

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 891

FINAL READING

Introduced by Pahls, 31; Pirsch, 4.

Read first time January 11, 2010

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to banks and banking; to amend sections
2 8-101.01 and 8-602, Revised Statutes Supplement, 2009;
3 to provide for conditional bank charters, powers and
4 duties for the Department of Banking and Finance and
5 the Director of Banking and Finance, and for fees; to
6 harmonize provisions; to repeal the original sections;
7 and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-101.01, Revised Statutes Supplement,
2 2009, is amended to read:

3 8-101.01 Sections 8-101 to 8-1,140 and section 2 of this
4 act shall be known and may be cited as the Nebraska Banking Act.

5 Sec. 2. (1)(a) The director may grant approval for a
6 conditional bank charter which may remain inactive for an initial
7 period of up to eighteen months.

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

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

17 (a) The name of the proposed bank;

18 (b) A draft copy of the articles of incorporation of the
19 proposed bank;

20 (c) The names, addresses, financial condition, and
21 business history of the proposed stockholders, officers, and
22 directors of the proposed bank;

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

25 (e) A preliminary business plan describing the operations

1 of the proposed bank.

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

19 (4) If the director determines that a hearing on the
20 application for a conditional bank charter is not necessary, then
21 the department shall publish a notice of the proposed application
22 in a minimum of two newspapers of general circulation in Nebraska.
23 The newspapers shall be selected in accordance with subsection
24 (3) of this section. The department shall send notice of the
25 application by first-class mail to the main office of all

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

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

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

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

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

- 1 (b) The requirements of section 8-110 have been met;
2 (c) The requirements of section 8-702 have been met;
3 (d) Capital stock and surplus in amounts determined
4 pursuant to section 8-116 have been paid in;
5 (e) The fees required by section 8-602 have been paid to
6 the department; and
7 (f) Any other conditions imposed by the director have
8 been complied with.

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

17 (9) The department shall issue a notice of expiration of
18 a conditional bank charter if eighteen months have passed since the
19 issuance of such charter and the holder of such charter (a) has not
20 converted to a full bank charter pursuant to subsection (7) of this
21 section, (b) has not made a request for an extension pursuant to
22 subsection (8) of this section, or (c) has made a request for an
23 extension pursuant to subsection (8) of this section which was not
24 approved by the department.

25 Sec. 3. Section 8-602, Revised Statutes Supplement, 2009,

1 is amended to read:

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

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

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

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

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

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

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

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

3 (8) For investigating the applications required by
4 sections 8-120 and 8-331 and section 2 of this act and the
5 documents required by section 8-201, the cost of such examination,
6 investigation, and inspection, including all legal expenses and
7 the cost of any hearing transcript, with a minimum fee under (a)
8 sections 8-120 and 8-2402 and section 2 of this act of two thousand
9 five hundred dollars, (b) section 8-331 of two thousand dollars,
10 and (c) section 8-201 of one thousand dollars. The department may
11 require the applicant to procure and give a surety bond in such
12 principal amount as the department may determine and conditioned
13 for the payment of the fees provided in this subdivision;

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

17 (10) For the handling of pledged securities as provided
18 in sections 8-210 and 8-1006, at the time of the initial deposit
19 of such securities, one dollar and fifty cents for each thousand
20 dollars of securities deposited and a like amount on or before
21 January 15 each year thereafter. The fees shall be paid by the
22 company, national bank, federal savings association, federally
23 chartered trust company, out-of-state trust company authorized
24 under the Interstate Trust Company Office Act, or state-chartered
25 bank pledging the securities;

1 (11) For investigating an application to move its
2 location within the city or village limits of its original license
3 or charter for banks, trust companies, and building and loan
4 associations, two hundred fifty dollars;

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

7 (13) For investigating an application for approval to
8 establish or acquire a branch or to establish a mobile branch
9 pursuant to section 8-157, two hundred fifty dollars;

10 (14) For investigating a notice of acquisition of control
11 under subsection (1) of section 8-1502, five hundred dollars;

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

15 (16) For investigating an application for a merger of two
16 state banks or a merger of a state bank and a national bank in
17 which the state bank is the surviving entity, five hundred dollars;

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

20 (18) For investigating an application or a notice to
21 establish a representative trust office, five hundred dollars;

22 (19) For investigating an application to establish a
23 credit union branch under section 21-1725.01, two hundred fifty
24 dollars; and

25 (20) For investigating an applicant under section 8-1513,

1 five thousand dollars; ~~and-~~

2 (21) For investigating a request to extend a conditional
3 bank charter under section 2 of this act, one thousand dollars.

4 Sec. 4. Original sections 8-101.01 and 8-602, Revised
5 Statutes Supplement, 2009, are repealed.

6 Sec. 5. Since an emergency exists, this act takes effect
7 when passed and approved according to law.