

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 717

Introduced by Pahls, 31.

Read first time January 09, 2008

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to finance; to amend sections 8-374, 25-202,
2 and 64-214, Reissue Revised Statutes of Nebraska, and
3 sections 8-115.01, 8-143.01, 8-157, 8-234, and 8-1510,
4 Revised Statutes Cumulative Supplement, 2006; to change
5 certain notice requirements with respect to bank charter
6 and branching applications; to change provisions relating
7 to loans to executive officers of banks; to change
8 provisions relating to actions for the recovery of
9 title or possession of real estate or foreclosure of
10 mortgages; to provide for the foreclosure of deeds of
11 trust; to allow bank employees and agents to perform
12 acknowledgments of written instruments and administer
13 oaths as prescribed; to eliminate provisions relating
14 to the investment of funds by fiduciaries; to repeal

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1 the original sections; and to outright repeal section
2 30-3206, Reissue Revised Statutes of Nebraska.
3 Be it enacted by the people of the State of Nebraska,

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

3 8-115.01 When an application required by section 8-120 is
4 made by a corporation, the following procedures shall be followed:

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

17 (2) When application is made for a new bank charter
18 and the director determines, in his or her discretion, that the
19 conditions of subdivision (3) of this section are met, then the
20 public hearing requirement of subdivision (1) of this section shall
21 only be required if, (a) after publishing a notice of the proposed
22 application in a newspaper of general circulation in the county
23 where the main office of the applicant is to be located and (b)
24 after giving notice to all financial institutions located within
25 such county, the director receives a substantive objection to the

1 application within fifteen days after the first day of publication;

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

5 (a) Whether the experience, character, and general
6 fitness of the applicant and of the applicant's officers and
7 directors is such as to warrant belief that the applicant will
8 operate the business honestly, fairly, and efficiently;

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

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

18 (4) Except as provided in subdivision (6) of this
19 section, when application is made for transfer of a bank charter
20 and move of the main office of a bank to any location other
21 than within the corporate limits of the city or village of its
22 original charter or, if such bank charter is not located in a city
23 or village, then for transfer outside the county in which it is
24 located, the director shall hold a hearing on the matter if he
25 or she determines, in his or her discretion, that the condition

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

23 (5) Except as provided in subdivision (6) of this
24 section, when application is made for a move of any bank's
25 main office within the city, village, or county, if not chartered

1 within a city or village, of its original charter, the director
2 shall publish notice of the proposed move in a newspaper of general
3 circulation in the county where the main office of the applicant
4 is located and shall give notice of such intended move to all
5 financial institutions located within the county where such bank is
6 located. If the director receives a substantive objection to such
7 move within fifteen days after publishing such notice, he or she
8 shall publish an additional notice and hold a hearing as provided
9 in subdivision (1) of this section;

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

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

24 (8) The expense of any publication and ~~certified~~ mailing
25 required by this section shall be paid by the applicant; and

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

6 Sec. 2. Section 8-143.01, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

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

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

1 of subdivisions (1) (a) and (b) of this section.

2 (3) No bank shall extend credit to any of its executive
3 officers, ~~licensed pursuant to section 8-139,~~ and no such executive
4 officer shall borrow from or otherwise become indebted to his or
5 her bank, except in the amounts and for the purposes set forth in
6 subsection (4) of this section.

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

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

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

21 (c) In any amount if the extension of credit is
22 (i) secured by a perfected security interest in bonds, notes,
23 certificates of indebtedness, or Treasury Bills of the United
24 States or in other such obligations fully guaranteed as to
25 principal and interest by the United States, (ii) secured by

1 unconditional takeout commitments or guarantees of any department,
2 agency, bureau, board, commission, or establishment of the United
3 States or any corporation wholly owned directly or indirectly
4 by the United States, or (iii) secured by a perfected security
5 interest in a segregated deposit account in the lending bank; or

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

14 (5) (a) Except as provided in subdivision (b) or (c) of
15 this subsection, any executive officer licensed pursuant to section
16 ~~8-139~~ shall make, on an annual basis, a written report to the
17 board of directors of the bank of which he or she is an executive
18 officer stating the date and amount of all loans or indebtedness on
19 which he or she is a borrower, cosigner, or guarantor, the security
20 therefor, and the purpose for which the proceeds have been or are
21 to be used.

22 (b) Except as provided in subdivision (c) of this
23 subsection, in lieu of the reports required by subdivision (a)
24 of this subsection, the board of directors of a bank may obtain a
25 credit report from a recognized credit agency, on an annual basis,

1 for any or all of its executive officers, licensed pursuant to
2 ~~section 8-139.~~

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

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

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

1 (b) Nothing in subdivision (a) of this subsection shall
2 prohibit any extension of credit made by a bank pursuant to a
3 benefit or compensation program under the provisions of 12 C.F.R.
4 215.4(a)(2).

5 (8) For purposes of this section:

6 (a) Executive officer shall mean a person who
7 participates or has authority to participate, other than in the
8 capacity of director, in the major policymaking functions of the
9 bank, whether or not the officer has an official title, the title
10 designates such officer as an assistant, or such officer is serving
11 without salary or other compensation. Executive officer shall
12 include the chairperson of the board of directors, the president,
13 all vice presidents, the cashier, the corporate secretary, and
14 the treasurer, unless the executive officer is excluded by a
15 resolution of the board of directors or by the bylaws of the bank
16 from participating, other than in the capacity of director, in
17 the major policymaking functions of the bank, and the executive
18 officer does not actually participate in such functions. A manager
19 or assistant manager of a branch of a bank shall not be considered
20 to be an executive officer unless such individual participates or
21 is authorized to participate in the major policymaking functions
22 of the bank; and

23 (b) Unimpaired capital and unimpaired surplus shall mean
24 the sum of:

25 (i) The total equity capital of the bank reported on its

1 most recent consolidated report of condition filed under section
2 8-166;

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

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

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

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

18 Sec. 3. Section 8-157, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 8-157 (1) Except as otherwise provided in this section
21 and section 8-2104, the general business of every bank shall be
22 transacted at the place of business specified in its charter.

23 (2) (a) (i) Except as provided in subdivision (2) (a) (ii) of
24 this section, with the approval of the director, any bank located
25 in this state may establish and maintain in this state an unlimited

1 number of branches at which all banking transactions allowed by law
2 may be made.

3 (ii) Any bank that owns or controls more than twenty-two
4 percent of the total deposits in Nebraska, as described in
5 subdivision (2)(c) of section 8-910 and computed in accordance
6 with subsection (3) of section 8-910, or any bank that is a
7 subsidiary of a bank holding company that owns or controls more
8 than twenty-two percent of the total deposits in Nebraska, as
9 described in subdivision (2)(c) of section 8-910 and computed
10 in accordance with subsection (3) of section 8-910, shall not
11 establish and maintain an unlimited number of branches as provided
12 in subdivision (2)(a)(i) of this section. With the approval of the
13 director, a bank as described in this subdivision may establish and
14 maintain in the county in which such bank is located an unlimited
15 number of branches at which all banking transactions allowed by law
16 may be made, except that if such bank is located in a Class I or
17 Class III county, such bank may establish and maintain in Class I
18 and Class III counties an unlimited number of branches at which all
19 banking transactions allowed by law may be made.

20 (iii) Any bank which establishes and maintains branches
21 pursuant to subdivision (2)(a)(i) of this section and which
22 subsequently becomes a bank as described in subdivision (2)(a)(ii)
23 of this section shall not be subject to the limitations as to
24 location of branches contained in subdivision (2)(a)(ii) of this
25 section with regard to any such established branch and shall

1 continue to be entitled to maintain any such established branch
2 as if such bank had not become a bank as described in subdivision
3 (2) (a) (ii) of this section.

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

10 (c) For purposes of this subsection:

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

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

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

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

25 (3) With the approval of the director, a bank may

1 establish and maintain branches acquired pursuant to section 8-1506
2 or 8-1516. All banking transactions allowed by law may be made at
3 such branches.

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

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

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

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

24 (8) A bank which has a main chartered office or approved
25 branch located in the State of Nebraska may, upon notification

1 to the department, establish savings account programs at any
2 elementary or secondary school, whether public or private, that
3 has students who reside in the same city or village as the
4 main chartered office or branch of the bank, or, if the main
5 office of the bank is located in an unincorporated area of a
6 county, at any school that has students who reside in the same
7 unincorporated area. The savings account programs shall be limited
8 to the establishment of individual student accounts and the receipt
9 of deposits for such accounts.

10 (9) Upon receiving an application for a branch to be
11 established pursuant to subdivision (2)(a) of this section, to
12 establish a mobile branch pursuant to subdivision (2)(b) of this
13 section, to acquire a branch of another financial institution
14 pursuant to subsection (4) of this section, or to move the location
15 of an established branch other than a move made pursuant to
16 subdivision (6) of section 8-115.01, the director shall hold a
17 public hearing on the matter if he or she determines, in his or
18 her discretion, that the condition of the applicant bank warrants
19 a hearing. If the director determines that the condition of the
20 bank does not warrant a hearing, the director shall (a) publish a
21 notice of the filing of the application in a newspaper of general
22 circulation in the county where the proposed branch or mobile
23 branch would be located, the expense of which shall be paid by
24 the applicant bank, and (b) give notice of such application to
25 all financial institutions located within the county where the

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

18 Sec. 4. Section 8-234, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 8-234 (1) With the approval of the Director of Banking
21 and Finance, a corporation organized to do business as a trust
22 company under the Nebraska Trust Company Act may establish and
23 maintain branch trust offices within this state and in any other
24 state pursuant to section 8-2303.

25 (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

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

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

18 (4) With the approval of the director, a state-chartered
19 bank authorized to conduct a trust business pursuant to sections
20 8-159 to 8-162 may establish and maintain branch trust offices
21 within this state and in any other state pursuant to section
22 8-2303. The procedure for the establishment of any branch trust
23 office under this subsection shall be the same as provided in
24 subsections (2) and (3) of this section. The activities at the
25 branch trust office shall be limited to the activities permitted by

1 the Nebraska Trust Company Act, and the general business of banking
2 shall not be conducted at the branch trust office. Nothing in this
3 subsection is intended to prohibit the establishment of a branch
4 pursuant to section 8-157 at which trust business may be conducted.

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

8 Sec. 5. Section 8-374, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 8-374 Prior to issuing a certificate of approval, the
11 department, upon receiving an application for a stock savings and
12 loan association, shall publish notice of filing of the application
13 for a period of three weeks in a legal newspaper published in or
14 of general circulation in the county where the applicant proposes
15 to operate the savings and loan association. ~~The expense of the~~
16 ~~publication shall be paid by the applicant.~~ A public hearing shall
17 be held on each application. The date for hearing the application
18 shall be not more than ninety days after filing the application and
19 not less than thirty days after the last publication of notice.
20 Such hearing shall be held to determine:

21 (1) Whether the articles of incorporation and bylaws
22 conform to the requirements of sections 8-356 to 8-384 and contain
23 a just and equitable plan for the management of the association's
24 business;

25 (2) Whether the persons organizing such association are

1 of good character and responsibility;

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

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

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

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

11 Sec. 6. 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

1 after the filing of the application and not less than thirty
2 days after the last publication of notice after the examination
3 and approval by the department of the application. If the
4 department, upon investigation and after public hearing on the
5 application, is satisfied that the stockholders and officers of the
6 financial institution applying for such acquisition or merger are
7 parties of integrity and responsibility, that the requirements of
8 section 8-702 have been met or some alternate form of protection
9 for depositors has been met, and that the public necessity,
10 convenience, and advantage will be promoted by permitting such
11 acquisition or merger, the department shall, upon payment of the
12 required fees, issue to such institution an order of approval for
13 the acquisition or merger.

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

1 objection to the application within fifteen days after the first
2 day of publication. The director shall send the notice to financial
3 institutions by first-class mail, postage prepaid, or electronic
4 mail. Electronic mail may be used if the financial institution
5 agrees in advance to receive such notices by electronic mail.

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

8 Sec. 7. Section 25-202, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 25-202 (1) An action for the recovery of the title
11 or possession of lands, tenements, or hereditaments, or for the
12 foreclosure of mortgages or the foreclosure of deeds of trust
13 as mortgages thereon, can only be brought within ten years after
14 the cause of action accrues. No limitation shall apply to the
15 time within which any county, city, town, village, other municipal
16 corporation, public power and irrigation district, public power
17 district, public irrigation district organized under Chapter 70,
18 article 6, irrigation district organized under Chapter 46, article
19 1, or natural resources district may begin an action for the
20 recovery of the title or possession of any public road, street, or
21 alley, other public or political subdivision grounds or lands, or
22 city or town lots.

23 (2) For the purposes of this section as relates only to
24 the rights and interests of subsequent purchasers and encumbrancers
25 for value:

1 (a) The cause of action for foreclosure of the mortgage
2 or the foreclosure of a deed of trust as a mortgage accrues on
3 the last date of maturity of the debt or other obligation secured
4 by the mortgage or deed of trust as the date is stated in or is
5 ascertainable from the filed record of the mortgage or deed of
6 trust or the filed record of an extension of the mortgage or deed
7 of trust;

8 (b) If no date of maturity is stated or is ascertainable
9 from the filed mortgage or deed of trust or the filed extension,
10 the cause of action for foreclosure of the mortgage or foreclosure
11 of the deed of trust as a mortgage accrues no later than twenty
12 thirty years after the date of the mortgage or deed of trust; or

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

22 Sec. 8. Section 64-214, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 64-214 (1) It ~~shall be~~ is lawful for any stockholder,
25 ~~officer, or director, officer, employee, or agent~~ of a bank, who

1 is a notary public, to take the acknowledgment of any person to
2 any written instrument given to or by the bank and to administer
3 an oath to any other stockholder, director, officer, employee, or
4 agent of the bank.

5 (2) Acknowledgments heretofore taken of any person to any
6 written instrument given to or by a bank or any oath administered
7 to any stockholder, director, ~~or~~ officer, employee, or agent of
8 a bank by any notary public who was a stockholder, director, ~~or~~
9 officer, employee, or agent of said the bank shall be deemed to be
10 lawful, valid, and binding.

11 Sec. 9. Original sections 8-374, 25-202, and 64-214,
12 Reissue Revised Statutes of Nebraska, and sections 8-115.01,
13 8-143.01, 8-157, 8-234, and 8-1510, Revised Statutes Cumulative
14 Supplement, 2006, are repealed.

15 Sec. 10. The following section is outright repealed:
16 Section 30-3206, Reissue Revised Statutes of Nebraska.