

LEGISLATIVE BILL 74

Approved by the Governor March 5, 2009

Introduced by Pirsch, 4.

FOR AN ACT relating to banking; to amend section 8-133, Reissue Revised Statutes of Nebraska; to authorize the pledging of Federal Home Loan Bank of Topeka letters of credit as security for private deposits; to repeal the original section; and to declare an emergency.

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

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

8-133 (1) A state-chartered bank may pay interest at any rate on any deposits made or retained in the bank.

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

(3) A bank may secure deposits made by a trustee under 11 U.S.C. 101 et seq. by pledge of the assets of the bank or by furnishing a surety bond as provided in 11 U.S.C. 345. A bank may also secure deposits made by the United States Secretary of the Interior on behalf of any individual Indian or any Indian tribe under 25 U.S.C. 162a by a pledge of the assets of the bank or by furnishing an acceptable bond as provided in 25 U.S.C. 162a.

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

Notice

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

Sec. 2. Original section 8-133, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.