~~
7 ~~shortages of fuel, housing, food, transportation or labor, robbery or~~
8 ~~attempted robbery, actual or threatened enemy attack, epidemics or other~~
9 ~~catastrophes, riots, civil commotions, and other acts of lawlessness or~~
10 ~~violence, actual or threatened.~~

11 Sec. 117. Section 8-1,125, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-1,125 (1) Whenever the director is of the opinion that an
14 emergency exists, or is impending, in this state or in any part of this
15 state, he or she may, by proclamation, authorize any financial
16 institution bank located in the such affected area to close any or all of
17 its offices. In addition, if the director is of the opinion that an
18 emergency exists, or is impending, which affects, or may affect, a
19 particular financial institution bank, or a particular office of such
20 financial institution thereof, but not banks located in the area
21 generally, he or she may authorize the particular financial institution
22 bank or office of the financial institution so affected to close. Any
23 office so closed shall remain closed until the director proclaims that
24 the emergency has ended, or until such time as the officers of the
25 financial institution bank determine that one or more offices,
26 ~~theretofore~~ closed because of the emergency, should reopen, whichever
27 occurs first, and, in either event, for such further time thereafter as
28 may reasonably be required to reopen.

29 (2)(a) Whenever the director authorizes a financial institution to
30 close pursuant to subsection (1) of this section or to remain closed
31 pursuant to section 8-1,126, he or she, in writing, may further authorize

1 the financial institution to open a temporary office at a designated
2 location for the period of time during which the financial institution or
3 office is to remain closed, subject to extensions requested by the
4 financial institution and authorized by the director, except that in no
5 event may the director authorize a temporary office to operate for a
6 total period of longer than thirty months.

7 (b) The director may authorize a financial institution to open a
8 temporary office after consideration of (i) the ability of the financial
9 institution to conduct its business in the area where the financial
10 institution or the office of the financial institution was closed without
11 opening a temporary office and (ii) the proximity of the financial
12 institution or office of the financial institution to the proposed
13 temporary office.

14 (c) The director may authorize a mobile branch to operate as a
15 temporary office for any closed office of a financial institution other
16 than its main office.

17 (d) The director may orally authorize a financial institution to
18 open a temporary office to operate for a period no longer than four
19 business days.

20 Sec. 118. Section 8-1,126, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 8-1,126 Whenever the officers of a financial institution ~~bank~~ are of
23 the opinion that an emergency exists, or is impending, which affects, or
24 may affect, one or more or all of a financial institution's ~~bank's~~
25 offices, they shall have the authority, in the reasonable and proper
26 exercise of their discretion, to determine not to open any one or more or
27 all of such offices on any business or banking day or, if having opened,
28 to close any one or more or all of such offices during the continuation
29 of such emergency, even if the director has not issued and does not issue
30 a proclamation of emergency. Any such closed office may remain closed
31 until such time as the officers determine that the emergency has ended,

1 and for such further time thereafter as may reasonably be required to
2 reopen. ~~In ; Provided, in~~ no case shall such office remain closed for
3 more than forty-eight consecutive hours, excluding other legal holidays,
4 without requesting the approval of the director pursuant to section
5 8-1,125.

6 Sec. 119. Section 8-1,127, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 8-1,127 The officers of a financial institution ~~bank~~ may close any
9 one or all of the financial institution's ~~bank's~~ offices on any day,
10 designated by proclamation of the President of the United States or the
11 Governor, as a day or days of mourning, rejoicing, or other special
12 observance.

13 Sec. 120. Section 8-1,128, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 8-1,128 A financial institution ~~bank~~ closing an office pursuant to
16 the authority granted under section 8-1,126 shall give as prompt notice
17 of its action as conditions will permit and by any means available, to
18 the director, ~~or in the case of a national bank, to the Comptroller of~~
19 ~~the Currency.~~

20 Sec. 121. Section 8-1,129, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 8-1,129 (1) Any day on which a financial institution ~~bank~~, or any
23 one or more of its offices, is closed during all or any part of its
24 normal business banking hours pursuant to the authorization granted under
25 sections 8-1,124 to 8-1,129 shall be, with respect to such financial
26 institution ~~bank~~ or, if not all of its offices are closed, with respect
27 to any office or offices which are closed, a legal holiday for all
28 purposes with respect to any financial institution ~~banking~~ business of
29 any character. No liability, or loss of rights of any kind, on the part
30 of any financial institution ~~bank~~, or director, officer, or employee
31 thereof, shall accrue or result by virtue of any closing authorized by

1 sections 8-1,124 to 8-1,129.

2 (2) Sections ~~The provisions of sections~~ 8-1,124 to 8-1,129 shall be
3 construed and applied as being in addition to, and not in substitution
4 for or limitation of, any other law of this state or of the United States
5 authorizing the closing of a financial institution ~~bank~~ or excusing delay
6 by a financial institution ~~bank~~ in the performance of its duties and
7 obligations because of emergencies or conditions beyond its control or
8 otherwise.

9 Sec. 122. Section 8-1,131, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-1,131 (1) All banks ~~chartered under the laws of Nebraska~~ are
12 qualified to act as trustee or custodian under ~~within the provisions of~~
13 the federal Self-Employed Individuals Tax Retirement Act of 1962, as
14 amended, or under the terms and provisions of section 408(a) of the
15 Internal Revenue Code, if the provisions of such retirement plan require
16 the funds of such trust or custodianship to be invested exclusively in
17 shares or accounts in the bank or in other banks. If any such retirement
18 plan, within the judgment of the bank, constitutes a qualified plan under
19 the federal Self-Employed Individuals Tax Retirement Act of 1962, or
20 under the terms and provisions of section 408(a) of the Internal Revenue
21 Code and the regulations promulgated thereunder at the time the trust was
22 established and accepted by the bank, and is subsequently determined not
23 to be such a qualified plan or subsequently ceases to be such a qualified
24 plan, in whole or in part, the bank may continue to act as trustee of any
25 deposits theretofore made under such plan and to dispose of the same in
26 accordance with the directions of the member and beneficiaries thereof.
27 No bank, in respect to savings made under this subsection, shall be
28 required to segregate such savings from other liabilities of the bank.
29 The bank shall keep appropriate records showing in proper detail all
30 transactions engaged in under the authority of this subsection.

31 (2)(a) All banks ~~chartered under the laws of Nebraska~~ are qualified

1 to act as trustee or custodian of a medical savings account created
2 within the provisions of section 220 of the Internal Revenue Code and a
3 health savings account created within the provisions of section 223 of
4 the Internal Revenue Code. If any such medical savings account or health
5 savings account, within the judgment of the bank, constitutes a medical
6 savings account under section 220 of the Internal Revenue Code or a
7 health savings account under section 223 of the Internal Revenue Code and
8 the regulations promulgated thereunder at the time the trust was
9 established and accepted by the bank, and is subsequently determined not
10 to be such a medical savings account or health savings account, in whole
11 or in part, the bank may continue to act as trustee of any deposits
12 theretofore made under such plan and to dispose of the same in accordance
13 with the directions of the account holder. No bank, in respect to savings
14 made under this subsection, shall be required to segregate such savings
15 from other liabilities of the bank. The bank shall keep appropriate
16 records showing in proper detail all transactions engaged in under the
17 authority of this subsection.

18 (b) Except for judgments against the medical savings account holder
19 or health savings account holder or his or her dependents for qualified
20 medical expenses as defined under section 223(d)(2) of the Internal
21 Revenue Code, funds credited to a medical savings account or health
22 savings account below twenty-five thousand dollars are not susceptible to
23 levy, execution, judgment, or other operation of law, garnishment, or
24 other judicial enforcement and are not an asset or property of the
25 account holder for purposes of bankruptcy law.

26 Sec. 123. Section 8-1,133, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 8-1,133 Any bank may engage, directly or indirectly, in the business
29 of leasing personal property subject to rules and regulations as may be
30 adopted and promulgated by ~~of the director Department of Banking and~~
31 ~~Finance.~~

1 Sec. 124. Section 8-1,134, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-1,134 (1) Whenever the director ~~Director of Banking and Finance~~
4 has reason to believe that a violation of any provision of Chapter 8 or
5 of the Credit Union Act or any rule and ~~regulation,~~ or order of the
6 director ~~Department of Banking and Finance~~ has occurred, he or she may
7 cause a written complaint to be served upon the alleged violator. The
8 complaint shall specify the statutory provision or rule and ~~regulation,~~
9 or order alleged to have been violated and the facts alleged to
10 constitute a violation thereof and shall order that necessary corrective
11 action be taken within a reasonable time to be prescribed in such order.
12 Any such order shall become final as to any person named in the order
13 unless such person requests, in writing, a hearing before the director no
14 later than ten days after the date such order is served. In lieu of such
15 order, the director may require that the alleged violator appear before
16 the director at a time and place specified in the notice and answer the
17 charge complained of. The notice shall be delivered to the alleged
18 violator or violators in accordance with subsection (4) of this section
19 not less than ten days before the time set for the hearing.

20 (2) The director shall provide an opportunity for a fair hearing to
21 the alleged violator at the time and place specified in the notice or any
22 modification of the notice. On the basis of the evidence produced at the
23 hearing, the director shall make findings of fact and conclusions of law
24 and enter such order as in his or her opinion will best further the
25 purposes of Chapter 8 or the Credit Union Act and the rules and ~~r~~
26 ~~regulations,~~ and orders of the director ~~department~~. Written notice of
27 such order shall be given to the alleged violator and to any other person
28 who appeared at the hearing and made written request for notice of the
29 order. If the hearing is held before any person other than the director,
30 such person shall transmit a record of the hearing together with findings
31 of fact and conclusions of law to the director. The director, prior to

1 entering his or her order on the basis of such record, shall provide
2 opportunity to the parties to submit for his or her consideration
3 exceptions to the findings or conclusions and supporting reasons for such
4 exceptions. The order of the director shall become final and binding on
5 all parties unless appealed to the district court of Lancaster County as
6 provided in section 8-1,135. As part of such order, the director may
7 impose a fine, in addition to the costs of the investigation, upon a
8 person found to have violated any provision of Chapter 8, the Credit
9 Union Act, or the rules and ~~,~~ regulations ~~,~~ or orders of the director
10 ~~department~~. The fine shall not exceed ten thousand dollars per violation
11 for the first offense and twenty-five thousand dollars per violation for
12 a second or subsequent offense involving a violation of the same
13 provision of Chapter 8, the Credit Union Act, the rules and regulations
14 of the director department, or the same order of the director department.
15 The fines and costs shall be in addition to all other penalties imposed
16 by the laws of this state. The director shall collect the fines and costs
17 and remit them ~~, shall be collected by the director, and shall be~~
18 ~~remitted~~ to the State Treasurer. The State Treasurer shall credit the
19 costs ~~Costs shall be credited~~ to the Financial Institution Assessment
20 Cash Fund ~~,~~ and distribute the fines in accordance with Article VII,
21 section 5, of the Constitution of Nebraska shall be credited to the
22 ~~permanent school fund~~. If a person fails to pay the fine or costs of the
23 investigation, a lien in the amount of the fine and costs shall be
24 imposed upon all of the assets and property of such person in this state
25 and may be recovered by an action suit by the director. The lien shall
26 attach to the real property of such person when notice of the lien is
27 filed and indexed against the real property in the office of the register
28 of deeds in the county where the real property is located. The lien shall
29 attach to any other property of such person when notice of the lien is
30 filed against the property in the manner prescribed by law.

31 (3) Whenever the director finds that an emergency exists requiring

1 immediate action to protect the safety and soundness of the financial
2 institutions chartered by ~~under the supervision and control~~ of the
3 department, the director may, without notice or hearing, issue an order
4 reciting the existence of an emergency and requiring that such action be
5 taken as the director deems necessary to meet the emergency.
6 Notwithstanding the provisions of subsection (2) of this section, the
7 order shall be effective immediately. Any person to whom such order is
8 directed shall comply immediately, but on application to the director
9 shall be afforded a hearing as soon as possible and not later than ten
10 days after such application by the affected person. On the basis of the
11 hearing, the director shall continue the order in effect, revoke it, or
12 modify it. This subsection shall not apply to a determination of
13 necessary acquisition made by the department pursuant to sections 8-1506
14 to 8-1510.

15 (4) Except as otherwise expressly provided, any notice, order, or
16 other instrument issued by or under authority of the director shall be
17 served on any person affected thereby either personally or by certified
18 mail, return receipt requested. Proof of service shall be filed with ~~in~~
19 the office of the director.

20 Every certificate or affidavit of service made and filed as provided
21 in this subsection shall be prima facie evidence of the facts stated in
22 the certificate or affidavit, and a certified copy shall have the same
23 force and effect as the original.

24 (5) Any hearing provided for in this section may be conducted by the
25 director, or by any member of the department acting on ~~in his or her~~
26 behalf of the director, or the director may designate hearing officers
27 who shall have the power and authority to conduct such hearings in the
28 name of the director at any time and place. A verbatim record of the
29 proceedings of such hearings shall be taken and filed with the director,
30 together with findings of fact and conclusions of law made by the
31 director or hearing officer. The director may subpoena witnesses, and any

1 witness who is subpoenaed shall receive the same fees as in civil actions
2 in the district court and mileage as provided in section 81-1176. In case
3 of contumacy or refusal to obey a notice of hearing or subpoena issued
4 under this section, the district court of Lancaster County shall have
5 jurisdiction, upon application of the director, to issue an order
6 requiring such person to appear and testify or produce evidence as the
7 case may require. Failure to obey such order of the court may be punished
8 by such court as contempt.

9 If requested to do so by any party concerned with such hearing, the
10 full stenographic notes, or tapes of an electronic transcribing device,
11 of the testimony presented at such hearing shall be taken and filed. The
12 stenographer shall, upon the payment of the stenographer's fee allowed by
13 the court, furnish a certified transcript of all or any part of the
14 stenographer's notes to any party to the action requiring and requesting
15 such notes.

16 (6) The director may close to the public the hearing, or any portion
17 of the hearing, provided for in this section when he or she finds that
18 the closure is (a) necessary to protect any person, ~~or any financial~~
19 ~~institution or entity under the department's jurisdiction,~~ against
20 unwarranted injury or (b) in the public interest. The director shall
21 close no more of the public hearing than is necessary to attain the
22 objectives of this subsection.

23 Sec. 125. Section 8-1,135, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 8-1,135 Any person aggrieved by a final order of the director
26 ~~Director of Banking and Finance~~ made pursuant to section 8-1,134 may
27 appeal the order, and the appeal shall be in accordance with the
28 Administrative Procedure Act.

29 Sec. 126. Section 8-1,136, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-1,136 Whenever it appears to the director ~~Director of Banking and~~

1 ~~Finance~~ that any person has engaged or is about to engage in any act or
2 practice constituting a violation of any provision of Chapter 8 or the
3 Credit Union Act, he or she may bring an action in the name of the
4 director and the department ~~Department of Banking and Finance~~ in any
5 court of competent jurisdiction to enjoin any such acts or practices and
6 to enforce compliance with the provisions of Chapter 8 or the Credit
7 Union Act. Upon a proper showing, a permanent or temporary injunction,
8 restraining order, or writ of mandamus shall be granted and a receiver or
9 conservator may be appointed for the defendant's assets. The director
10 shall not be required to post a bond.

11 Sec. 127. Section 8-1,137, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-1,137 The director ~~Director of Banking and Finance~~ may refer such
14 evidence as may be available concerning violations of the Nebraska
15 Criminal Code or of any rule and ~~,~~ regulation ~~,~~ or order under Chapter 8
16 or under the Credit Union Act to the Attorney General or the proper
17 county attorney. It shall be the duty of each county attorney or the
18 Attorney General to whom the director reports a violation to cause
19 appropriate proceedings to be instituted, if appropriate, without delay.

20 Sec. 128. Section 8-1,138, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 8-1,138 (1) Any person who violates any of the provisions of a
23 final order issued by the director ~~Director of Banking and Finance~~ shall
24 be liable to any person or entity who suffers damage proximately caused
25 by such violation.

26 (2) Any person who knowingly violates any final order issued by the
27 director ~~Director of Banking and Finance~~ pursuant to section 8-1,134 is
28 ~~shall be~~ guilty of a Class I misdemeanor.

29 Sec. 129. Section 8-1,139, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-1,139 An officer, director, agent, or employee of a bank, trust

1 company, building and loan association, savings and loan association
2 ~~cooperative credit union~~, credit union, or other similar entity which is
3 chartered, licensed, regulated, or examined by the department ~~Department~~
4 ~~of Banking and Finance~~ who willfully misapplies any of the money, funds,
5 or credits of any such entity or any money, funds, assets, or securities
6 entrusted to the care or custody of such entity or the custody or care of
7 any such officer, director, agent, or employee is ~~shall be~~ guilty of a
8 Class IV felony.

9 Sec. 130. Section 8-206, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-206 A trust company created under the Nebraska Trust Company Act
12 shall have power:

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

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

22 (3) To take, accept, and hold by the order, judgment, or decree of
23 any such court or by gift, grant, assignment, transfer, devise, or
24 bequest any real or personal property in trust, to care for, manage, and
25 convey the same in accordance with such trusts, and to execute and
26 perform any and all such trusts;

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

29 (5) To act either by itself or jointly with any natural person or
30 persons or with any other trust company or state or national bank doing
31 business in this state as administrator of the estate of any deceased

1 person, as personal representative, or as conservator or guardian of the
2 estate of any incapacitated person;

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

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

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

11 (9) To buy, hold, own, and sell securities issued or guaranteed by
12 the United States Government or any authorized agency thereof, including
13 any corporation or enterprise wholly owned directly or indirectly by the
14 United States, or with the authority to borrow directly from the United
15 States treasury, or securities secured by obligations of any of the
16 foregoing, securities of any state or political subdivision thereof which
17 possesses general powers of taxation, stock, warrants, bills of exchange,
18 notes, mortgages, banker's acceptances, certificates of deposit in
19 institutions whose accounts are insured by the Federal Deposit Insurance
20 Corporation, securities issued pursuant to the Nebraska Business
21 Development Corporation Act, and other investment securities, negotiable
22 and nonnegotiable, except stock or other securities of any corporation
23 organized under the Nebraska Trust Company Act;

24 (10) To purchase, own, or rent real estate needed in the conduct of
25 the business and to erect thereon buildings deemed expedient and
26 necessary, the cost of such real estate and buildings not to exceed one
27 hundred percent of the paid-up capital stock, except as otherwise
28 approved in writing by the director, and to purchase, own, and improve
29 such other real estate as it may be required to bid in under foreclosure
30 or in payment of other debts;

31 (11) To borrow money, to execute and issue its notes payable at a

1 future date, and to pledge its real estate, mortgages, or other
2 securities therefor. With the approval of the Director of Banking and
3 Finance, any trust company may at any time, through action of its board
4 of directors and without requiring any action of its stockholders, issue
5 and sell its capital notes or debentures. Such capital notes or
6 debentures shall be subordinate and subject to the claims of trustors and
7 beneficiaries of estates and trusts and may be subordinated and subject
8 to the claims of other creditors. The holders of such capital notes or
9 debentures shall not be held individually responsible as such holders for
10 any debts, contracts, or engagements of the trust company and shall not
11 be held liable for assessments to restore impairments in the capital of
12 the trust company as may be from time to time determined by the director;
13 and

14 (12) To perform all acts and exercise all powers connected with,
15 belonging to or incident to, or necessary for the full and complete
16 exercise and discharge of the rights, powers, and responsibilities
17 granted in the Nebraska Trust Company Act, and all provisions of the act
18 shall be liberally construed. None of the powers hereby granted shall
19 extend to or be construed to authorize any such corporation to accept
20 deposits or conduct the business of banking as defined in the Nebraska
21 Banking Act.

22 Sec. 131. Section 8-207, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-207 Courts of this state may appoint a trust company receiver,
25 assignee, trustee, guardian, conservator, personal representative,
26 custodian, or special administrator. When a trust company is so appointed
27 and an oath is required to be made, whether in order to qualify or for
28 any other purpose, the president, vice president, secretary, or trust
29 officer may, on behalf of the trust company, make and subscribe the
30 required oath.

31 Sec. 132. Section 8-318, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2 8-318 (1)(a) Shares of stock in any association, or in any federal
3 savings and loan association incorporated under the provisions of the
4 federal Home Owners' Loan Act of 1933, with its principal office and
5 place of business in this state, may be subscribed for, held,
6 transferred, surrendered, withdrawn, and forfeited and payments thereon
7 received and receipted for by any person, regardless of age, in the same
8 manner and with the same binding effect as though such person were of the
9 age of majority, except that a minor or his or her estate shall not be
10 bound on his or her subscription to stock except to the extent of
11 payments actually made thereon.

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

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

20 (ii) Electronic means through:

21 (A) Preauthorized direct withdrawal;

22 (B) An automatic teller machine;

23 (C) A debit card;

24 (D) A transfer by telephone;

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

26 (F) Any electronic terminal, computer, magnetic tape, or other
27 electronic means.

28 (c) This section shall not be construed to affect the rights,
29 liabilities, or responsibilities of participants in an electronic fund
30 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
31 et seq., as it existed on January 1, 2017 ~~2016~~, and shall not affect the

1 legal relationships between a minor and any person other than the
2 building and loan association.

3 (2) All trustees, guardians, personal representatives,
4 administrators, and conservators appointed by the courts of this state
5 may invest and reinvest in, acquire, make withdrawals in whole or in
6 part, hold, transfer, or make new or additional investments in or
7 transfers of shares of stock in any (a) building and loan association
8 organized under the laws of the State of Nebraska or (b) federal savings
9 and loan association incorporated under the provisions of the federal
10 Home Owners' Loan Act of 1933, having its principal office and place of
11 business in this state, without an order of approval from any court.

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

17 (4) All building and loan associations referred to in this section
18 are qualified to act as trustee or custodian within the provisions of the
19 federal Self-Employed Individuals Tax Retirement Act of 1962, as amended,
20 or under the terms and provisions of section 408(a) of the Internal
21 Revenue Code, if the provisions of such retirement plan require the funds
22 of such trust or custodianship to be invested exclusively in shares or
23 accounts in the association or in other associations. If any such
24 retirement plan, within the judgment of the association, constitutes a
25 qualified plan under the federal Self-Employed Individuals Tax Retirement
26 Act of 1962, or under the terms and provisions of section 408(a) of the
27 Internal Revenue Code, and the regulations promulgated thereunder at the
28 time the trust was established and accepted by the association, is
29 subsequently determined not to be such a qualified plan or subsequently
30 ceases to be such a qualified plan, in whole or in part, the association
31 may continue to act as trustee of any deposits theretofore made under

1 such plan and to dispose of the same in accordance with the directions of
2 the member and beneficiaries thereof. No association, in respect to
3 savings made under this section, shall be required to segregate such
4 savings from other assets of the association. The association shall keep
5 appropriate records showing in proper detail all transactions engaged in
6 under the authority of this section.

7 Sec. 133. Section 8-601, Revised Statutes Cumulative Supplement,
8 2016, is amended to read:

9 8-601 The Director of Banking and Finance may employ deputies,
10 examiners, attorneys, and other assistants as may be necessary for the
11 administration of the provisions and purposes of the Credit Union Act,
12 Delayed Deposit Services Licensing Act, Interstate Branching and Merger
13 Act, Interstate Trust Company Office Act, Nebraska Bank Holding Company
14 Act of 1995, Nebraska Banking Act, Nebraska Installment Loan Act,
15 Nebraska Installment Sales Act, Nebraska Money Transmitters Act, Nebraska
16 Trust Company Act, and Residential Mortgage Licensing Act; Chapter 8,
17 articles ~~1, 2,~~ 3, 5, 6, 7, 8, ~~9,~~ 13, 14, 15, 16, 19, 20, ~~21, 23,~~ 24, and
18 25; ~~Chapter 21, article 17;~~ and Chapter 45, articles 1, and 2, 3, 7, 9,
19 ~~and 10.~~ The director may levy upon financial institutions, namely, the
20 banks, trust companies, building and loan associations, savings and loan
21 associations, savings banks, and credit unions, organized under the laws
22 of this state, and holding companies, if any, of such financial
23 institutions, an assessment each year based upon the asset size of the
24 financial institution, except that in determining the asset size of a
25 holding company, the assets of any financial institution or holding
26 company otherwise assessed pursuant to this section and the assets of any
27 nationally chartered financial institution shall be excluded. The
28 assessment shall be a sum determined by the director in accordance with
29 section 8-606 and approved by the Governor.

30 Sec. 134. Section 8-602, Revised Statutes Cumulative Supplement,
31 2016, is amended to read:

1 8-602 The Director of Banking and Finance shall charge and collect
2 fees for certain services rendered by the Department of Banking and
3 Finance according to the following schedule:

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

7 (2) For filing and examining an amendment to articles of
8 incorporation, articles of association, and bylaws, except credit unions,
9 fifty dollars, and for credit unions, fifteen dollars;

10 (3) For issuing to banks, credit card banks, trust companies, and
11 building and loan associations a charter, authority, or license to do
12 business in this state, a sum which shall be determined on the basis of
13 one dollar and fifty cents for each one thousand dollars of authorized
14 capital, except that the minimum fee in each case shall be two hundred
15 twenty-five dollars;

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

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

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

24 (7) For issuing a certificate of approval to a credit union, ten
25 dollars;

26 (8) For investigating the applications required by sections 8-117,
27 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the
28 cost of such examination, investigation, and inspection, including all
29 legal expenses and the cost of any hearing transcript, with a minimum fee
30 under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred
31 dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201

1 of one thousand dollars. The department may require the applicant to
2 procure and give a surety bond in such principal amount as the department
3 may determine and conditioned for the payment of the fees provided in
4 this subdivision;

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

8 (9) ~~(10)~~ For the handling of pledged securities as provided in
9 sections 8-210 and 8-2727 at the time of the initial deposit of such
10 securities, one dollar and fifty cents for each thousand dollars of
11 securities deposited and a like amount on or before January 15 each year
12 thereafter. The fees shall be paid by the entity pledging the securities;

13 (10) ~~(11)~~ For investigating an application to move its location
14 within the city or village limits of its original license or charter for
15 banks, trust companies, and building and loan associations, two hundred
16 fifty dollars;

17 (11) ~~(12)~~ For investigating an application under subdivision (6) of
18 section 8-115.01, five hundred dollars;

19 (12) ~~(13)~~ For investigating an application for approval to establish
20 or acquire a branch pursuant to section 8-157 or 8-2103 or to establish a
21 mobile branch pursuant to section 8-157, two hundred fifty dollars;

22 (13) ~~(14)~~ For investigating a notice of acquisition of control under
23 subsection (1) of section 8-1502, five hundred dollars;

24 (14) ~~(15)~~ For investigating an application for a cross-industry
25 merger under section 8-1510, five hundred dollars;

26 (15) ~~(16)~~ For investigating an application for a merger of two state
27 banks, a merger of a state bank and a national bank in which the state
28 bank is the surviving entity, or an interstate merger application in
29 which the Nebraska state chartered bank is the resulting bank, five
30 hundred dollars;

31 (16) ~~(17)~~ For investigating an application or a notice to establish

- 1 a branch trust office, five hundred dollars;
- 2 ~~(17) (18)~~ For investigating an application or a notice to establish
- 3 a representative trust office, five hundred dollars;
- 4 ~~(18) (19)~~ For investigating an application to establish a credit
- 5 union branch under section 21-1725.01, two hundred fifty dollars;
- 6 ~~(19) (20)~~ For investigating an applicant under section 8-1513, five
- 7 thousand dollars; and
- 8 ~~(20) (21)~~ For investigating a request to extend a conditional bank
- 9 charter under section 8-117, one thousand dollars.

10 Sec. 135. Section 8-603, Reissue Revised Statutes of Nebraska, is

11 amended to read:

12 8-603 The assessments referred to in sections 8-605 and 8-606,

13 examination fees, investigation fees, filing fees, registration fees,

14 licensing fees, and all other fees and money, except fines, collected by

15 or paid to the Director of Banking and Finance under any of the laws

16 specified in section 8-601, shall be remitted to the State Treasurer for

17 credit to the Financial Institution Assessment Cash Fund. Fines collected

18 by the director under such laws shall be remitted to the State Treasurer

19 for distribution in accordance with Article VII, section 5, of the

20 Constitution of Nebraska.

21 Sec. 136. Section 8-701, Reissue Revised Statutes of Nebraska, is

22 amended to read:

23 8-701 For purposes of sections 8-701 to 8-709, banking institution

24 ~~means shall be construed to mean~~ any bank, stock savings bank, mutual

25 savings bank, building and loan association, or savings and loan

26 association, which is now or may hereafter be organized under the laws of

27 this state.

28 Sec. 137. Section 8-702, Revised Statutes Cumulative Supplement,

29 2016, is amended to read:

30 8-702 (1) ~~Any Except as provided in subsection (2) of this section,~~

31 any banking institution organized under the laws of this state shall,

1 before a charter may be issued, enter into such contracts, incur such
2 obligations, and generally do and perform any and all such acts and
3 things whatsoever as may be necessary or appropriate in order to obtain
4 membership in the Federal Deposit Insurance Corporation and provide for
5 insurance of deposits in the banking institution. Any banking institution
6 may take advantage of any and all memberships, loans, subscriptions,
7 contracts, grants, rights, or privileges which may at any time be
8 available or inure to banking institutions or to their depositors,
9 creditors, stockholders, conservators, receivers, or liquidators by
10 virtue of those provisions of section 8 of the Federal Banking Act of
11 1933 (section 12B of the Federal Reserve Act, as amended) which establish
12 the Federal Deposit Insurance Corporation and provide for the insurance
13 of deposits or of any other provisions of that or of any other act or
14 resolution of Congress to aid, regulate, or safeguard banking
15 institutions and their depositors, including any amendments of the same
16 or any substitutions therefor. Any banking institution may also subscribe
17 for and acquire any stock, debentures, bonds, or other types of
18 securities of the Federal Deposit Insurance Corporation and comply with
19 the lawful regulations and requirements from time to time issued or made
20 by such corporation.

21 ~~(2)(a) A banking institution which has not complied with subsection~~
22 ~~(1) of this section and which was in operation on September 4, 2005, may~~
23 ~~continue to operate if it provides notice to depositors and holders of~~
24 ~~savings certificates, certificates of indebtedness, or other similar~~
25 ~~instruments that such deposits or instruments are not insured. Such~~
26 ~~notice shall be given (i) on the date any such deposit, savings~~
27 ~~certificate, certificate of indebtedness, or similar instrument is~~
28 ~~created for deposits made and instruments created on or after October 1,~~
29 ~~1984, and (ii) annually on October 1 thereafter as follows: AS PROVIDED~~
30 ~~BY THE LAWS OF THE STATE OF NEBRASKA YOU ARE HEREBY NOTIFIED THAT YOUR~~
31 ~~DEPOSIT, SAVINGS CERTIFICATE, CERTIFICATE OF INDEBTEDNESS, OR OTHER~~

1 ~~SIMILAR INSTRUMENT IS NOT INSURED.~~ Any advertising conducted by such
2 banking institution shall in each case state: ~~THE DEPOSITS, SAVINGS~~
3 ~~CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, OR SIMILAR INSTRUMENTS OF~~
4 ~~THIS INSTITUTION ARE NOT INSURED.~~ The banking institution shall also
5 display such notice in one or more prominent places in all facilities in
6 which the institution operates. All such notices and statements shall be
7 given in large or contrasting type in such a manner that such notices
8 shall be conspicuous. Each willful failure to give the notice prescribed
9 in subdivision (2)(a) of this section shall constitute a Class II
10 misdemeanor. All officers and directors of any such banking institution
11 shall be jointly and severally responsible for the issuance of the
12 notices described in subdivision (2)(a) of this section in the form and
13 manner described. The banking institution shall annually by November 1
14 file proof of compliance with subdivision (2)(a) of this section with the
15 Department of Banking and Finance.

16 (b) Any banking institution described in subdivision (a) of this
17 subsection that employs mortgage loan originators, as defined in section
18 45-702, shall register such employees with the Nationwide Mortgage
19 Licensing System and Registry, as defined in section 45-702, by
20 furnishing the following information concerning the employees' identities
21 to the Nationwide Mortgage Licensing System and Registry:

22 (i) Fingerprints for submission to the Federal Bureau of
23 Investigation, and any governmental agency or entity authorized to
24 receive such information, for a state and national criminal history
25 background check; and

26 (ii) Personal history and experience, including authorization for
27 the Nationwide Mortgage Licensing System and Registry to obtain
28 information related to any administrative, civil, or criminal findings by
29 any governmental jurisdiction.

30 (2) (3) The charter of any banking institution which fails to
31 maintain membership in the Federal Deposit Insurance Corporation comply

1 ~~with the provisions of this section~~ shall be automatically forfeited and
2 such banking institution shall be liquidated and dissolved, either
3 voluntarily by its board of directors under the supervision of the
4 department or involuntarily by the department as in cases of insolvency,
5 ~~except that such charter shall not be automatically forfeited for failure~~
6 ~~to comply with subdivision (2)(b) of this section if the banking~~
7 ~~institution cures such violation within sixty days after receipt of~~
8 ~~notice of such violation from the Department of Banking and Finance.~~ Any
9 banking institution whose charter is automatically forfeited under the
10 provisions of this subsection which continues to engage in the business
11 for which it had been chartered after such forfeiture, as well as the
12 directors and officers thereof, is guilty of a Class III felony ~~shall be~~
13 ~~subject to the penalties provided by law for illegally engaging in the~~
14 ~~business of banking.~~

15 Sec. 138. Section 8-815, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 8-815 As used in sections 8-815 to 8-829, unless the context
18 otherwise requires:

19 (1) Department means ~~shall mean~~ the Department of Banking and
20 Finance;

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

24 ~~(3) Registered bank shall mean any bank which has in effect a~~
25 ~~registration under section 8-816;~~

26 ~~(4) Unregistered bank shall mean any bank which has not registered~~
27 ~~under section 8-816 or the registration of which is not in effect because~~
28 ~~of action taken under section 8-827;~~

29 ~~(3) (5) Personal loan~~ means ~~shall mean~~ a loan, and the contract
30 evidencing the same, which is repayable, pursuant to a contract or
31 understanding, in two or more equal or unequal installments, and within

1 one hundred forty-five months, but shall not include any loan on which
2 the interest does not exceed sixteen percent per annum. Personal loan
3 ~~includes shall include~~ loans for the purchase of mobile homes even though
4 the loan is not repayable within one hundred forty-five months. Personal
5 loan ~~includes shall include~~ loans or advances initiated by credit card or
6 other type of transaction card, including, but not limited to, those loan
7 transactions initiated through electronic impulse; and

8 (4) ~~(6)~~ Transaction card ~~means shall mean~~ a device or means used to
9 access a prearranged revolving credit plan account.

10 Sec. 139. Section 8-820, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 8-820 Subject to the provisions of sections 8-815 to 8-829, any
13 ~~registered~~ bank may contract for and receive, on any personal loan,
14 charges at a rate not exceeding nineteen percent simple interest per
15 year. In the case of loans initiated by credit card or other type of
16 transaction card, the rate may be any amount agreed to by the parties.
17 Any ~~registered bank or~~ bank acquired pursuant to sections 8-1512 and
18 8-1513 may also charge commercially reasonable fees for service and use
19 of a credit card or other type of transaction card on a per transaction
20 and monthly or annual basis. For purposes of this section, section 85 of
21 the National Bank Act, 12 U.S.C. 85, and ~~section sections 521 and 522~~ of
22 the Depository Institutions Deregulation and Monetary Control Act of
23 1980, 12 U.S.C. ~~1730g and~~ 1831d, all interest, charges, fees, and other
24 amounts permitted under sections 8-815 to 8-829 for loans initiated by
25 credit card or other type of transaction card shall be deemed to be, and
26 may be charged and collected as, interest by the bank, and all other
27 terms and conditions of the agreement between the bank and the borrower
28 that are not prohibited by such sections shall be deemed material to the
29 determination of interest. Notwithstanding the provisions of this
30 section, in the case of loans not initiated by credit card or other type
31 of transaction card, a bank may charge a minimum fee of up to seven

1 dollars and fifty cents in lieu of interest on personal loans and
2 reasonable loan service costs as defined in subdivision (2) of section
3 45-101.02. Such loan service costs shall not be construed as interest.

4 Sec. 140. Section 8-822, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 8-822 (1) Charges under section 8-820 shall be computed by
7 application of the rate charged to the outstanding principal balance for
8 the number of days actually elapsed without adding any additional
9 charges, except that at the time the loan is made charges may be computed
10 as a percentage per month of unpaid principal balances for the number of
11 days elapsed on the assumption that the unpaid principal balance will be
12 reduced, as provided in the loan contract, and such charges may be
13 included in the scheduled installments. In the case of loans initiated by
14 credit card or other type of transaction card, charges may be computed in
15 any other manner agreed to by the parties and may include compounding of
16 fees and charges.

17 ~~(2) For any loan contract entered into prior to October 1, 1981, the~~
18 ~~provisions of this subsection may be used or the provisions of subsection~~
19 ~~(3) of this section may be used. If the loan is repaid in whole or in~~
20 ~~part prior to the due date unearned charges shall be refunded or credited~~
21 ~~to the borrower in full, but such refund need not be made until final~~
22 ~~payment of the loan contract. Such refund shall be at least as great a~~
23 ~~proportion of the total charges as the sum of the remaining monthly~~
24 ~~balances of the principal and interest combined scheduled to follow the~~
25 ~~date of prepayment bears to the sum of all the monthly balances of~~
26 ~~principal and interest combined originally scheduled by the contract. For~~
27 ~~the purpose of computing the refund, any prepayment in full made on or~~
28 ~~before the fifteenth day following an installment date shall be deemed to~~
29 ~~have been made on the installment date immediately preceding the date of~~
30 ~~prepayment in full, and any prepayment in full made after such fifteenth~~
31 ~~day shall be deemed to have been made on the installment date immediately~~

1 following the date of prepayment in full. No refund shall be required for
2 any partial prepayment. No refund of less than one dollar need be made.

3 (2) If a (3) For any loan contract entered into on or after October
4 1, 1981, the provisions of this subsection shall apply. If the loan is
5 prepaid in full by cash, a new loan, or otherwise after the first
6 installment due date, the borrower shall receive a rebate of an amount
7 which shall be not less than the amount obtained by applying to the
8 unpaid principal balances as originally scheduled or, if deferred, as
9 deferred, for the period following prepayment, according to the actuarial
10 method, the annual percentage rate previously stated to the borrower
11 pursuant to the federal Consumer Credit Protection Act. The licensee may
12 round the annual percentage rate to the nearest one-half of one percent
13 if such procedure is not consistently used to obtain a greater yield than
14 would otherwise be permitted. Any default and deferment charges which are
15 due and unpaid may be deducted from any rebate. No rebate shall be
16 required for any partial prepayment. No rebate of less than one dollar
17 need be made. Acceleration of the maturity of the contract shall not in
18 itself require a rebate. If judgment is obtained before the final
19 installment date the contract balance shall be reduced by the rebate
20 which would be required for prepayment in full as of the date judgment is
21 obtained.

22 (3) (4) The charges retained by the bank may be increased to the
23 extent that delinquency charges are computed on earned charges in
24 accordance with the next succeeding sentence. Delinquency charges on any
25 scheduled installment or portion thereof, if contracted for, may be
26 taken, or in lieu thereof, interest after maturity on each such
27 installment not exceeding the highest permissible interest rate.

28 Sec. 141. Section 8-826, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 8-826 (1) The department shall:

31 (a) (1) Be responsible for obtaining proper administration of

1 sections 8-815 to 8-829 and take or cause to be taken such lawful steps
2 as may be necessary and appropriate for the enforcement thereof; and

3 ~~(2) Have authority to make regulations, in addition to and not~~
4 ~~inconsistent with the provisions of sections 8-815 to 8-829, for the~~
5 ~~administration thereof and obtaining compliance therewith; and~~

6 (b) (3) Arrange for investigation and examination of the papers and
7 records, pertaining to loans made under section 8-820, for the purpose of
8 discovering violations of sections 8-815 to 8-829 or securing information
9 lawfully required under it.

10 (2) The Director of Banking and Finance may adopt and promulgate
11 rules and regulations to carry out and obtain compliance with sections
12 8-815 to 8-829.

13 Sec. 142. Section 8-828, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 8-828 Nothing contained in sections 8-815 to 8-826 ~~8-827~~ shall be
16 construed as preventing a ~~registered~~ bank from purchasing or discounting
17 from established business concerns any commercial, negotiable or
18 installment paper, or as preventing any such bank from accepting from, or
19 requiring such persons selling or offering to discount such instruments
20 to execute, contracts guaranteeing the ultimate collection of all of such
21 items so sold or discounted or requiring such persons to assume the
22 burden of making collections of the individual items so sold as agent of
23 the bank.

24 Sec. 143. Section 8-1401, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 8-1401 (1) No person organized under the Credit Union Act, the
27 Nebraska Banking Act, the Nebraska Industrial Development Corporation
28 Act, the Nebraska Model Business Corporation Act, the Nebraska Nonprofit
29 Corporation Act, the Nebraska Professional Corporation Act, the Nebraska
30 Trust Company Act, or Chapter 8, article 3, or otherwise authorized to
31 conduct business in Nebraska or organized under the laws of the United

1 States, shall be required to disclose any records or information,
2 financial or otherwise, that it deems confidential concerning its affairs
3 or the affairs of any person with which it is doing business to any
4 person, party, agency, or organization, unless:

5 (a) The disclosure relates to a lawyers trust account and is
6 required to be made to the Counsel for Discipline of the Nebraska Supreme
7 Court pursuant to a rule adopted by the Nebraska Supreme Court;

8 (b) The disclosure is governed by rules for discovery promulgated
9 pursuant to section 25-1273.01;

10 (c) The disclosure is made pursuant to section 8-1404;

11 (d) The request for disclosure is made by a law enforcement agency
12 regarding a crime, a fraud, or any other unlawful activity in which the
13 person to whom the request for disclosure is made is or may be a victim
14 of such crime, fraud, or unlawful activity;

15 (e) The request for disclosure is made by a governmental agency
16 which is a duly constituted supervisory regulatory agency of the person
17 to whom the request for disclosure is made and the disclosure relates to
18 examinations, audits, investigations, or inquiries of such persons;

19 (f) The request for disclosure is made pursuant to subpoena issued
20 under the laws of this state by a governmental agency exercising
21 investigatory or adjudicative functions with respect to a matter within
22 the agency's jurisdiction;

23 (g) The production of records is pursuant to a written demand of the
24 Tax Commissioner under section 77-375;

25 (h) There is first presented to such person a subpoena, summons, or
26 warrant issued by a court of competent jurisdiction;

27 (i) A statute by its terms or rules and regulations adopted and
28 promulgated thereunder requires the disclosure, other than by subpoena,
29 summons, warrant, or court order;

30 (j) There is presented to such person an order of a court of
31 competent jurisdiction setting forth the exact nature and limits of such

1 required disclosure and a showing that all persons to be affected by such
2 order have had reasonable notice and an opportunity to be heard upon the
3 merits of such order;

4 (k) The request for disclosure relates to information or records
5 regarding the balance due, monthly payments due, payoff amounts, payment
6 history, interest rates, due dates, or similar information for
7 indebtedness owed by a deceased person when the request is made by a
8 person having an ownership interest in real estate or personal property
9 which secures such indebtedness owed to the person to whom the request
10 for disclosure is made; or

11 (1) There is first presented to such person the written permission
12 of the person about whom records or information is being sought
13 authorizing the release of the requested records or information.

14 (2) Any person who makes a disclosure of records or information as
15 required by this section shall not be held civilly or criminally liable
16 for such disclosure in the absence of malice, bad faith, intent to
17 deceive, or gross negligence.

18 (3) This section does not prohibit:

19 (a) The disclosure of records or information to a certified public
20 accountant while engaged to perform an independent audit;

21 (b) The disclosure of records or information or the making of
22 reports pursuant to a statute which, by its terms or rules and
23 regulations adopted and promulgated thereunder, permits the disclosure or
24 reports; or

25 (c) The disclosure, in the regular course of business, of records or
26 information for the purpose of conducting due diligence pursuant to a
27 proposed purchase or sale of a person subject to the provisions of this
28 section or of the assets or liabilities of such a person.

29 Sec. 144. Section 8-2401, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-2401 A credit card bank may be formed under the Nebraska Banking

1 Act if all of the following conditions are met:

2 (1) A credit card bank shall not accept demand deposits or deposits
3 that the depositor may withdraw by check or similar means for payment to
4 third parties;

5 (2) A credit card bank may not accept any savings or time deposits
6 of less than one hundred thousand dollars, except that savings or time
7 deposits of any amount may be accepted from affiliated financial
8 institutions;

9 (3) The services of a credit card bank shall be limited to the
10 solicitation, processing, and making of loans instituted by credit card
11 or transaction card and matters relating or incidental thereto;

12 (4) A credit card bank shall not make commercial loans;

13 (5) A credit card bank shall, on the date of commencement of banking
14 business in this state, have a minimum capital stock and paid-in surplus
15 of two million five hundred thousand dollars;

16 (6) A credit card bank shall (a) employ on the date of commencement
17 of its banking business in this state or within one year after such date
18 not less than fifty persons in this state in its business or (b) contract
19 with a qualifying association as defined in subdivision (4) of section
20 8-1511 to provide for the processing of its credit card or transaction
21 card operations;

22 (7) A credit card bank shall maintain only one office that accepts
23 deposits;

24 (8) A credit card bank may maintain one or more processing centers
25 in this state;

26 (9) A credit card bank shall operate in a manner and at a location
27 that is not likely to attract customers from the general public in this
28 state to the substantial detriment of existing financial institutions as
29 defined in section 2 of this act 8-101 located in this state; and

30 (10) A credit card bank shall provide for the insurance of deposits
31 as described in subsection (1) of section 8-702.

1 Sec. 145. Section 9-701, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 9-701 (1) For purposes of this section:

4 (a) Financial institution means a bank, savings bank, building and
5 loan association, or savings and loan association, whether chartered by
6 the United States, the Department of Banking and Finance, or a foreign
7 state agency as defined in section 2 of this act ~~8-101~~; or any other
8 similar organization which is covered by federal deposit insurance;

9 (b) Gift enterprise means a contest, game of chance, savings
10 promotion raffle, or game promotion which is conducted within the state
11 or throughout the state and other states in connection with the sale of
12 consumer or trade products or services solely as business promotions and
13 in which the elements of chance and prize are present. Gift enterprise
14 does not include any scheme using the game of bingo or keno; any non-
15 telecommunication-related, player-activated electronic or
16 electromechanical facsimile of any game of chance; or any slot machine of
17 any kind. A gift enterprise shall not utilize pickle cards as defined in
18 section 9-315. Promotional game tickets may be utilized subject to the
19 following:

20 (i) The tickets utilized shall be manufactured or imprinted with the
21 name of the operator on each ticket;

22 (ii) The tickets utilized shall not be manufactured with a cost per
23 play printed on them; and

24 (iii) The tickets utilized shall not be substantially similar to any
25 type of pickle card approved by the Department of Revenue pursuant to
26 section 9-332.01;

27 (c) Operator means any person, firm, corporation, financial
28 institution, association, governmental entity, or agent or employee
29 thereof who promotes, operates, or conducts a gift enterprise. Operator
30 does not include any nonprofit organization or any agent or employee
31 thereof, except that operator includes any credit union chartered under

1 state or federal law or any agent or employee thereof who promotes,
2 operates, or conducts a gift enterprise; and

3 (d) Savings promotion raffle means a contest conducted by a
4 financial institution or credit union chartered under state or federal
5 law or any agent or employee thereof in which a chance of winning a
6 designated prize is obtained by the deposit of a specified amount of
7 money in a savings account or other savings program if each entry has an
8 equal chance of winning.

9 (2) Any operator may conduct a gift enterprise within this state in
10 accordance with this section.

11 (3) An operator shall not:

12 (a) Design, engage in, promote, or conduct a gift enterprise in
13 connection with the promotion or sale of consumer products or services in
14 which the winner may be unfairly predetermined or the game may be
15 manipulated or rigged;

16 (b) Arbitrarily remove, disqualify, disallow, or reject any entry;

17 (c) Fail to award prizes offered;

18 (d) Print, publish, or circulate literature or advertising material
19 used in connection with such gift enterprise which is false, deceptive,
20 or misleading; or

21 (e) Require an entry fee, a payment or promise of payment of any
22 valuable consideration, or any other consideration as a condition of
23 entering a gift enterprise or winning a prize from the gift enterprise,
24 except that a contest, game of chance, or business promotion may require,
25 as a condition of participation, evidence of the purchase of a product or
26 service as long as the purchase price charged for such product or service
27 is not greater than it would have been without the contest, game of
28 chance, or business promotion. For purposes of this section,
29 consideration shall not include (i) filling out an entry blank, (ii)
30 entering by mail with the purchase of postage at a cost no greater than
31 the cost of postage for a first-class letter weighing one ounce or less,

1 (iii) entering by a telephone call to the operator of or for the gift
2 enterprise at a cost no greater than the cost of postage for a first-
3 class letter weighing one ounce or less. When the only method of entry is
4 by telephone, the cost to the entrant of the telephone call shall not
5 exceed the cost of postage for a first-class letter weighing one ounce or
6 less for any reason, including (A) whether any communication occurred
7 during the call which was not related to the gift enterprise or (B) the
8 fact that the cost of the call to the operator was greater than the cost
9 to the entrant allowed under this section, or (iv) the deposit of money
10 in a savings account or other savings program, regardless of the interest
11 rate earned by such account or program.

12 (4) An operator shall disclose to participants all terms and
13 conditions of a gift enterprise.

14 (5)(a) The Department of Revenue may adopt and promulgate rules and
15 regulations necessary to carry out the operation of gift enterprises.

16 (b) Whenever the department has reason to believe that a gift
17 enterprise is being operated in violation of this section or the
18 department's rules and regulations, it may bring an action in the
19 district court of Lancaster County in the name of and on behalf of the
20 people of the State of Nebraska against the operator of the gift
21 enterprise to enjoin the continued operation of such gift enterprise
22 anywhere in the state.

23 (6)(a) Any person, firm, corporation, association, or agent or
24 employee thereof who engages in any unlawful acts or practices pursuant
25 to this section or violates any of the rules and regulations promulgated
26 pursuant to this section ~~is shall be~~ guilty of a Class II misdemeanor.

27 (b) Any person, firm, corporation, association, or agent or employee
28 thereof who violates any provision of this section or any of the rules
29 and regulations promulgated pursuant to this section shall be liable to
30 pay a civil penalty of not more than one thousand dollars imposed by the
31 district court of Lancaster County for each such violation which shall be

1 remitted to the State Treasurer for distribution in accordance with
2 Article VII, section 5, of the Constitution of Nebraska. Each day of
3 continued violation shall constitute a separate offense or violation for
4 purposes of this section.

5 (7) A financial institution or credit union may limit the number of
6 chances that a participant in a savings promotion raffle may obtain for
7 making the required deposits but shall not limit the number of deposits.

8 (8) In all proceedings initiated in any court or otherwise under
9 this section, the Attorney General or appropriate county attorney shall
10 prosecute and defend all such proceedings.

11 (9) This section shall not apply to any activity authorized and
12 regulated under the Nebraska Bingo Act, the Nebraska County and City
13 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
14 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State
15 Lottery Act.

16 Sec. 146. Section 28-612, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 28-612 (1) A person commits a Class IV felony if he or she:

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

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

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

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

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

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

2 (a) Any trust company transacting a business under the Nebraska
3 Trust Company Act;

4 (b) Any association organized for the purpose set forth in section
5 8-302;

6 (c) Any bank as defined in section 2 of this act 8-101; or

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

9 Sec. 147. Section 30-2602.02, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 30-2602.02 (1) A person, except for a financial institution as that
12 term is defined in ~~subdivision (12) of section 2 of this act 8-101~~ or its
13 officers, directors, employees, or agents or a trust company, who has
14 been nominated for appointment as a guardian or conservator shall obtain
15 a national criminal history record check through a process approved by
16 the State Court Administrator and a report of the results and file such
17 report with the court at least ten days prior to the appointment hearing
18 date, unless waived or modified by the court (a) for good cause shown by
19 affidavit filed simultaneously with the petition for appointment or (b)
20 in the event the protected person requests an expedited hearing under
21 section 30-2630.01.

22 (2) An order appointing a guardian or conservator shall not be
23 signed by the judge until such report has been filed with the court and
24 reviewed by the judge. Such report, or the lack thereof, shall be
25 certified either by affidavit or by obtaining a certified copy of the
26 report. No report or national criminal history record check shall be
27 required by the court upon the application of a petitioner for an
28 emergency temporary guardianship or emergency temporary conservatorship.
29 The court may waive the requirements of this section for good cause
30 shown.

31 Sec. 148. Section 30-2640, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 30-2640 For estates with a net value of more than ten thousand
3 dollars, the bond for a conservator shall be in the amount of the
4 aggregate capital value of the personal property of the estate in the
5 conservator's control plus one year's estimated income from all sources
6 minus the value of securities and other assets deposited under
7 arrangements requiring an order of the court for their removal. The bond
8 of the conservator shall be conditioned upon the faithful discharge of
9 all duties of the trust according to law, with sureties as the court
10 shall specify. The court, in lieu of sureties on a bond, may accept other
11 security for the performance of the bond, including a pledge of
12 securities or a mortgage of land owned by the conservator. For good cause
13 shown, the court may eliminate the requirement of a bond or decrease or
14 increase the required amount of any such bond previously furnished. The
15 court shall not require a bond if the protected person executed a
16 written, valid power of attorney that specifically nominates a guardian
17 or conservator and specifically does not require a bond. The court shall
18 consider as one of the factors of good cause, when determining whether a
19 bond should be required and the amount thereof, the protected person's
20 choice of any attorney in fact or alternative attorney in fact. No bond
21 shall be required of any financial institution, as that term is defined
22 in ~~subdivision (12) of section 2 of this act 8-101~~, or any officer,
23 director, employee, or agent of the financial institution serving as a
24 conservator, or any trust company serving as a conservator. The Public
25 Guardian shall not be required to post bond.

26 Sec. 149. Section 45-335, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 45-335 For purposes of the Nebraska Installment Sales Act, unless
29 the context otherwise requires:

30 (1) Goods means all personal property, except money or things in
31 action, and includes goods which, at the time of sale or subsequently,

1 are so affixed to realty as to become part thereof whether or not
2 severable therefrom;

3 (2) Services means work, labor, and services of any kind performed
4 in conjunction with an installment sale but does not include services for
5 which the prices charged are required by law to be established and
6 regulated by the government of the United States or any state;

7 (3) Buyer means a person who buys goods or obtains services from a
8 seller in an installment sale;

9 (4) Seller means a person who sells goods or furnishes services to a
10 buyer under an installment sale;

11 (5) Installment sale means any transaction, whether or not involving
12 the creation or retention of a security interest, in which a buyer
13 acquires goods or services from a seller pursuant to an agreement which
14 provides for a time-price differential and under which the buyer agrees
15 to pay all or part of the time-sale price in one or more installments and
16 within one hundred forty-five months, except that installment contracts
17 for the purchase of mobile homes may exceed such one-hundred-forty-five-
18 month limitation. Installment sale does not include a consumer rental
19 purchase agreement defined in and regulated by the Consumer Rental
20 Purchase Agreement Act;

21 (6) Installment contract means an agreement entered into in this
22 state evidencing an installment sale except those otherwise provided for
23 in separate acts;

24 (7) Cash price or cash sale price means the price stated in an
25 installment contract for which the seller would have sold or furnished to
26 the buyer and the buyer would have bought or acquired from the seller
27 goods or services which are the subject matter of the contract if such
28 sale had been a sale for cash instead of an installment sale. It may
29 include the cash price of accessories or services related to the sale
30 such as delivery, installation, alterations, modifications, and
31 improvements and may include taxes to the extent imposed on the cash

1 sale;

2 (8) Basic time price means the cash sale price of the goods or
3 services which are the subject matter of an installment contract plus the
4 amount included therein, if a separate identified charge is made therefor
5 and stated in the contract, for insurance, registration, certificate of
6 title, debt cancellation contract, debt suspension contract, electronic
7 title and lien services, guaranteed asset protection waiver, and license
8 fees, filing fees, an origination fee, and fees and charges prescribed by
9 law which actually are or will be paid to public officials for
10 determining the existence of or for perfecting, releasing, or satisfying
11 any security related to the credit transaction or any charge for
12 nonfiling insurance if such charge does not exceed the amount of fees and
13 charges prescribed by law which would have been paid to public officials
14 for filing, perfecting, releasing, and satisfying any security related to
15 the credit transaction and less the amount of the buyer's downpayment in
16 money or goods or both;

17 (9) Time-price differential, however denominated or expressed, means
18 the amount, as limited in the Nebraska Installment Sales Act, to be added
19 to the basic time price;

20 (10) Time-sale price means the total of the basic time price of the
21 goods or services, the amount of the buyer's downpayment in money or
22 goods or both, and the time-price differential;

23 (11) Sales finance company means a person purchasing one or more
24 installment contracts from one or more sellers. Sales finance company
25 includes, but is not limited to, a financial institution or installment
26 loan licensee, if so engaged;

27 (12) Department means the Department of Banking and Finance;

28 (13) Director means the Director of Banking and Finance;

29 (14) Financial institution has the same meaning as in section 2 of
30 this act ~~8-101~~;

31 (15) Debt cancellation contract means a loan term or contractual

1 arrangement modifying loan terms under which a financial institution or
2 licensee agrees to cancel all or part of a buyer's obligation to repay an
3 extension of credit from the financial institution or licensee upon the
4 occurrence of a specified event. The debt cancellation contract may be
5 separate from or a part of other loan documents. The term debt
6 cancellation contract does not include loan payment deferral arrangements
7 in which the triggering event is the buyer's unilateral election to defer
8 repayment or the financial institution's or licensee's unilateral
9 decision to allow a deferral of repayment;

10 (16) Debt suspension contract means a loan term or contractual
11 arrangement modifying loan terms under which a financial institution or
12 licensee agrees to suspend all or part of a buyer's obligation to repay
13 an extension of credit from the financial institution or licensee upon
14 the occurrence of a specified event. The debt suspension contract may be
15 separate from or a part of other loan documents. The term debt suspension
16 contract does not include loan payment deferral arrangements in which the
17 triggering event is the buyer's unilateral election to defer repayment or
18 the financial institution's or licensee's unilateral decision to allow a
19 deferral of repayment;

20 (17) Guaranteed asset protection waiver means a waiver that is
21 offered, sold, or provided in accordance with the Guaranteed Asset
22 Protection Waiver Act;

23 (18) Licensee means any person who obtains a license under the
24 Nebraska Installment Sales Act;

25 (19) Person means individual, partnership, limited liability
26 company, association, financial institution, trust, corporation, and any
27 other legal entity;

28 (20) Breach of security of the system means unauthorized acquisition
29 of data that compromises the security, confidentiality, or integrity of
30 the information maintained by the Nationwide Mortgage Licensing System
31 and Registry, its affiliates, or its subsidiaries;

1 (21) Nationwide Mortgage Licensing System and Registry means a
2 licensing system developed and maintained by the Conference of State Bank
3 Supervisors and the American Association of Residential Mortgage
4 Regulators for the licensing and registration of mortgage loan
5 originators, mortgage bankers, installment loan companies, and other
6 state-regulated financial services entities and industries; and

7 (22)(a) Control in the case of a corporation means (i) direct or
8 indirect ownership of or the right to control twenty-five percent or more
9 of the voting shares of the corporation or (ii) the ability of a person
10 or group acting in concert to elect a majority of the directors or
11 otherwise effect a change in policy.

12 (b) Control in the case of any other entity means (i) the power,
13 directly or indirectly, to direct the management or policies of the
14 entity, (ii) the contribution of twenty-five percent or more of the
15 capital of the entity, or (iii) the right to receive, upon dissolution,
16 twenty-five percent or more of the capital of the entity.

17 Sec. 150. Section 45-902, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 45-902 For purposes of the Delayed Deposit Services Licensing Act:

20 (1) Check means any check, draft, or other instrument for the
21 payment of money;

22 (2) Delayed deposit services business means any person who for a fee
23 (a) accepts a check dated subsequent to the date it was written or (b)
24 accepts a check dated on the date it was written and holds the check for
25 a period of days prior to deposit or presentment pursuant to an agreement
26 with or any representation made to the maker of the check, whether
27 express or implied;

28 (3) Director means the Director of Banking and Finance or his or her
29 designee;

30 (4) Financial institution has the same meaning as in section 2 of
31 this act ~~8-101~~;

1 (5) Licensee means any person licensed under the Delayed Deposit
2 Services Licensing Act; and

3 (6) Person means an individual, proprietorship, association, joint
4 venture, joint stock company, partnership, limited partnership, limited
5 liability company, business corporation, nonprofit corporation, or any
6 group of individuals however organized.

7 Sec. 151. Section 45-919, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 45-919 (1) No licensee shall:

10 (a) At any one time hold from any one maker more than two checks;

11 (b) At any one time hold from any one maker a check or checks in an
12 aggregate face amount of more than five hundred dollars;

13 (c) Hold or agree to hold a check for more than thirty-four days. A
14 check which is in the process of collection for the reason that it was
15 not negotiable on the day agreed upon shall not be deemed as being held
16 in excess of the thirty-four-day period;

17 (d) Require the maker to receive payment by a method which causes
18 the maker to pay additional or further fees and charges to the licensee
19 or other person;

20 (e) Accept a check as repayment, refinancing, or any other
21 consolidation of a check or checks held by the same licensee;

22 (f) Renew, roll over, defer, or in any way extend a delayed deposit
23 transaction by allowing the maker to pay less than the total amount of
24 the check and any authorized fees or charges. This subdivision shall not
25 prevent a licensee that agreed to hold a check for less than thirty-four
26 days from agreeing to hold the check for an additional period of time no
27 greater than the thirty-four days it would have originally been able to
28 hold the check if (i) the extension is at the request of the maker, (ii)
29 no additional fees are charged for the extension, and (iii) the delayed
30 deposit transaction is completed as required by subdivision (1)(c) of
31 this section. The licensee shall retain written or electronic proof of

1 compliance with this subdivision. If a licensee fails, or is unable, to
2 provide such proof to the department upon request, there shall be a
3 rebuttable presumption that a violation of this subdivision has occurred
4 and the department may pursue any remedies or actions available to it
5 under the Delayed Deposit Services Licensing Act; or

6 (g) Enter into another delayed deposit transaction with the same
7 maker on the same business day as the completion of a delayed deposit
8 transaction unless prior to entering into the transaction the maker and
9 the licensee verify on a form prescribed by the department that
10 completion of the prior delayed deposit transaction has occurred. The
11 licensee shall retain written proof of compliance with this subdivision.
12 If a licensee fails, or is unable, to provide such proof to the
13 department upon request, there shall be a rebuttable presumption that a
14 violation of this subdivision has occurred and the department may pursue
15 any remedies or actions available to it under the act.

16 (2) For purposes of this section, (a) completion of a delayed
17 deposit transaction means the licensee has presented a maker's check for
18 payment to a financial institution as defined in section 2 of this act
19 ~~8-101~~ or the maker redeemed the check by paying the full amount of the
20 check in cash to the licensee and (b) licensee shall include (i) a person
21 related to the licensee by common ownership or control, (ii) a person in
22 whom such licensee has any financial interest of ten percent or more, or
23 (iii) any employee or agent of the licensee.

24 Sec. 152. Section 45-1002, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 45-1002 (1) For purposes of the Nebraska Installment Loan Act:

27 (a) Applicant means a person applying for a license under the act;

28 (b) Breach of security of the system means unauthorized acquisition
29 of data that compromises the security, confidentiality, or integrity of
30 the information maintained by the Nationwide Mortgage Licensing System
31 and Registry, its affiliates, or its subsidiaries;

1 (c) Department means the Department of Banking and Finance;

2 (d) Debt cancellation contract means a loan term or contractual
3 arrangement modifying loan terms under which a financial institution or
4 licensee agrees to cancel all or part of a borrower's obligation to repay
5 an extension of credit from the financial institution or licensee upon
6 the occurrence of a specified event. The debt cancellation contract may
7 be separate from or a part of other loan documents. The term debt
8 cancellation contract does not include loan payment deferral arrangements
9 in which the triggering event is the borrower's unilateral election to
10 defer repayment or the financial institution's or licensee's unilateral
11 decision to allow a deferral of repayment;

12 (e) Debt suspension contract means a loan term or contractual
13 arrangement modifying loan terms under which a financial institution or
14 licensee agrees to suspend all or part of a borrower's obligation to
15 repay an extension of credit from the financial institution or licensee
16 upon the occurrence of a specified event. The debt suspension contract
17 may be separate from or a part of other loan documents. The term debt
18 suspension contract does not include loan payment deferral arrangements
19 in which the triggering event is the borrower's unilateral election to
20 defer repayment or the financial institution's or licensee's unilateral
21 decision to allow a deferral of repayment;

22 (f) Director means the Director of Banking and Finance;

23 (g) Financial institution has the same meaning as in section 2 of
24 this act ~~8-101~~;

25 (h) Guaranteed asset protection waiver means a waiver that is
26 offered, sold, or provided in accordance with the Guaranteed Asset
27 Protection Waiver Act;

28 (i) Licensee means any person who obtains a license under the
29 Nebraska Installment Loan Act;

30 (j)(i) Mortgage loan originator means an individual who for
31 compensation or gain (A) takes a residential mortgage loan application or

1 (B) offers or negotiates terms of a residential mortgage loan.

2 (ii) Mortgage loan originator does not include (A) any individual
3 who is not otherwise described in subdivision (i)(A) of this subdivision
4 and who performs purely administrative or clerical tasks on behalf of a
5 person who is described in subdivision (i) of this subdivision, (B) a
6 person or entity that only performs real estate brokerage activities and
7 is licensed or registered in accordance with applicable state law, unless
8 the person or entity is compensated by a lender, a mortgage broker, or
9 other mortgage loan originator or by any agent of such lender, mortgage
10 broker, or other mortgage loan originator, or (C) a person or entity
11 solely involved in extensions of credit relating to time-share programs
12 as defined in section 76-1702;

13 (k) Nationwide Mortgage Licensing System and Registry means a
14 licensing system developed and maintained by the Conference of State Bank
15 Supervisors and the American Association of Residential Mortgage
16 Regulators for the licensing and registration of mortgage loan
17 originators, mortgage bankers, installment loan companies, and other
18 state-regulated financial services entities and industries;

19 (l) Person means individual, partnership, limited liability company,
20 association, financial institution, trust, corporation, and any other
21 legal entity; and

22 (m) Real property means an owner-occupied single-family, two-family,
23 three-family, or four-family dwelling which is located in this state,
24 which is occupied, used, or intended to be occupied or used for
25 residential purposes, and which is, or is intended to be, permanently
26 affixed to the land.

27 (2) Except as provided in subsection (3) of section 45-1017 and
28 subsection (4) of section 45-1019, no revenue arising under the Nebraska
29 Installment Loan Act shall inure to any school fund of the State of
30 Nebraska or any of its governmental subdivisions.

31 (3) Loan, when used in the Nebraska Installment Loan Act, does not

1 include any loan made by a person who is not a licensee on which the
2 interest does not exceed the maximum rate permitted by section 45-101.03.

3 (4) Nothing in the Nebraska Installment Loan Act applies to any loan
4 made by a person who is not a licensee if the interest on the loan does
5 not exceed the maximum rate permitted by section 45-101.03.

6 Sec. 153. Section 45-1103, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 45-1103 For purposes of the Guaranteed Asset Protection Waiver Act:

9 (1) Borrower means a debtor, retail buyer, or lessee under a finance
10 agreement;

11 (2) Creditor means:

12 (a) The lender in a loan or credit transaction involving a motor
13 vehicle;

14 (b) The lessor in a lease transaction involving a motor vehicle;

15 (c) Any retail seller of motor vehicles that provides credit to
16 retail buyers of such motor vehicles if such entities comply with the
17 provisions of the act; or

18 (d) The assignees of any of the foregoing to whom the credit
19 obligation is payable;

20 (3) Creditor's designee means a person other than the creditor that
21 performs administrative or operational functions pursuant to a guaranteed
22 asset protection waiver program;

23 (4) Finance agreement means a loan, credit transaction, lease, or
24 retail installment sales contract for the purchase or lease of a motor
25 vehicle;

26 (5) Financial institution has the same meaning as in section 2 of
27 this act ~~8-101~~;

28 (6) Free-look period means the period of time from the effective
29 date of the guaranteed asset protection waiver until the date the
30 borrower may cancel the contract without penalty, fees, or costs to the
31 borrower. This period of time must not be shorter than thirty days;

1 (7) Guaranteed asset protection waiver means a contractual agreement
2 wherein a creditor or the creditor's designee agrees, for a separate
3 charge, to cancel or waive all or part of amounts due on a borrower's
4 finance agreement in the event of a total physical damage loss as
5 determined by the insurer issuing the motor vehicle insurance policy
6 subject to the terms of the waiver or unrecovered theft as determined by
7 the insurer issuing the motor vehicle insurance policy subject to the
8 terms of the waiver of the motor vehicle, which agreement must be part
9 of, or a separate addendum to, the finance agreement. If a borrower does
10 not have motor vehicle insurance, the creditor or the creditor's designee
11 will accept a report prepared pursuant to insurance industry standards by
12 a qualified inspector declaring the motor vehicle a total loss or a law
13 enforcement report declaring the motor vehicle an unrecovered theft.
14 Nothing in the act shall be construed to require the waiver to pay more
15 than the amount that would have been paid if the borrower had motor
16 vehicle insurance at the time of loss;

17 (8) Motor vehicle means self-propelled or towed vehicles designed
18 for personal or commercial use, including, but not limited to,
19 automobiles, trucks, motorcycles, recreational vehicles, all-terrain
20 vehicles, snowmobiles, campers, boats, personal watercraft, and
21 motorcycle, boat, camper, and personal watercraft trailers; and

22 (9) Person includes an individual, company, association,
23 organization, partnership, business trust, corporation, and every form of
24 legal entity.

25 Sec. 154. Section 49-1497, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 49-1497 (1) For purposes of section 49-1496, financial institution
28 means:

29 (a) A bank or banking corporation as defined in section 2 of this
30 act 8-101;

31 (b) A federal bank or branch bank;

- 1 (c) An insurance company providing a loan on an insurance policy;
- 2 (d) A small loan company;
- 3 (e) A state or federal savings and loan association or credit union;
- 4 or
- 5 (f) The federal government or any political subdivision thereof.

6 (2) The res or the income of an irrevocable trust of a member of the
7 individual's immediate family is not required to be reported pursuant to
8 section 49-1496.

9 Sec. 155. Transactions validly entered into before the effective
10 date of this act, and the rights, duties, and interests flowing from such
11 transactions, remain valid and may be terminated, completed, or enforced
12 as required or permitted by any statute amended or repealed by this
13 legislative bill as though such amendment or repeal had not occurred.

14 Sec. 156. Original sections 8-101.01, 8-102, 8-104, 8-105, 8-106,
15 8-107, 8-109, 8-110, 8-111, 8-112, 8-113, 8-114, 8-116.01, 8-118, 8-119,
16 8-120, 8-122, 8-124, 8-124.01, 8-125, 8-126, 8-127, 8-129, 8-130, 8-132,
17 8-133, 8-137, 8-138, 8-139, 8-141, 8-143, 8-143.01, 8-144, 8-145, 8-147,
18 8-148, 8-148.01, 8-148.02, 8-148.04, 8-148.05, 8-148.07, 8-148.08, 8-150,
19 8-152, 8-158, 8-160, 8-161, 8-163, 8-164, 8-166, 8-167, 8-168, 8-169,
20 8-170, 8-171, 8-173, 8-174, 8-175, 8-177, 8-178, 8-179, 8-180, 8-182,
21 8-183, 8-183.04, 8-183.05, 8-184, 8-185, 8-186, 8-187, 8-188, 8-189,
22 8-190, 8-191, 8-192, 8-193, 8-194, 8-195, 8-196, 8-197, 8-198, 8-199,
23 8-1,100, 8-1,101, 8-1,102, 8-1,103, 8-1,104, 8-1,105, 8-1,106, 8-1,107,
24 8-1,108, 8-1,109, 8-1,110, 8-1,111, 8-1,112, 8-1,113, 8-1,115, 8-1,116,
25 8-1,117, 8-1,118, 8-1,119, 8-1,124, 8-1,125, 8-1,126, 8-1,127, 8-1,128,
26 8-1,129, 8-1,131, 8-1,133, 8-1,134, 8-1,135, 8-1,136, 8-1,137, 8-1,138,
27 8-1,139, 8-206, 8-207, 8-603, 8-701, 8-815, 8-820, 8-822, 8-826, 8-828,
28 8-2401, 28-612, 30-2602.02, 30-2640, 45-902, 45-919, 45-1103, and
29 49-1497, Reissue Revised Statutes of Nebraska, and sections 8-101, 8-103,
30 8-108, 8-116, 8-117, 8-128, 8-135, 8-153, 8-157, 8-157.01, 8-162.02,
31 8-167.01, 8-318, 8-601, 8-602, 8-702, 8-1401, 9-701, 45-335, and 45-1002,

1 Revised Statutes Cumulative Supplement, 2016, are repealed.

2 Sec. 157. The following sections are outright repealed: Sections
3 8-121, 8-151, 8-1,120, 8-1,121, 8-816, 8-819, and 8-827, Reissue Revised
4 Statutes of Nebraska.