

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 327

Introduced by Pahls, 31.

Read first time January 15, 2009

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to banking and finance; to amend sections
2 8-101.01, 8-112, 8-163, 8-209, 8-210, 8-355, 8-602,
3 8-1001, 8-1001.01, and 45-190, Reissue Revised Statutes
4 of Nebraska, and sections 8-1,140, 21-17,115, 45-346.01,
5 45-348, and 45-922, Revised Statutes Cumulative
6 Supplement, 2008; to require state-chartered banks
7 to pledge collateral as security for certain excess
8 deposits as prescribed; to change provisions relating to
9 confidential Department of Banking and Finance records;
10 to change provisions relating to bank dividends; to
11 revise powers of state-chartered banks, building and loan
12 associations, and credit unions; to change provisions
13 relating to pledges of securities under the Nebraska
14 Trust Company Act; to eliminate certain department fees;

1 to provide procedures for authorizing acquisitions of
2 licensees under the Nebraska Sale of Checks and Fund
3 Transmission Act; to redefine loan broker; to change
4 provisions relating to licensee duties under the Nebraska
5 Installment Sales Act; to change provisions relating to
6 a disciplinary action under the Delayed Deposit Services
7 Licensing Act; to harmonize provisions; to provide
8 operative dates; to repeal the original sections; and to
9 declare an emergency.

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

1 Section 1. Section 8-101.01, Reissue Revised Statutes of
2 Nebraska, 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 state-chartered bank may deposit or have on
6 deposit funds of a fiduciary account controlled by the bank's trust
7 department, unless prohibited by applicable law.

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

20 (3) A state-chartered bank may satisfy the collateral
21 requirements of this section with any of the following: (a)
22 Direct obligations of the United States or other obligations fully
23 guaranteed by the United States as to principal and interest; (b)
24 readily marketable securities of the classes in which banks, trust
25 companies, or other corporations exercising fiduciary powers are

1 permitted to invest fiduciary funds under applicable state law; and
2 (c) surety bonds, to the extent the surety bonds provide adequate
3 security, unless prohibited by applicable law.

4 (4) A state-chartered bank, acting in its fiduciary
5 capacity, may deposit funds of a fiduciary account that are
6 awaiting investment or distribution with an affiliated insured
7 depository institution, unless prohibited by applicable law. The
8 bank may set aside collateral as security for a deposit by
9 or with an affiliate of fiduciary funds awaiting investment or
10 distribution, as it would if the deposit was made at the bank,
11 unless such action is prohibited by applicable law.

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

14 Sec. 3. Section 8-112, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 8-112 (1) The director shall keep, as records of his or
17 her office, proper books showing all acts, matters, and things done
18 under the jurisdiction of the department. Neither the director nor
19 anyone connected with the department shall in any instance disclose
20 the name of any depositor or debtor of any financial institution or
21 other entity regulated by the department or the amount of his or
22 her deposit or debt to anyone, except insofar as may be necessary
23 in the performance of his or her official duty, except that the
24 department may maintain a record of borrowers from the financial
25 institutions in this state and may give information concerning

1 the total liabilities of any such borrowers to any financial
2 institution owning obligations of such borrowers.

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

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

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

23 (5) If examination reports, investigation reports, or
24 documents and information relating to such reports are subpoenaed
25 from the department, the party issuing the subpoena shall give

1 notice of the issuance of such subpoena at least three business
2 days in advance of the entry of a protective order to the financial
3 institution or other entity regulated by the department which
4 is the subject of such reports or documents and information,
5 unless the financial institution or other entity regulated by the
6 department is already a party to the underlying proceeding or
7 unless such notice is otherwise prohibited by law or by court
8 order.

9 Sec. 4. Section 8-163, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 8-163 No bank shall withdraw or permit to be withdrawn,
12 either in the form of dividends or otherwise, any part of its
13 capital or surplus without the written permission of the director.
14 If losses have at any time been sustained equal to or exceeding
15 the undivided profits on hand, no dividends shall be made without
16 the written permission of the director. No dividend shall be made
17 by any bank in an amount greater than the net profits on hand
18 without the written permission of the director. As used in this
19 section, net profits on hand ~~shall mean~~ means the remainder of all
20 earnings from current operations plus actual recoveries on loans
21 and investments and other assets after deducting from the total
22 thereof all current operating expenses, losses, and bad debts,
23 accrued dividends on preferred stock, if any, and federal and
24 state taxes, for the present and two immediately preceding calendar
25 years.

1 Sec. 5. Section 8-1,140, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 8-1,140 Notwithstanding any of the other provisions of
4 the Nebraska Banking Act or any other Nebraska statute, any bank
5 incorporated under the laws of this state and organized under
6 the provisions of the act, or under the laws of this state as
7 they existed prior to May 9, 1933, shall directly, or indirectly
8 through a subsidiary or subsidiaries, have all the rights, powers,
9 privileges, benefits, and immunities which may be exercised as of
10 ~~March 20, 2008,~~ the operative date of this section, by a federally
11 chartered bank doing business in Nebraska, including the exercise
12 of all powers and activities that are permitted for a financial
13 subsidiary of a federally chartered bank. Such rights, powers,
14 privileges, benefits, and immunities shall not relieve such bank
15 from payment of state taxes assessed under any applicable laws of
16 this state.

17 Sec. 6. Section 8-209, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 8-209 (1) Any corporation organized to do business as
20 a trust company under the Nebraska Trust Company Act shall make
21 a pledge with the Department of Banking and Finance of approved
22 securities in the amount of one hundred thousand dollars in par
23 value.

24 (2) The amount of securities required to be pledged shall
25 be based on the market value of trust assets held by the trust

1 company, as follows:

2 (a) Trust companies with trust assets with a market value
3 of less than twenty-five million dollars shall pledge securities in
4 the amount of one hundred thousand dollars in par value;

5 (b) Trust companies with trust assets with a market value
6 of at least twenty-five million dollars but less than two hundred
7 fifty million dollars shall pledge securities in the amount of two
8 hundred thousand dollars in par value;

9 (c) Trust companies with trust assets with a market value
10 of at least two hundred fifty million dollars but less than two
11 billion five hundred million dollars shall pledge securities in the
12 amount of three hundred thousand dollars in par value;

13 (d) Trust companies with trust assets with a market value
14 of at least two billion five hundred million dollars but less than
15 five billion dollars shall pledge securities in the amount of four
16 hundred thousand dollars in par value; and

17 (e) Trust companies with trust assets with a market value
18 of five billion dollars or more shall pledge securities in the
19 amount of five hundred thousand dollars in par value.

20 (3) A trust company shall determine the market value
21 of its trust assets at the end of each calendar year. If such
22 valuation shows that the pledge of securities is less than is
23 required by subsection (2) of this section, the trust company shall
24 increase the amount of the securities pledged with the department
25 within sixty days following the end of the calendar year.

1 (4) If at any time the market value of pledged assets is
2 determined to have depreciated to less than ninety percent of par
3 value or the trust company has trust funds deposited with itself
4 or its supporting commercial bank in excess of those deposits
5 referred to by section 8-212, the Director of Banking and Finance
6 may require additional pledges in amounts deemed necessary to fully
7 secure pledging requirements or excessive trust fund depository
8 balances.

9 (5) Any national bank authorized by the Office of the
10 Comptroller of the Currency or the Board of Governors of the
11 Federal Reserve System to act in a fiduciary capacity in this
12 state, any federal savings association authorized by the Director
13 of the Office of Thrift Supervision to act in a fiduciary capacity
14 in this state, any federally chartered trust company, and any
15 out-of-state trust company authorized under the Interstate Trust
16 Company Office Act shall make similar pledges with the department,
17 and all such deposits of national banks held by the department
18 shall be considered as having been lawfully so pledged and subject
19 to the Nebraska Trust Company Act.

20 Sec. 7. Section 8-210, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 8-210 ~~Such securities~~ Securities pledged pursuant to
23 section 8-209 shall consist of any securities which constitute
24 a legal investment for the trust company except for bills of
25 exchange, notes, mortgages, banker's acceptances, or certificates

1 of deposit. State, county, municipal, and corporate bond
2 issues must be of investment quality and be rated in the
3 three top categories of investment by at least one nationally
4 recognized rating service, except that all issues of counties and
5 municipalities of Nebraska shall be acceptable.

6 Such securities shall not be accepted for purpose of
7 pledge at a rate above par value and if their market value is less
8 than par value they shall not be accepted for such purpose above
9 their actual market value. The safekeeping of such securities and
10 all other expenses incidental to the pledging of such securities
11 shall be at the expense of the trust company.

12 Sec. 8. Section 8-355, Revised Statutes Cumulative
13 Supplement, 2008, is amended to read:

14 8-355 Notwithstanding any of the provisions of Chapter
15 8, article 3, or any other Nebraska statute, except as provided
16 in section 8-345.02, any association incorporated under the laws
17 of the State of Nebraska and organized under the provisions
18 of such article shall have all the rights, powers, privileges,
19 benefits, and immunities which may be exercised as of ~~March 20,~~
20 2008, the operative date of this section, by a federal savings
21 and loan association doing business in Nebraska. Such rights,
22 powers, privileges, benefits, and immunities shall not relieve
23 such association from payment of state taxes assessed under any
24 applicable laws of this state.

25 Sec. 9. Section 8-602, Reissue Revised Statutes of

1 Nebraska, 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 a photostatic copy of instruments,~~
25 ~~documents, or any other departmental records and for providing a~~

1 ~~computer-generated document, one dollar and fifty cents per page,~~

2 ~~(7)~~ (6) For making substitution of securities held by it
3 and issuing a receipt, fifteen dollars;

4 ~~(8)~~ (7) For issuing a certificate of approval to a credit
5 union, ten dollars;

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

17 ~~(10)~~ (9) For registering a statement of intention to
18 engage in the business of making personal loans pursuant to section
19 8-816, fifty dollars;

20 ~~(11)~~ (10) For the handling of pledged securities as
21 provided in sections 8-210 and 8-1006, at the time of the initial
22 deposit of such securities, one dollar and fifty cents for each
23 thousand dollars of securities deposited and a like amount on or
24 before January 15 each year thereafter. The fees shall be paid by
25 the company, national bank, federal savings association, federally

1 chartered trust company, out-of-state trust company authorized
2 under the Interstate Trust Company Office Act, or state-chartered
3 bank pledging the securities;

4 ~~(12)~~ (11) For investigating an application to move its
5 location within the city or village limits of its original license
6 or charter for banks, trust companies, and building and loan
7 associations, two hundred fifty dollars;

8 ~~(13)~~ (12) For investigating an application under
9 subdivision (6) of section 8-115.01, five hundred dollars;

10 ~~(14)~~ (13) For investigating an application for approval
11 to establish or acquire a branch or to establish a mobile branch
12 pursuant to section 8-157, two hundred fifty dollars;

13 ~~(15)~~ (14) For investigating a notice of acquisition
14 of control under subsection (1) of section 8-1502, five hundred
15 dollars;

16 ~~(16)~~ (15) For investigating an application for a
17 cross-industry merger under section 8-1510, five hundred dollars;

18 ~~(17)~~ (16) For investigating an application for a merger
19 of two state banks or a merger of a state bank and a national
20 bank in which the state bank is the surviving entity, five hundred
21 dollars;

22 ~~(18)~~ (17) For investigating an application or a notice to
23 establish a branch trust office, five hundred dollars;

24 ~~(19)~~ (18) For investigating an application or a notice to
25 establish a representative trust office, five hundred dollars;

1 ~~(20)~~ (19) For investigating an application to establish
2 a credit union branch under section 21-1725.01, two hundred fifty
3 dollars; and

4 ~~(21)~~ (20) For investigating an applicant under section
5 8-1513, five thousand dollars.

6 Sec. 10. Section 8-1001, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 8-1001 For purposes of the Nebraska Sale of Checks and
9 Funds Transmission Act, unless the context otherwise requires:

10 (1) Person means any individual, partnership, limited
11 liability company, association, joint-stock association, trust, or
12 corporation, but does not include the United States Government or
13 the government of the State of Nebraska;

14 (2) Licensee means any person duly licensed pursuant to
15 the act;

16 (3) Check means any check, draft, money order, personal
17 money order, or other instrument, order, or instruction for the
18 transmission or payment of money;

19 (4) Personal money order means any instrument for the
20 transmission or payment of money in relation to which the purchaser
21 or remitter appoints or purports to appoint the seller thereof as
22 his or her agent for the receipt, transmission, or handling of
23 money, whether such instrument is signed by the seller, by the
24 purchaser or remitter, or by some other person;

25 (5) Director means the Director of Banking and Finance;

1 (6) Financial institution has the same meaning as in
2 section 8-101; ~~and~~

3 (7) Transmission means a transfer by oral, written, or
4 electronic means or instruction; ~~and-~~

5 (8) Control means the power, directly or indirectly,
6 to direct the management or policies of a licensee, whether
7 through ownership of securities, by contract, or otherwise. Any
8 person who (a) is a director, a general partner, or an executive
9 officer, including the president, chief executive officer, chief
10 financial officer, chief operating officer, chief legal officer,
11 chief compliance officer, and any individual with similar status
12 and function, (b) directly or indirectly has the right to vote ten
13 percent or more of a class of voting security or has the power to
14 sell or direct the sale of ten percent or more of a class of voting
15 securities, (c) in the case of a limited liability company, is a
16 managing member, or (d) in the case of a partnership, has the right
17 to receive, upon dissolution, or has contributed, ten percent or
18 more of the capital, is presumed to control that licensee.

19 Sec. 11. Section 8-1001.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 8-1001.01 Sections 8-1001 to 8-1017 and section 12 of
22 this act shall be known and may be cited as the Nebraska Sale of
23 Checks and Funds Transmission Act.

24 Sec. 12. (1) No person acting personally or as an agent
25 shall acquire control of any licensee under the Nebraska Sale of

1 Checks and Funds Transmission Act without first giving thirty days'
2 notice to the director on forms prescribed by the director of such
3 proposed acquisition.

4 (2) The director, upon receipt of such notice, shall act
5 upon it within thirty days and, unless he or she disapproves the
6 proposed acquisition within that period of time, the acquisition
7 shall become effective on the thirty-first day after receipt
8 without the director's approval, except that the director may
9 extend the thirty-day period an additional thirty days if,
10 in his or her judgment, any material information submitted is
11 substantially inaccurate or the acquiring person has not furnished
12 all the information required by the director.

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

16 (4) (a) The director may disapprove any proposed
17 acquisition if:

18 (i) The financial condition of any acquiring person is
19 such as might jeopardize the financial stability of the acquired
20 licensee;

21 (ii) The business experience, character, and general
22 fitness of any acquiring person or of any of the proposed
23 management personnel indicates that the acquired licensee would
24 not be operated honestly, carefully, or efficiently; or

25 (iii) Any acquiring person neglects, fails, or refuses

1 to furnish all information required by the director. The director
2 may require that any acquiring person comply with the application
3 requirements of section 8-1005.

4 (b) The director shall notify the acquiring person in
5 writing of disapproval of the acquisition. The notice shall provide
6 a statement of the basis for the disapproval.

7 (c) Within fifteen business days after receipt of written
8 notice of disapproval, the acquiring person may request a hearing
9 on the proposed acquisition in accordance with the Administrative
10 Procedure Act and department rules and regulations. Following such
11 hearing, the director shall, by order, approve or disapprove the
12 proposed acquisition on the basis of the record made at the
13 hearing.

14 Sec. 13. Section 21-17,115, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

16 21-17,115 Notwithstanding any of the other provisions of
17 the Credit Union Act or any other Nebraska statute, any credit
18 union incorporated under the laws of the State of Nebraska and
19 organized under the provisions of the act shall have all the
20 rights, powers, privileges, benefits, and immunities which may
21 be exercised as of ~~March 20, 2008,~~ the operative date of this
22 section, by a federal credit union doing business in Nebraska on
23 the condition that such rights, powers, privileges, benefits, and
24 immunities shall not relieve such credit union from payment of
25 state taxes assessed under any applicable laws of this state.

1 Sec. 14. Section 45-190, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 45-190 For purposes of sections 45-189 to 45-191.11,
4 unless the context otherwise requires:

5 (1) Advance fee means any fee, deposit, or consideration
6 which is assessed or collected, prior to the closing of a loan,
7 by a loan broker and includes, but is not limited to, any money
8 assessed or collected for processing, appraisals, credit checks,
9 consultations, or expenses;

10 (2) Borrower means a person obtaining or desiring to
11 obtain a loan of money;

12 (3) Department means the Department of Banking and
13 Finance;

14 (4) Director means the Director of Banking and Finance;

15 (5) Loan broker means any person, except any bank,
16 trust company, savings and loan association or subsidiary of a
17 savings and loan association, building and loan association, credit
18 union, licensed or registered mortgage banker, Federal Housing
19 Administration or United States Department of Veterans Affairs
20 approved lender as long as the loan of money made by the Federal
21 Housing Administration or the United States Department of Veterans
22 Affairs approved lender is secured or covered by guarantees or
23 commitments or agreements to purchase or take over the same by the
24 Federal Housing Administration or the United States Department of
25 Veterans Affairs, credit card company, installment loan licensee,

1 or insurance company which is subject to regulation or supervision
2 under the laws of the United States or this state, who:

3 (a) For or in expectation of ~~consideration~~, an advance
4 fee from a borrower, procures, attempts to procure, arranges, or
5 attempts to arrange a loan of money for a borrower;

6 (b) For or in expectation of ~~consideration~~, an advance
7 fee from a borrower, assists a borrower in making an application to
8 obtain a loan of money;

9 (c) Is employed as an agent for the purpose of soliciting
10 borrowers as clients of the employer; or

11 (d) Holds himself or herself out, through advertising,
12 signs, or other means, as a loan broker;

13 (6) Loan brokerage agreement means any agreement for
14 services between a loan broker and a borrower; and

15 (7) Person means natural persons, corporations, trusts,
16 unincorporated associations, joint ventures, partnerships, and
17 limited liability companies.

18 Sec. 15. Section 45-346.01, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 45-346.01 (1) A licensee may move its place of business
21 from one place to another within a county without obtaining a
22 new license if the licensee gives written notice thereof to the
23 director at least ten days prior to such move.

24 (2) A licensee shall maintain the minimum net worth
25 as required by section 45-346 while a license issued under the

1 Nebraska Installment Sales Act is in effect. The minimum net worth
2 shall be proven by an annual audit conducted by a certified public
3 accountant. A licensee shall submit a copy of the annual audit to
4 the director ~~within forty-five days after the audit is completed.~~
5 as required by section 45-348 or upon written request of the
6 director. If a licensee fails to maintain the required minimum net
7 worth, the Department of Banking and Finance may issue a notice of
8 cancellation of the license in lieu of revocation proceedings.

9 (3) The surety bond or a substitute bond as required by
10 section 45-346 shall remain in effect while a license issued under
11 the Nebraska Installment Sales Act is in effect. If a licensee
12 fails to maintain a surety bond or substitute bond, the licensee
13 shall immediately cease doing business and surrender the license
14 to the department. If the licensee does not surrender the license,
15 the department may issue a notice of cancellation of the license in
16 lieu of revocation proceedings.

17 (4) Until October 1, 2008, a licensee licensed prior to
18 September 1, 2007, may operate with no net worth or bonding
19 requirement as provided for at the time such licensee was
20 originally licensed.

21 Sec. 16. Section 45-348, Revised Statutes Cumulative
22 Supplement, 2008, is amended to read:

23 45-348 (1) Every licensee shall, on or before the first
24 day of October, pay to the director the sum of one hundred fifty
25 dollars for each license held as a license fee for the succeeding

1 year, and submit such information as the director may require to
2 indicate any material change in the information contained in the
3 original application or succeeding renewal applications, including
4 a copy of the licensee's most recent annual audit. Failure to pay
5 such license fee within the time prescribed shall automatically
6 revoke such license.

7 (2) A licensee may voluntarily surrender a license at any
8 time by delivering to the director written notice of the surrender.
9 The Department of Banking and Finance shall issue a notice of
10 cancellation of the license following such surrender.

11 (3) If a licensee fails to renew its license and does
12 not voluntarily surrender the license pursuant to this section, the
13 department may issue a notice of expiration of the license to the
14 licensee in lieu of revocation proceedings.

15 Sec. 17. Section 45-922, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 45-922 (1) The director may, following a hearing in
18 accordance with the Administrative Procedure Act, suspend or
19 revoke any license issued pursuant to the Delayed Deposit Services
20 Licensing Act if he or she finds:

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

24 (b) A fact or condition existing which, if it had existed
25 at the time of the original application for such license, would

1 have warranted the director to refuse to issue such license;

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

4 (d) A licensee or any of its officers, directors,
5 partners, or members has knowingly subscribed to, made, or caused
6 to be made any false statement or false entry in the books and
7 records of any licensee, has knowingly subscribed to or exhibited
8 false papers with the intent to deceive the Department of Banking
9 and Finance, has failed to make a true and correct entry in the
10 books and records of such licensee of its business and transactions
11 in the manner and form prescribed by the department, or has
12 mutilated, altered, destroyed, secreted, or removed any of the
13 books or records of such licensee without the written approval of
14 the department or as provided in section 45-925; or

15 (e) A licensee has knowingly violated a voluntary consent
16 or compliance agreement which had been entered into with the
17 director.

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

21 (3)(a) If a licensee fails to renew its license as
22 required by section 45-910 and does not voluntarily surrender the
23 license pursuant to section 45-911, the department may issue a
24 notice of expiration of the license to the licensee in lieu of
25 revocation proceedings.

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

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

8 (5) Revocation, suspension, cancellation, or expiration
9 of a license shall not affect civil or criminal liability for
10 acts committed before the revocation, suspension, cancellation,
11 or expiration or liability for fines levied against the licensee
12 or any of its officers, directors, shareholders, partners, or
13 members, pursuant to section 45-925, for acts committed before the
14 revocation, suspension, cancellation, or expiration.

15 Sec. 18. Sections 1, 2, 3, 6, 7, 9, 10, 11, 12, 14,
16 15, 16, 17, and 19 of this act become operative three calendar
17 months after the adjournment of this legislative session. The other
18 sections of this act become operative on their effective date.

19 Sec. 19. Original sections 8-101.01, 8-112, 8-209, 8-210,
20 8-602, 8-1001, 8-1001.01, and 45-190, Reissue Revised Statutes
21 of Nebraska, and sections 45-346.01, 45-348, and 45-922, Revised
22 Statutes Cumulative Supplement, 2008, are repealed.

23 Sec. 20. Original sections 8-163, 8-1,140, and 8-355,
24 Reissue Revised Statutes of Nebraska, and section 21-17,115,
25 Revised Statutes Cumulative Supplement, 2008, are repealed.

1 Sec. 21. Since an emergency exists, this act takes effect
2 when passed and approved according to law.