

AMENDMENTS TO LB 851

Introduced by Banking, Commerce and Insurance.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 8-115.01, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 8-115.01 When an application required by section 8-120 is
6 made by a corporation, the following procedures shall be followed:

7 (1) Except as provided for in subdivision (2) of this
8 section, when application is made for a new bank charter, a public
9 hearing shall be held on each application. Notice of the filing
10 of the application shall be published by the department for three
11 weeks in a legal newspaper published in or of general circulation
12 in the county where the applicant proposes to operate the bank.
13 The date for hearing the application shall be not less than thirty
14 days after the last publication of notice of hearing and not more
15 than ninety days after ~~filing~~ the application has been accepted
16 for filing by the director as substantially complete unless the
17 applicant agrees to a later date. Notice of the filing of the
18 application shall be sent by the department to all financial
19 institutions located in the county where the applicant proposes to
20 operate;

21 (2) When application is made for a new bank charter
22 and the director determines, in his or her discretion, that the
23 conditions of subdivision (3) of this section are met, then the

1 public hearing requirement of subdivision (1) of this section shall
2 only be required if, (a) after publishing a notice of the proposed
3 application in a newspaper of general circulation in the county
4 where the main office of the applicant is to be located and (b)
5 after giving notice to all financial institutions located within
6 such county, the director receives a substantive objection to the
7 application within fifteen days after the first day of publication;

8 (3) The director shall consider the following in each
9 application before the public hearing requirement of subdivision
10 (1) of this section may be waived:

11 (a) Whether the experience, character, and general
12 fitness of the applicant and of the applicant's officers and
13 directors is such as to warrant belief that the applicant will
14 operate the business honestly, fairly, and efficiently;

15 (b) Whether the length of time that the applicant or a
16 majority of the applicant's officers, directors, and shareholders
17 have been involved in the business of banking in this state has
18 been for a minimum of five consecutive years; and

19 (c) Whether the condition of financial institutions
20 currently owned by the applicant, the applicant's holding company,
21 if any, or the applicant's officers, directors, or shareholders is
22 such as to indicate that a hearing on the current application would
23 not be necessary;

24 (4) Except as provided in subdivision (6) of this
25 section, when application is made for transfer of a bank charter
26 and move of the main office of a bank to any location other
27 than within the corporate limits of the city or village of its

1 original charter or, if such bank charter is not located in a city
2 or village, then for transfer outside the county in which it is
3 located, the director shall hold a hearing on the matter if he
4 or she determines, in his or her discretion, that the condition
5 of the applicant warrants a hearing. If the director determines
6 that the condition of the applicant does not warrant a hearing,
7 the director shall (a) publish a notice of the filing of the
8 application in a newspaper of general circulation in the county
9 where the proposed main office and charter of the applicant would
10 be located and (b) give notice of such application to all financial
11 institutions located within the county where the proposed main
12 office and charter would be located and to such other interested
13 parties as the director may determine. If the director receives
14 any substantive objection to the proposed relocation within fifteen
15 days after the first day of publication, he or she shall hold
16 a hearing on the application. Notice of a hearing held pursuant
17 to this subdivision shall be published for two consecutive weeks
18 in a newspaper of general circulation in the county where the
19 main office would be located. The date for hearing the application
20 shall be not less than thirty days after the last publication of
21 notice of hearing and not more than ninety days after the ~~filing~~
22 ~~of the application~~ has been accepted for filing by the director
23 as substantially complete unless the applicant agrees to a later
24 date. When the persons making application for transfer of a main
25 office and charter are officers or directors of the bank, there is
26 a rebuttable presumption that such persons are parties of integrity
27 and responsibility;

1 (5) Except as provided in subdivision (6) of this
2 section, when application is made for a move of any bank's
3 main office within the city, village, or county, if not chartered
4 within a city or village, of its original charter, the director
5 shall publish notice of the proposed move in a newspaper of general
6 circulation in the county where the main office of the applicant
7 is located and shall give notice of such intended move to all
8 financial institutions located within the county where such bank is
9 located. If the director receives a substantive objection to such
10 move within fifteen days after publishing such notice, he or she
11 shall publish an additional notice and hold a hearing as provided
12 in subdivision (1) of this section;

13 (6) With the approval of the director, a bank may move
14 its main office and charter to the location of a branch of the
15 bank without public notice or hearing as long as (a) the condition
16 of the bank, in the discretion of the director, does not warrant
17 a hearing and (b) the branch (i) is located in Nebraska, (ii) has
18 been in operation for at least one year as a branch of the bank
19 or was acquired by the bank pursuant to section 8-1506 or 8-1516,
20 and (iii) is simultaneously relocated to the original main office
21 location;

22 (7) The director shall send any notice to financial
23 institutions required by this section by ~~certified mail~~ first-class
24 mail, postage prepaid, or electronic mail. Electronic mail may be
25 used if the financial institution agrees in advance to receive such
26 notices by electronic mail;

27 (8) The expense of any publication and ~~certified~~ mailing

1 required by this section shall be paid by the applicant; and

2 (9) Notwithstanding any provision of this section, the
3 director shall take immediate action on any charter application
4 or applications concerned without the benefit of a hearing in the
5 case of an emergency so declared by the Governor, the Secretary of
6 State, and the director.

7 Sec. 2. Section 8-116, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 8-116 (1) A charter for a bank hereafter organized shall
10 not be issued unless the corporation applying therefor shall have
11 a surplus of not less than ~~fifty~~ seventy thousand dollars or
12 ~~fifty~~ seventy percent of its paid-up capital stock, whichever
13 is greater, and a paid-up capital stock as follows: In villages
14 or counties of less than one thousand inhabitants, one hundred
15 thousand dollars; in cities, villages, or counties of one thousand
16 or more and less than twenty-five thousand inhabitants, not less
17 than one hundred fifty thousand dollars; in cities or counties of
18 twenty-five thousand or more and less than one hundred thousand
19 inhabitants, not less than two hundred thousand dollars; and in
20 cities or counties of one hundred thousand or more inhabitants,
21 not less than five hundred thousand dollars. ~~Such corporation shall~~
22 ~~also have minimum paid-in undivided profits of not less than twenty~~
23 ~~percent of its paid-up capital stock.~~

24 (2) Notwithstanding subsection (1) of this section, the
25 department shall have the authority to determine the minimum
26 amount of paid-up capital stock, and surplus, ~~and paid-in undivided~~
27 ~~profits~~ required for any corporation applying for a bank charter,

1 which amounts shall not be less than the amounts provided in
2 subsection (1) of this section.

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

5 Sec. 3. Section 8-120, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 8-120 (1) Every corporation organized for and desiring
8 to conduct a bank or to conduct a bank for purposes of a merger
9 with an existing bank shall make under oath and transmit to the
10 department a complete detailed application giving (a) the name
11 of the proposed bank; (b) a certified copy of the articles of
12 incorporation; (c) the names of the stockholders; (d) the county,
13 city, or village and the exact location therein in which such
14 bank is proposed to be located; (e) the nature of the proposed
15 banking business; (f) the proposed amounts of paid-up capital
16 stock, and surplus, and undivided profits, and the items of actual
17 cash and property, as reported and approved at a meeting of the
18 stockholders, to be included in such amounts; and (g) a statement
19 that at least twenty percent of the amounts stated in subdivision
20 (f) of this subsection have in fact been paid in to the corporation
21 by its stockholders.

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

25 (3) This section also applies when application is made
26 for transfer of a bank charter and move of a bank's main office to
27 any location other than (a) within the corporate limits of the city

1 or village of its original charter, (b) within the county in which
2 it is located if such bank charter is not located in a city or
3 village, or (c) as provided in subdivision (6) of section 8-115.01.

4 Sec. 4. Section 8-122, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 8-122 (1) After the examination and approval by the
7 department of the application required by section 8-120, if the
8 department upon investigation and after any public hearing on the
9 application held pursuant to section 8-115.01 shall be satisfied
10 that the stockholders and officers of the corporation applying
11 for such charter are parties of integrity and responsibility, that
12 the requirements of section 8-702 have been met, and that the
13 public necessity, convenience, and advantage will be promoted by
14 permitting such corporation to engage in business as a bank, the
15 department shall, upon the payment of the required fees, and, upon
16 the filing with the department of a statement, under oath, of the
17 president, secretary, or treasurer, that the paid-up capital stock,
18 and surplus, ~~and undivided profits~~ have been paid in, as determined
19 by the department in accordance with section 8-116, issue to such
20 corporation a charter to transact the business of a bank in this
21 state provided for in its articles of incorporation. In the case of
22 a bank organized to merge with an existing bank, there shall be a
23 rebuttable presumption that the public necessity, convenience, and
24 advantage will be met by the merger of the two banks, except that
25 such presumption shall not apply when the new bank that is formed
26 by the merger is at a different location than that of the former
27 existing bank. Any application for merger under this subsection

1 shall be subject to section 8-1516.

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

4 Sec. 5. Section 8-143.01, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 8-143.01 (1) No bank shall extend credit to any of its
7 executive officers, directors, or principal shareholders or to any
8 related interest of such persons in an amount that, when aggregated
9 with the amount of all other extensions of credit by the bank to
10 that person and to all related interests of that person, exceeds
11 the higher of twenty-five thousand dollars or five percent of the
12 bank's unimpaired capital and unimpaired surplus unless (a) the
13 extension of credit has been approved in advance by a majority vote
14 of the entire board of directors of the bank, a record of which
15 shall be made and kept as a part of the records of such bank, and
16 (b) the interested party has abstained from participating directly
17 or indirectly in such vote.

18 (2) No bank shall extend credit to any of its executive
19 officers, directors, or principal shareholders or to any related
20 interest of such persons in an amount that, when aggregated with
21 the amount of all other extensions of credit by the bank to that
22 person and to all related interests of that person, exceeds five
23 hundred thousand dollars except by complying with the requirements
24 of subdivisions (1)(a) and (b) of this section.

25 (3) No bank shall extend credit to any of its executive
26 officers, ~~licensed pursuant to section 8-139,~~ and no such executive
27 officer shall borrow from or otherwise become indebted to his or

1 her bank, except in the amounts and for the purposes set forth in
2 subsection (4) of this section.

3 (4) A bank shall be authorized to extend credit to any of
4 its executive officers; ~~licensed pursuant to section 8-139;~~

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

7 (b)(i) In any amount to finance or refinance the
8 purchase, construction, maintenance, or improvement of a residence
9 of such executive officer if the extension of credit is secured
10 by a first lien on the residence and the residence is owned or
11 is expected to be owned after the extension of credit by the
12 executive officer and (ii) in the case of a refinancing, only the
13 amount of the refinancing used to repay the original extension of
14 credit, together with the closing costs of the refinancing, and any
15 additional amount thereof used for any of the purposes enumerated
16 in this subdivision are included within this category of credit;

17 (c) In any amount if the extension of credit is
18 (i) secured by a perfected security interest in bonds, notes,
19 certificates of indebtedness, or Treasury Bills of the United
20 States or in other such obligations fully guaranteed as to
21 principal and interest by the United States, (ii) secured by
22 unconditional takeout commitments or guarantees of any department,
23 agency, bureau, board, commission, or establishment of the United
24 States or any corporation wholly owned directly or indirectly
25 by the United States, or (iii) secured by a perfected security
26 interest in a segregated deposit account in the lending bank; or

27 (d) For any other purpose not specified in subdivisions

1 (a), (b), and (c) of this subsection if the aggregate amount of
2 such other extensions of credit to such executive officer does not
3 exceed, at any one time, the greater of two and one-half percent of
4 the bank's unimpaired capital and unimpaired surplus or twenty-five
5 thousand dollars, but in no event greater than one hundred thousand
6 dollars or the amount of the bank's lending limit as prescribed in
7 section 8-141, whichever is less.

8 (5) (a) Except as provided in subdivision (b) or (c) of
9 this subsection, any executive officer ~~licensed pursuant to section~~
10 ~~8-139~~ shall make, on an annual basis, a written report to the
11 board of directors of the bank of which he or she is an executive
12 officer stating the date and amount of all loans or indebtedness on
13 which he or she is a borrower, cosigner, or guarantor, the security
14 therefor, and the purpose for which the proceeds have been or are
15 to be used.

16 (b) Except as provided in subdivision (c) of this
17 subsection, in lieu of the reports required by subdivision (a)
18 of this subsection, the board of directors of a bank may obtain a
19 credit report from a recognized credit agency, on an annual basis,
20 for any or all of its executive officers, ~~licensed pursuant to~~
21 ~~section 8-139.~~

22 (c) Subdivisions (a) and (b) of this subsection do not
23 apply to any executive officer ~~licensed pursuant to section 8-139~~
24 if such officer is excluded by a resolution of the board of
25 directors or by the bylaws of the bank from participating in the
26 major policymaking functions of the bank and does not actually
27 participate in the major policymaking functions of the bank.

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

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

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

22 (8) For purposes of this section:

23 (a) Executive officer shall mean a person who
24 participates or has authority to participate, other than in the
25 capacity of director, in the major policymaking functions of the
26 bank, whether or not the officer has an official title, the title
27 designates such officer as an assistant, or such officer is serving

1 without salary or other compensation. Executive officer shall
2 include the chairperson of the board of directors, the president,
3 all vice presidents, the cashier, the corporate secretary, and
4 the treasurer, unless the executive officer is excluded by a
5 resolution of the board of directors or by the bylaws of the bank
6 from participating, other than in the capacity of director, in
7 the major policymaking functions of the bank, and the executive
8 officer does not actually participate in such functions. A manager
9 or assistant manager of a branch of a bank shall not be considered
10 to be an executive officer unless such individual participates or
11 is authorized to participate in the major policymaking functions
12 of the bank; and

13 (b) Unimpaired capital and unimpaired surplus shall mean
14 the sum of:

15 (i) The total equity capital of the bank reported on its
16 most recent consolidated report of condition filed under section
17 8-166;

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

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

24 (9) Any executive officer, director, or principal
25 shareholder of a bank or any other person who intentionally
26 violates this section or who aids, abets, or assists in a violation
27 of this section shall be guilty of a Class IV felony.

1 (10) The Director of Banking and Finance shall have
2 authority to adopt and promulgate rules and regulations to
3 implement this section, including rules or regulations defining
4 or further defining terms used in this section, consistent with the
5 provisions of 12 U.S.C. 84 and implementing Regulation O.

6 Sec. 6. Section 8-157, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 8-157 (1) Except as otherwise provided in this section
9 and section 8-2104, the general business of every bank shall be
10 transacted at the place of business specified in its charter.

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

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

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

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

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

21 (c) For purposes of this subsection:

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

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

1 census;

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

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

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

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

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

21 (6) The name given to any branch established and
22 maintained pursuant to this section shall not be substantially
23 similar to the name of any existing bank or branch which is
24 unaffiliated with the newly created branch and is located in the
25 same city, village, or county. The name of such newly created
26 branch shall be approved by the director.

27 (7) A bank which has a main chartered office or an

1 approved branch located in the State of Nebraska may, through any
2 of its executive officers, including executive officers licensed
3 as such pursuant to section 8-139, or designated agents, conduct
4 a loan closing at a location other than the place of business
5 specified in the bank's charter or any branch thereof.

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

17 (9) Upon receiving an application for a branch to be
18 established pursuant to subdivision (2)(a) of this section, to
19 establish a mobile branch pursuant to subdivision (2)(b) of this
20 section, to acquire a branch of another financial institution
21 pursuant to subsection (4) of this section, or to move the location
22 of an established branch other than a move made pursuant to
23 subdivision (6) of section 8-115.01, the director shall hold a
24 public hearing on the matter if he or she determines, in his or
25 her discretion, that the condition of the applicant bank warrants
26 a hearing. If the director determines that the condition of the
27 bank does not warrant a hearing, the director shall (a) publish a

1 notice of the filing of the application in a newspaper of general
2 circulation in the county where the proposed branch or mobile
3 branch would be located, the expense of which shall be paid by
4 the applicant bank, and (b) give notice of such application to
5 all financial institutions located within the county where the
6 proposed branch or mobile branch would be located and to such other
7 interested parties as the director may determine. The director
8 shall send the notice to financial institutions by ~~certified mail~~
9 first-class mail, postage prepaid, or electronic mail. Electronic
10 mail may be used if the financial institution agrees in advance to
11 receive such notices by electronic mail. If the director receives
12 any substantive objection to the proposed branch or mobile branch
13 within fifteen days after publication of such notice, he or she
14 shall hold a hearing on the application. Notice of a hearing held
15 pursuant to this subsection shall be published for two consecutive
16 weeks in a newspaper of general circulation in the county where
17 the proposed branch or mobile branch would be located. The date
18 for hearing the application shall not be more than ninety days
19 after the filing of the application and not less than thirty days
20 after the last publication of notice of hearing. The expense of any
21 publication and ~~certified~~ mailing required by this section shall be
22 paid by the applicant.

23 Sec. 7. Section 8-1,140, Revised Statutes Supplement,
24 2007, is amended to read:

25 8-1,140 Notwithstanding any of the other provisions of
26 the Nebraska Banking Act or any other Nebraska statute, any bank
27 incorporated under the laws of this state and organized under

1 the provisions of the act, or under the laws of this state as
2 they existed prior to May 9, 1933, shall directly, or indirectly
3 through a subsidiary or subsidiaries, have all the rights, powers,
4 privileges, benefits, and immunities which may be exercised as of
5 ~~March 20, 2007,~~ the effective date of this act, by a federally
6 chartered bank doing business in Nebraska, including the exercise
7 of all powers and activities that are permitted for a financial
8 subsidiary of a federally chartered bank. Such rights, powers,
9 privileges, benefits, and immunities shall not relieve such bank
10 from payment of state taxes assessed under any applicable laws of
11 this state.

12 Sec. 8. Section 8-223, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 8-223 (1) The trust company shall file with the
15 Department of Banking and Finance during the months of January and
16 July of each year a statement under oath of the condition of the
17 trust company on the last business day of the preceding December
18 and June in the manner and form required by the department. For
19 purposes of the Nebraska Trust Company Act, the trust company's
20 annual report shall be deemed to be the report filed with the
21 Department of Banking and Finance during the month of January.

22 (2) Any trust company that fails, neglects, or refuses to
23 make or furnish any report or any published statement required by
24 the Nebraska Trust Company Act shall pay to the department fifty
25 dollars for each day such failure continues, unless the department
26 extends the time for filing such report.

27 (3) The filing requirements of this section shall not

1 apply to the trust department of a bank if the report of condition
2 of the trust department is included in the reports of the bank
3 required by the Nebraska Banking Act.

4 Sec. 9. Section 8-224, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 8-224 (1) The reports required by section 8-223 shall
7 be verified by one of the managing officers, and a summary of
8 the annual report, in a form prescribed by the Department of
9 Banking and Finance, shall, within thirty days after the filing
10 of the statement with the department, be published in a newspaper
11 of general circulation in the county where the trust company is
12 chartered.

13 (2) The publication required by this section shall not
14 apply to any trust company that makes an annual disclosure
15 statement available to any member of the general public upon
16 request, in accordance with the following provisions:

17 (a) The annual disclosure statement shall be in a form
18 prescribed by the department;

19 (b) In the lobby of its main office, in every branch
20 trust office, and in every representative trust office, the trust
21 company shall at all times display a notice that the annual
22 disclosure statement may be obtained from the trust company;

23 (c) If the trust company maintains an Internet web site,
24 the home page of the web site shall at all times contain a notice
25 that the annual disclosure statement may be obtained from the trust
26 company;

27 (d) The notice described in subdivisions (b) and (c)

1 of this subsection shall include, at a minimum, an address
2 and telephone number to which requests for an annual disclosure
3 statement may be made;

4 (e) The first requested copy of the annual disclosure
5 statement shall be provided to a requester free of charge; and

6 (f) A trust company shall make its annual disclosure
7 statement available to the public beginning not later than the
8 following March 31 or, if the trust company mails an annual
9 disclosure statement to its shareholders, beginning not later than
10 five days after the mailing of the disclosure statement, whichever
11 occurs first. A trust company shall make its annual disclosure
12 statement available continuously until (i) the annual disclosure
13 statement for the succeeding year becomes available or (ii) a
14 summary of its annual report is published for the succeeding year
15 in accordance with this section.

16 (3) The publication required by this section shall not
17 apply to reports of the trust department of a bank if the report of
18 condition of the trust department is included in the reports of the
19 bank required by the Nebraska Banking Act.

20 Sec. 10. Section 8-234, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 8-234 (1) With the approval of the Director of Banking
23 and Finance, a corporation organized to do business as a trust
24 company under the Nebraska Trust Company Act may establish and
25 maintain branch trust offices within this state and in any other
26 state pursuant to section 8-2303.

27 (2) A corporation organized to do business as a trust

1 company under the Nebraska Trust Company Act, in order to establish
2 a branch trust office in Nebraska pursuant to subsection (1) of
3 this section, shall apply to the Director of Banking and Finance on
4 a form prescribed by the director. Upon receipt of a substantially
5 complete application, the director shall hold a public hearing on
6 the matter if he or she determines, in his or her discretion,
7 that the condition of the corporation organized to do business
8 as a trust company warrants a hearing. If the director determines
9 that the condition of the corporation organized to do business
10 as a trust company does not warrant a hearing, the director
11 shall (a) publish a notice of the filing of the application in a
12 newspaper of general circulation in the county where the proposed
13 branch trust office would be located, ~~the expense of which shall~~
14 ~~be paid by the corporation organized to do business as a trust~~
15 ~~company,~~ and (b) give notice of such application for a branch trust
16 office to all financial institutions within the county where the
17 proposed branch trust office would be located and to such other
18 interested parties as the director may determine. The director
19 shall send the notice to financial institutions by ~~certified mail~~
20 first-class mail, postage prepaid, or electronic mail. Electronic
21 mail may be used if the financial institution agrees in advance to
22 receive such notices by electronic mail. If the director receives
23 a substantive objection to the proposed branch trust office within
24 fifteen days after publication of such notice, he or she shall hold
25 a hearing on the application. Notice of a hearing held pursuant
26 to this subsection shall be published for two consecutive weeks
27 in a newspaper of general circulation in the county where the

1 proposed branch trust office would be located. The expense of any
2 publication and ~~certified~~ mailing required by this section shall be
3 paid by the applicant. The date for hearing the application shall
4 not be more than ninety days after the filing of the application
5 and not less than thirty-one days after the last publication of
6 notice of hearing. The costs of the hearing shall be assessed in
7 accordance with the rules and regulations of the Department of
8 Banking and Finance.

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

16 (4) With the approval of the director, a state-chartered
17 bank authorized to conduct a trust business pursuant to sections
18 8-159 to 8-162 may establish and maintain branch trust offices
19 within this state and in any other state pursuant to section
20 8-2303. The procedure for the establishment of any branch trust
21 office under this subsection shall be the same as provided in
22 subsections (2) and (3) of this section. The activities at the
23 branch trust office shall be limited to the activities permitted by
24 the Nebraska Trust Company Act, and the general business of banking
25 shall not be conducted at the branch trust office. Nothing in this
26 subsection is intended to prohibit the establishment of a branch
27 pursuant to section 8-157 at which trust business may be conducted.

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

4 Sec. 11. Section 8-355, Revised Statutes Supplement,
5 2007, is amended to read:

6 8-355 Notwithstanding any of the provisions of Chapter
7 8, article 3, or any other Nebraska statute, except as provided
8 in section 8-345.02, any association incorporated under the laws
9 of the State of Nebraska and organized under the provisions
10 of such article shall have all the rights, powers, privileges,
11 benefits, and immunities which may be exercised as of ~~March~~
12 ~~20, 2007,~~ the effective date of this act, by a federal savings
13 and loan association doing business in Nebraska. Such rights,
14 powers, privileges, benefits, and immunities shall not relieve
15 such association from payment of state taxes assessed under any
16 applicable laws of this state.

17 Sec. 12. Section 8-374, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 8-374 Prior to issuing a certificate of approval, the
20 department, upon receiving an application for a stock savings and
21 loan association, shall publish notice of filing of the application
22 for a period of three weeks in a legal newspaper published in or
23 of general circulation in the county where the applicant proposes
24 to operate the savings and loan association. ~~The expense of the~~
25 ~~publication shall be paid by the applicant.~~ A public hearing shall
26 be held on each application. The date for hearing the application
27 shall be not more than ninety days after filing the application and

1 not less than thirty days after the last publication of notice.

2 Such hearing shall be held to determine:

3 (1) Whether the articles of incorporation and bylaws
4 conform to the requirements of sections 8-356 to 8-384 and contain
5 a just and equitable plan for the management of the association's
6 business;

7 (2) Whether the persons organizing such association are
8 of good character and responsibility;

9 (3) Whether in the department's judgment a need exists
10 for such an institution in the community to be served;

11 (4) Whether there is a reasonable probability of its
12 usefulness and success; and

13 (5) Whether the same can be established without undue
14 injury to properly conducted existing local savings and loan
15 associations, whether mutual or capital stock in formation.

16 (6) The expense of any publication required by this
17 section shall be paid by the applicant.

18 Sec. 13. Section 8-910, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 8-910 (1) It shall be unlawful, except as provided in
21 this section, for:

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

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

26 (c) Any bank holding company to acquire direct or
27 indirect ownership or control of any voting shares of any bank if,

1 after such acquisition, such company will directly or indirectly
2 own or control more than twenty-five percent of the voting shares
3 of such bank;

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

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

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

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

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

19 (c) Upon any action referred to in subsection (1) of this
20 section and subject to subsection (3) of this section, the bank or
21 banks so owned or controlled would have deposits in Nebraska in an
22 amount no greater than twenty-two percent of the total deposits of
23 all banks in Nebraska plus the total deposits, savings accounts,
24 passbook accounts, and shares in savings and loan associations and
25 building and loan associations in Nebraska as determined by the
26 director on the basis of the most recent midyear reports, except as
27 provided in subsections (4), and (5), and (6) of this section;

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

3 (e) The bank holding company complies with sections
4 8-1501 to 8-1505 if the bank or banks to be acquired are chartered
5 in this state under the Nebraska Banking Act; and

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

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

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

24 (5) A bank holding company which acquired an institution
25 or which formed a bank which acquired an institution under sections
26 8-1506 to 8-1510 or which acquired any assets and liabilities
27 from the Resolution Trust Corporation or the Federal Deposit

1 Insurance Corporation prior to January 1, 1994, shall not have such
2 acquisition or formation count against the limitations set forth in
3 subdivision (2)(c) of this section.

4 (6) A bank which accepts deposits from nonresidents of
5 Nebraska and voluntarily segregates the reporting of such deposits
6 in such a manner as to allow the director to determine the amounts
7 of such deposits shall not have such deposits count against the
8 limitations set forth in subdivision (2)(c) of this section. The
9 bank shall report the amount of such deposits, if so segregated, to
10 the director prior to October 1 of each year.

11 Sec. 14. Section 8-1510, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 8-1510 (1) The Director of Banking and Finance may permit
14 cross-industry acquisition or merger of one or more financial
15 institutions under its supervision upon the application of such
16 institutions to the Department of Banking and Finance. The
17 application shall be made on forms prescribed by the department.

18 (2) Except as provided for in subsection (3) of this
19 section, when an application is made for such an acquisition
20 or merger, notice of the filing of the application shall be
21 published by the department three weeks in a legal newspaper
22 in or of general circulation in the county where the applicant
23 proposes to operate the acquired or merged financial institution.
24 A public hearing shall be held on each application. The date
25 for hearing the application shall be not more than ninety days
26 after the filing of the application and not less than thirty
27 days after the last publication of notice after the examination

1 and approval by the department of the application. If the
2 department, upon investigation and after public hearing on the
3 application, is satisfied that the stockholders and officers of the
4 financial institution applying for such acquisition or merger are
5 parties of integrity and responsibility, that the requirements of
6 section 8-702 have been met or some alternate form of protection
7 for depositors has been met, and that the public necessity,
8 convenience, and advantage will be promoted by permitting such
9 acquisition or merger, the department shall, upon payment of the
10 required fees, issue to such institution an order of approval for
11 the acquisition or merger.

12 (3) When application is made for cross-industry
13 acquisition or merger and the director determines, in his or
14 her discretion, that the financial condition of the financial
15 institution surviving the acquisition or merger is such as to
16 indicate that a hearing on the application would not be necessary,
17 then the hearing requirement of subsection (2) of this section
18 shall only be required if, (a) after publishing a notice of the
19 proposed application in a newspaper of general circulation in the
20 county or counties where the offices of the financial institution
21 to be merged or acquired are located and (b) after giving notice
22 ~~by certified mail~~ to all financial institutions located within
23 such county or counties, the director receives a substantive
24 objection to the application within fifteen days after the first
25 day of publication. The director shall send the notice to financial
26 institutions by first-class mail, postage prepaid, or electronic
27 mail. Electronic mail may be used if the financial institution

1 agrees in advance to receive such notices by electronic mail.

2 (4) The expense of any publication and ~~certified~~ mailing
3 required by this section shall be paid by the applicant.

4 Sec. 15. Section 8-2102, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 8-2102 For purposes of the Interstate Branching By Merger
7 Act of 1997, unless the context otherwise requires:

8 (1) Bank means a bank as defined in 12 U.S.C. 1813, as
9 such section existed on the effective date of this act;

10 ~~(1)~~ (2) Department means the Department of Banking and
11 Finance;

12 ~~(2)~~ (3) Director means the Director of Banking and
13 Finance;

14 ~~(3)~~ (4) Home state means (a) with respect to a state
15 chartered bank, the state in which the bank is chartered and (b)
16 with respect to a national bank, the state in which the main office
17 of the bank is located;

18 ~~(4)~~ (5) Home state regulator means, with respect to an
19 out-of-state state chartered bank, the bank supervisory agency of
20 the state in which such bank is chartered;

21 ~~(5)~~ (6) Host state means a state, other than the home
22 state of a bank, in which the bank maintains, or seeks to establish
23 and maintain, a branch;

24 ~~(6)~~ (7) Interstate merger transaction means a merger or
25 consolidation of two or more banks, at least one of which is a
26 Nebraska bank and at least one of which is an out-of-state bank,
27 and the conversion of the main office and the branches of any

1 bank involved in such merger or consolidation into branches of the
2 resulting bank;

3 ~~(7)~~ (8) Nebraska bank means a bank whose home state is
4 Nebraska;

5 ~~(8)~~ (9) Nebraska state chartered bank means a corporation
6 which is chartered to conduct a bank in this state pursuant to the
7 Nebraska Banking Act;

8 ~~(9)~~ (10) Out-of-state bank means a bank whose home state
9 is a state other than Nebraska;

10 ~~(10)~~ (11) Out-of-state state chartered bank means a bank
11 chartered under the laws of any state other than Nebraska;

12 ~~(11)~~ (12) Resulting bank means a bank that has resulted
13 from an interstate merger transaction under the Interstate
14 Branching By Merger Act of 1997; and

15 ~~(12)~~ (13) State means any state of the United States, the
16 District of Columbia, any territory of the United States, Puerto
17 Rico, Guam, American Samoa, the Trust Territory of the Pacific
18 Islands, the Virgin Islands, and the Northern Mariana Islands.

19 Sec. 16. Section 8-2106, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 8-2106 An interstate merger transaction shall not be
22 permitted if, upon consummation of such transaction, the resulting
23 bank or its bank holding company would have direct or indirect
24 ownership or control of deposits in Nebraska in excess of fourteen
25 percent of the total deposits of all banks in Nebraska, plus
26 the total deposits, savings accounts, passbook accounts, and share
27 accounts in savings and loan associations and building and loan

1 associations in Nebraska, as determined by the director on the
2 basis of the most recent calendar-year-end reports, except as
3 provided in subsection (4), ~~or (5)~~, or (6) of section 8-910.

4 Sec. 17. Section 21-17,115, Revised Statutes Supplement,
5 2007, is amended to read:

6 21-17,115 Notwithstanding any of the other provisions of
7 the Credit Union Act or any other Nebraska statute, any credit
8 union incorporated under the laws of the State of Nebraska and
9 organized under the provisions of the act shall have all the
10 rights, powers, privileges, benefits, and immunities which may be
11 exercised as of ~~March 20, 2007~~, the effective date of this act, by
12 a federal credit union doing business in Nebraska on the condition
13 that such rights, powers, privileges, benefits, and immunities
14 shall not relieve such credit union from payment of state taxes
15 assessed under any applicable laws of this state.

16 Sec. 18. Section 25-202, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 25-202 (1) An action for the recovery of the title
19 or possession of lands, tenements, or hereditaments, or for the
20 foreclosure of mortgages or the foreclosure of deeds of trust
21 as mortgages thereon, can only be brought within ten years after
22 the cause of action accrues. No limitation shall apply to the
23 time within which any county, city, town, village, other municipal
24 corporation, public power and irrigation district, public power
25 district, public irrigation district organized under Chapter 70,
26 article 6, irrigation district organized under Chapter 46, article
27 1, or natural resources district may begin an action for the

1 recovery of the title or possession of any public road, street, or
2 alley, other public or political subdivision grounds or lands, or
3 city or town lots.

4 (2) For the purposes of this section as relates only to
5 the rights and interests of subsequent purchasers and encumbrancers
6 for value:

7 (a) The cause of action for foreclosure of the mortgage
8 or the foreclosure of a deed of trust as a mortgage accrues on
9 the last date of maturity of the debt or other obligation secured
10 by the mortgage or deed of trust as the date is stated in or is
11 ascertainable from the filed record of the mortgage or deed of
12 trust or the filed record of an extension of the mortgage or deed
13 of trust;

14 (b) If no date of maturity is stated or is ascertainable
15 from the filed mortgage or deed of trust or the filed extension,
16 the cause of action for foreclosure of the mortgage or foreclosure
17 of the deed of trust as a mortgage accrues no later than ~~twenty~~
18 thirty years after the date of the mortgage or deed of trust; or

19 (c) If the mortgage creditor files an affidavit to the
20 effect that the mortgage or deed of trust is unpaid and is still a
21 valid lien, the affidavit is filed before the cause of action is
22 barred under this section, and the affidavit is filed for record in
23 the office of the register of deeds, + the cause of action is not
24 barred until ten years after the date the affidavit is filed. The
25 period of ten years shall not be extended by nonresidence, legal
26 disability, partial payment, acknowledgment of debt, or promise to
27 pay.

1 Sec. 19. Section 45-702, Revised Statutes Supplement,
2 2007, is amended to read:

3 45-702 For purposes of the Mortgage Bankers Registration
4 and Licensing Act:

5 (1) Borrower means the mortgagor or mortgagors under a
6 real estate mortgage or the trustor or trustors under a deed of
7 trust;

8 (2) Branch office means any location at which the
9 business of a mortgage banker is to be conducted, including (a) any
10 offices physically located in Nebraska, (b) any offices that, while
11 not physically located in this state, intend to transact business
12 with Nebraska residents, and (c) any third-party or home-based
13 locations that agents and representatives intend to use to transact
14 business with Nebraska residents;

15 (3) Breach of security of the system means unauthorized
16 acquisition of data that compromises the security, confidentiality,
17 or integrity of the information maintained by a multistate
18 licensing and application system, its affiliates, or subsidiaries;

19 (4) Control means the power, directly or indirectly,
20 to direct the management or policies of a mortgage banking
21 business, whether through ownership of securities, by contract,
22 or otherwise. Any person who (a) is a director, a general partner,
23 or an executive officer, including the president, chief executive
24 officer, chief financial officer, chief operating officer, chief
25 legal officer, chief compliance officer, and any individual with
26 similar status and function, (b) directly or indirectly has the
27 right to vote ten percent or more of a class of voting security

1 or has the power to sell or direct the sale of ten percent or
2 more of a class of voting securities, (c) in the case of a limited
3 liability company, is a managing member, or (d) in the case of a
4 partnership, has the right to receive, upon dissolution, or has
5 contributed, ten percent or more of the capital, is presumed to
6 control that mortgage banking business;

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

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

10 (7) Financial institution means any person organized
11 or chartered under the laws of this state, any other state,
12 or the United States relating to banks, savings institutions,
13 trust companies, savings and loan associations, or credit unions.
14 Financial institution also means an industrial loan and investment
15 company chartered under the laws of any other state and subject to
16 similar supervision and regulation as a bank chartered under the
17 laws of this state;

18 (8) Licensee means any person licensed under the act;

19 (9) Mortgage banker means any person not exempt under
20 section 45-703 who, for compensation or gain or in the expectation
21 of compensation or gain, directly or indirectly makes, originates,
22 services, negotiates, acquires, sells, arranges for, or offers to
23 make, originate, service, negotiate, acquire, sell, or arrange for
24 ~~ten or more mortgage loans in a calendar year,~~ a mortgage loan;

25 (10) Mortgage banking business means any person who
26 employs a mortgage banker or mortgage bankers or who directly
27 or indirectly makes, negotiates, acquires, sells, arranges for,

1 or offers to make, originate, service, negotiate, acquire, sell,
2 or arrange for ~~ten or more mortgage loans in a calendar year a~~
3 mortgage loan for compensation or gain or in the expectation of
4 compensation or gain;

5 (11) Mortgage loan means any loan or extension of credit
6 secured by a lien on real property, including a refinancing of a
7 contract of sale or an assumption or refinancing of a prior loan or
8 extension of credit;

9 (12) Multistate licensing and application system means
10 a residential real estate mortgage licensing system data base of
11 which the department is a member;

12 (13) Offer means every attempt to provide, offer to
13 provide, or solicitation to provide a mortgage loan or any form of
14 mortgage banking business. Offer includes, but is not limited to,
15 all general and public advertising, whether made in print, through
16 electronic media, or by the Internet;

17 (14) Person means an association, joint venture,
18 joint-stock company, partnership, limited partnership, limited
19 liability company, business corporation, nonprofit corporation,
20 individual, or any group of individuals however organized;

21 (15) Real property means an owner-occupied single-family,
22 two-family, three-family, or four-family dwelling which is located
23 in this state, which is occupied, used, or intended to be occupied
24 or used for residential purposes, and which is, or is intended to
25 be, permanently affixed to the land;

26 (16) Registered bank holding company means any bank
27 holding company registered with the department pursuant to the

1 Nebraska Bank Holding Company Act of 1995;

2 (17) Registrant means a person registered pursuant to
3 section 45-704; and

4 (18) Service means accepting payments or maintenance of
5 escrow accounts in the regular course of business in connection
6 with a mortgage loan.

7 Sec. 20. Section 45-703, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 45-703 (1) Except as provided in section 45-704, the
10 following shall be exempt from the Mortgage Bankers Registration
11 and Licensing Act:

12 (a) Any financial institution or wholly owned subsidiary
13 thereof;

14 (b) Any registered bank holding company;

15 (c) Any insurance company organized under the laws
16 of this state and subject to regulation by the Department of
17 Insurance;

18 (d) Any person licensed to practice law in this state
19 who is not actively and principally engaged in the business of
20 negotiating mortgage loans when such person renders services in the
21 regular course of his or her practice as an attorney at law;

22 (e) Any person licensed in this state as a real estate
23 broker or real estate salesperson pursuant to section 81-885.02
24 who is not actively and principally engaged in the business of
25 negotiating mortgage loans when such person renders services as a
26 real estate broker or real estate salesperson;

27 (f) Any individual acting solely as an employee of a

1 mortgage banker licensed or registered pursuant to the act or
2 exempt from the act;

3 (g) Any individual acting solely as an agent of a
4 mortgage banker licensed or registered pursuant to the act or
5 exempt from the act if there is a written agency contract between
6 the individual and the licensee which provides that, with respect
7 to the mortgage banking business, the individual acts exclusively
8 for the licensee as an agent;

9 (h) Any holding company of a financial institution other
10 than a registered bank holding company;

11 (i) Any wholly owned subsidiary of an organization listed
12 in subdivisions (b) and (c) of this subsection if the listed
13 organization maintains a place of business in Nebraska; ~~and~~

14 (j) Any insurance company organized or chartered under
15 the laws of any other state if the insurance company has a place of
16 business in Nebraska; ~~and-~~

17 (k) Any individual who does not regularly engage in the
18 mortgage banking business who (i) makes a mortgage loan with his
19 or her own funds for his or her own investment, (ii) makes a
20 purchase-money mortgage, or (iii) finances the sale of his or her
21 own real property without the intent to resell the mortgage loan.

22 (2) It shall not be necessary to negate any of the
23 exemptions provided in this section in any complaint, information,
24 indictment, or other writ or proceedings brought under the act, and
25 the burden of establishing the right to any exemption shall be upon
26 the person claiming the benefit of such exemption.

27 Sec. 21. Section 45-704, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 45-704 (1) Notwithstanding any other provision of the
3 Mortgage Bankers Registration and Licensing Act, no person exempt
4 from licensing under subdivisions (1)(h) through ~~(1)(j)~~ (1)(k) of
5 section 45-703 shall act as a mortgage banker or engage in the
6 mortgage banking business until such person has registered with the
7 department.

8 (2) Any person required to register pursuant to
9 subsection (1) of this section shall submit to the department
10 a registration statement on forms provided by the department.
11 The forms shall contain such information as the department may
12 prescribe as necessary or appropriate, including, but not limited
13 to, (a) all addresses at which business is to be conducted, (b)
14 the names and titles of each director and principal officer of the
15 business, and (c) a description of the activities of the applicant
16 in such detail as the department may require.

17 (3) The registration statement required in subsection (2)
18 of this section shall be accompanied by a registration fee of two
19 hundred dollars.

20 (4) The department shall acknowledge the registration
21 by issuing to the registrant a receipt or other form of
22 acknowledgment.

23 (5) A registration under this section shall not be
24 assignable.

25 (6) After original registration, all registrations shall
26 remain in full force and effect until the next succeeding March 1.
27 Thereafter, a registration under this section may be renewed on an

1 annual basis for a renewal fee of one hundred dollars.

2 (7) If a registrant fails to renew his, her, or its
3 registration as required by this section and does not voluntarily
4 surrender the registration by delivering to the director written
5 notice of the surrender, the department may issue a notice of
6 expiration of the registration.

7 Sec. 22. Section 45-722, Revised Statutes Supplement,
8 2007, is amended to read:

9 45-722 (1) No person acting personally or as an agent
10 shall acquire control of any mortgage banking business required
11 to be licensed under the Mortgage Bankers Registration and
12 Licensing Act without first giving ~~sixty~~ thirty days' notice to the
13 department on forms prescribed by the department of such proposed
14 acquisition and paying a filing fee of two hundred dollars.

15 (2) The director, upon receipt of such notice, shall act
16 upon it within thirty days and, unless he or she disapproves the
17 proposed acquisition within that period of time, the acquisition
18 shall become effective on the ~~sixty-first~~ thirty-first day after
19 receipt without the director's approval, except that the director
20 may extend the thirty-day period an additional thirty days if,
21 in his or her judgment, any material information submitted is
22 substantially inaccurate or the acquiring party has not furnished
23 all the information required by the department.

24 (3) An acquisition may be made prior to the expiration of
25 the disapproval period if the director issues written notice of his
26 or her intent not to disapprove the action.

27 (4) (a) The director may disapprove any proposed

1 acquisition if:

2 (i) The financial condition of any acquiring person is
3 such as might jeopardize the financial stability of the acquired
4 mortgage banking business;

5 (ii) The character and general fitness of any acquiring
6 person or of any of the proposed management personnel indicates
7 that the acquired mortgage banking business would not be operated
8 honestly, soundly, or efficiently in the public interest; or

9 (iii) Any acquiring person neglects, fails, or refuses to
10 furnish all information required by the department.

11 (b) The director shall notify the acquiring party in
12 writing of disapproval of the acquisition. The notice shall provide
13 a statement of the basis for the disapproval.

14 (c) Within fifteen business days after receipt of written
15 notice of disapproval, the acquiring party may request a hearing
16 on the proposed acquisition in accordance with the Administrative
17 Procedure Act. At the conclusion of such hearing, the director
18 shall, by order, approve or disapprove the proposed acquisition on
19 the basis of the record made at the hearing.

20 Sec. 23. Section 45-907, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 45-907 (1) When an application for a delayed deposit
23 services business license has been accepted by the director as
24 substantially complete, notice of the filing of the application
25 shall be published by the director for three successive weeks in
26 a legal newspaper published in or of general circulation in the
27 county where the applicant proposes to operate the delayed deposit

1 services business. ~~The costs of the publication shall be paid by~~
2 ~~the applicant.~~ A public hearing shall be held on each application
3 except as provided in subsection (2) of this section. The date
4 for hearing shall not be less than thirty days after the last
5 publication. Written protest against the issuance of the license
6 may be filed with the Department of Banking and Finance by any
7 person not less than five days before the date set for hearing. The
8 director, in his or her discretion, may grant a continuance. The
9 costs of the hearing shall be paid by the applicant. The director
10 may investigate the propriety of the issuance of a license to the
11 applicant. The costs of such investigation shall be paid by the
12 applicant.

13 (2) The director may waive the hearing requirements of
14 subsection (1) of this section if (a) the applicant has held and
15 operated under a license to engage in the delayed deposit services
16 business in Nebraska pursuant to the Delayed Deposit Services
17 Licensing Act for at least three calendar years immediately prior
18 to the filing of the application, (b) no written protest against
19 the issuance of the license has been filed with the department
20 within fifteen days after publication of a notice of the filing
21 of the application one time in a newspaper of general circulation
22 in the county where the applicant proposes to operate the delayed
23 deposit services business, and (c) in the judgment of the director,
24 the experience, character, and general fitness of the applicant
25 warrant the belief that the applicant will comply with the act.

26 (3) The expense of any publication made pursuant to this
27 section shall be paid by the applicant.

1 Sec. 24. Section 45-922, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 45-922 (1) The director may, following a hearing in
4 accordance with the Administrative Procedure Act, suspend or
5 revoke any license issued pursuant to the Delayed Deposit Services
6 Licensing Act if he or she finds:

7 (a) A licensee or any of its officers, directors,
8 partners, or members has knowingly violated the act or any rule,
9 regulation, or order of the director thereunder;

10 (b) A fact or condition existing which, if it had existed
11 at the time of the original application for such license, would
12 have warranted the director to refuse to issue such license;

13 (c) A licensee has abandoned its place of business for a
14 period of sixty days or more; ~~or~~

15 (d) A licensee or any of its officers, directors,
16 partners, or members has knowingly subscribed to, made, or caused
17 to be made any false statement or false entry in the books and
18 records of any licensee, has knowingly subscribed to or exhibited
19 false papers with the intent to deceive the Department of Banking
20 and Finance, has failed to make a true and correct entry in the
21 books and records of such licensee of its business and transactions
22 in the manner and form prescribed by the department, or has
23 mutilated, altered, destroyed, secreted, or removed any of the
24 books or records of such licensee without the written approval of
25 the department or as provided in section 45-925; or-

26 (e) A licensee has knowingly violated a voluntary consent
27 or compliance agreement which had been entered into with the

1 director.

2 (2) Except as provided in this section, a license shall
3 not be revoked or suspended except after notice and a hearing in
4 accordance with the Administrative Procedure Act.

5 (3) (a) If a licensee fails to renew its license as
6 required by section 45-910 and does not voluntarily surrender the
7 license pursuant to section 45-911, the department may issue a
8 notice of expiration of the license to the licensee in lieu of
9 revocation proceedings.

10 (b) If a licensee fails to maintain a surety bond as
11 required by section 45-906, the department may issue a notice of
12 cancellation of the license in lieu of revocation proceedings.

13 (4) Revocation, suspension, cancellation, or expiration
14 of a license shall not impair or affect the obligation of a
15 preexisting lawful contract between the licensee and any person,
16 including a maker of a check.

17 (5) Revocation, suspension, cancellation, or expiration
18 of a license shall not affect civil or criminal liability for
19 acts committed before the revocation, suspension, cancellation,
20 or expiration or liability for fines levied against the licensee
21 or any of its officers, directors, shareholders, partners, or
22 members, pursuant to section 45-925, for acts committed before the
23 revocation, suspension, cancellation, or expiration.

24 Sec. 25. Section 45-1006, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 45-1006 (1) When an application for an original
27 installment loan license has been accepted by the director as

1 substantially complete, Except as provided in subsection (2) of
2 this section, a hearing shall be held on every application for
3 an original license under the Nebraska Installment Loan Act. The
4 hearing shall be held not less than thirty days after the filing
5 of the application, and notice of the filing of the application
6 shall be published by the department three successive weeks in
7 a legal newspaper published in or of general circulation in the
8 county where the applicant proposes to operate the business of
9 lending money. A public hearing shall be held on each application
10 except as provided in subsection (2) of this section. The date
11 for hearing shall not be less than thirty days after the last
12 publication. Written protest against the issuance of the license
13 may be filed with the department by any person not less than five
14 days before the date set for hearing. The director, in his or
15 her discretion, may grant a continuance. The costs of the hearing
16 shall be paid by the applicant. The director may ~~reject~~ deny any
17 application for license after hearing. The director shall, in his
18 or her discretion, make examination and inspection concerning the
19 propriety of the issuance of a license to any applicant. The cost
20 of such examination and inspection shall be paid by the applicant.

21 (2) The director may waive the hearing requirements of
22 subsection (1) of this section if (a) the applicant has held, and
23 operated under, a license to engage in the business of lending
24 money in Nebraska pursuant to the act for at least one calendar
25 year immediately prior to the filing of the application, (b) no
26 written protest against the issuance of the license has been filed
27 with the department within fifteen days after publication of a

1 notice of the filing of the application one time in a newspaper of
2 general circulation in the county where the applicant proposes to
3 operate the business of lending money, and (c) in the judgment of
4 the director, the experience, character, and general fitness of the
5 applicant warrant the belief that the applicant will comply with
6 the ~~act~~, Nebraska Installment Loan Act.

7 (3) The expense of any publication made pursuant to this
8 section shall be paid by the applicant.

9 Sec. 26. Section 64-214, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 64-214 (1) It ~~shall be~~ is lawful for any stockholder,
12 ~~officer, or~~ director, officer, employee, or agent of a bank, who
13 is a notary public, to take the acknowledgment of any person to
14 any written instrument given to or by the bank and to administer
15 an oath to any other stockholder, director, officer, employee, or
16 agent of the bank.

17 (2) Acknowledgments heretofore taken of any person to any
18 written instrument given to or by a bank or any oath administered
19 to any stockholder, director, ~~or~~ officer, employee, or agent of
20 a bank by any notary public who was a stockholder, director, ~~or~~
21 officer, employee, or agent of said the bank shall be deemed to be
22 lawful, valid, and binding.

23 Sec. 27. Section 9-324, Uniform Commercial Code, Revised
24 Statutes Cumulative Supplement, 2006, is amended to read:

25 9-324 Priority of purchase-money security interests.

26 (a) Except as otherwise provided in subsection (g), a
27 perfected purchase-money security interest in goods other than

1 inventory or livestock has priority over a conflicting security
2 interest in the same goods, and, except as otherwise provided in
3 section 9-327, a perfected security interest in its identifiable
4 proceeds also has priority, if the purchase-money security interest
5 is perfected when the debtor receives possession of the collateral
6 or within thirty days thereafter.

7 (b) Subject to subsection (c) and except as otherwise
8 provided in subsection (g), a perfected purchase-money security
9 interest in inventory has priority over a conflicting security
10 interest in the same inventory, has priority over a conflicting
11 security interest in chattel paper or an instrument constituting
12 proceeds of the inventory and in proceeds of the chattel paper,
13 if so provided in section 9-330, and, except as otherwise provided
14 in section 9-327, also has priority in identifiable cash proceeds
15 of the inventory to the extent the identifiable cash proceeds are
16 received on or before the delivery of the inventory to a buyer, if:

17 (1) the purchase-money security interest is perfected
18 when the debtor receives possession of the inventory;

19 (2) the purchase-money secured party sends an
20 authenticated notification to the holder of the conflicting
21 security interest;

22 (3) the holder of the conflicting security interest
23 receives the notification within five years before the debtor
24 receives possession of the inventory; and

25 (4) the notification states that the person sending the
26 notification has or expects to acquire a purchase-money security
27 interest in inventory of the debtor and describes the inventory.

1 (c) Subdivisions (b)(2) through (4) apply only if the
2 holder of the conflicting security interest had filed a financing
3 statement covering the same types of inventory:

4 (1) if the purchase-money security interest is perfected
5 by filing, before the date of the filing; or

6 (2) if the purchase-money security interest is
7 temporarily perfected without filing or possession under section
8 9-312(f), before the beginning of the twenty-day period thereunder.

9 ~~(d)~~ (d)(1) Subject to subsection (e) and except as
10 otherwise provided in subsection (g), a perfected purchase-money
11 security interest in livestock that are farm products has priority
12 over a conflicting security interest in the same livestock, and,
13 except as otherwise provided in section 9-327, a perfected security
14 interest in their identifiable proceeds and identifiable products
15 in their unmanufactured states also has priority, if:

16 ~~(1)~~ (A) the purchase-money security interest is perfected
17 when the debtor receives possession of the livestock;

18 ~~(2)~~ (B) the purchase-money secured party sends an
19 authenticated notification to the holder of the conflicting
20 security interest;

21 ~~(3)~~ (C) the holder of the conflicting security interest
22 receives the notification within six months before the debtor
23 receives possession of the livestock; and

24 ~~(4)~~ (D) the notification states that the person sending
25 the notification has or expects to acquire a purchase-money
26 security interest in livestock of the debtor and describes the
27 livestock.

1 (2) For purposes of this subsection, possession means (A)
2 possession by the debtor or (B) possession by a third party on
3 behalf of or at the direction of the debtor, including, but not
4 limited to, possession by a bailee or an agent of the debtor.

5 (e) Subdivisions ~~(d)(2) through (4)~~ (d)(1)(B) through (D)
6 apply only if the holder of the conflicting security interest had
7 filed a financing statement covering the same types of livestock:

8 (1) if the purchase-money security interest is perfected
9 by filing, before the date of the filing; or

10 (2) if the purchase-money security interest is
11 temporarily perfected without filing or possession under section
12 9-312(f), before the beginning of the twenty-day period thereunder.

13 (f) Except as otherwise provided in subsection (g), a
14 perfected purchase-money security interest in software has priority
15 over a conflicting security interest in the same collateral, and,
16 except as otherwise provided in section 9-327, a perfected security
17 interest in its identifiable proceeds also has priority, to the
18 extent that the purchase-money security interest in the goods in
19 which the software was acquired for use has priority in the goods
20 and proceeds of the goods under this section.

21 (g) If more than one security interest qualifies for
22 priority in the same collateral under subsection (a), (b), (d), or
23 (f):

24 (1) a security interest securing an obligation incurred
25 as all or part of the price of the collateral has priority over a
26 security interest securing an obligation incurred for value given
27 to enable the debtor to acquire rights in or the use of collateral;

1 and

2 (2) in all other cases, section 9-322(a) applies to the
3 qualifying security interests.

4 Sec. 28. Section 9-506, Uniform Commercial Code, Reissue
5 Revised Statutes of Nebraska, is amended to read:

6 9-506 Effect of errors or omissions.

7 (a) A financing statement substantially satisfying the
8 requirements of this part is effective, even if it has minor errors
9 or omissions, unless the errors or omissions make the financing
10 statement seriously misleading.

11 (b) Except as otherwise provided in subsection (c), a
12 financing statement that fails sufficiently to provide the name
13 of the debtor in accordance with section 9-503(a) is seriously
14 misleading.

15 (c) If a search of the records of the filing office under
16 the debtor's correct name, or, in the case of a debtor who is
17 an individual, the debtor's correct last name, using the filing
18 office's standard search logic, if any, would disclose a financing
19 statement that fails sufficiently to provide the name of the debtor
20 in accordance with section 9-503(a), the name provided does not
21 make the financing statement seriously misleading.

22 (d) For purposes of section 9-508(b), the "debtor's
23 correct name" in subsection (c) means the correct name of the new
24 debtor.

25 Sec. 29. Sections 2, 3, 4, 8, 9, 19, 20, 21, 23, 24, 25,
26 28, and 30 of this act become operative three calendar months after
27 the adjournment of this legislative session. The other sections of

1 this act become operative on their effective date.

2 Sec. 30. Original section 8-224, Reissue Revised
3 Statutes of Nebraska, sections 8-116, 8-120, 8-122, 8-223, 45-703,
4 45-704, 45-907, 45-922, and 45-1006, Revised Statutes Cumulative
5 Supplement, 2006, section 45-702, Revised Statutes Supplement,
6 2007, and section 9-506, Uniform Commercial Code, Reissue Revised
7 Statutes of Nebraska, are repealed.

8 Sec. 31. Original sections 8-374, 8-2106, 25-202, and
9 64-214, Reissue Revised Statutes of Nebraska, sections 8-115.01,
10 8-143.01, 8-157, 8-234, 8-910, 8-1510, and 8-2102, Revised Statutes
11 Cumulative Supplement, 2006, sections 8-1,140, 8-355, 21-17,115,
12 and 45-722, Revised Statutes Supplement, 2007, and section 9-324,
13 Uniform Commercial Code, Revised Statutes Cumulative Supplement,
14 2006, are repealed.

15 Sec. 32. The following section is outright repealed:
16 Section 30-3206, Reissue Revised Statutes of Nebraska.

17 Sec. 33. Since an emergency exists, this act takes effect
18 when passed and approved according to law.