

LEGISLATIVE BILL 762

Approved by the Governor March 3, 2010

Introduced by Pahls, 31; McCoy, 39.

FOR AN ACT relating to banks and banking; to amend section 8-113, Revised Statutes Supplement, 2009; to change provisions relating to the unauthorized use of the word bank; to repeal the original section; and to declare an emergency.

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

Section 1. Section 8-113, Revised Statutes Supplement, 2009, is amended to read:

8-113 (1) No individual, firm, company, corporation, or association doing business in the State of Nebraska, unless organized as a bank under the Nebraska Banking Act or the authority of the federal government, or as a building and loan association, savings and loan association, or savings bank under Chapter 8, article 3, or the authority of the federal government, shall use the word bank or any derivative thereof as any part of a title or description of any business activity.

(2) This section does not apply to:

(a) Banks, building and loan associations, savings and loan associations, or savings banks chartered and supervised by a foreign state agency;

(b) ~~bank~~ Bank holding companies registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used;

(c) ~~affiliates~~ Affiliates or subsidiaries of (i) a bank organized under the Nebraska Banking Act or the authority of the federal government or chartered and supervised by a foreign state agency, (ii) a building and loan association, savings and loan association, or savings bank organized under Chapter 8, article 3, or the authority of the federal government or chartered and supervised by a foreign state agency, or (iii) a bank holding company registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used;

(d) ~~organizations~~ Organizations substantially owned by (i) a bank organized under the Nebraska Banking Act or the authority of the federal government or chartered and supervised by a foreign state agency, (ii) a building and loan association, savings and loan association, or savings bank organized under Chapter 8, article 3, or the authority of the federal government or chartered and supervised by a foreign state agency, (iii) a bank holding company registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used, or (iv) any combination of entities listed in subdivisions (i) through (iii) of this subdivision;

(e) ~~mortgage~~ Mortgage bankers licensed or registered under the Residential Mortgage Licensing Act, if the word mortgage immediately precedes the word bank or its derivative;

(f) ~~organizations~~ Organizations which are described in section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01, which are and exempt from taxation under section 501(a) of the code, and which are not providing or arranging for financial services subject to the authority of the department, a foreign state agency, or the federal government;

(g) ~~trade~~ Trade associations which are exempt from taxation under section 501(c)(6) of the code and which represent a segment of the banking or savings and loan industries, and any affiliate or subsidiary thereof;

(h) ~~firms~~, Firms, companies, corporations, or associations which sponsor incentive-based solid waste recycling programs which that issue reward points or credits to persons for their participation therein; and

(i) ~~such~~ Such other firms, companies, corporations, or associations as have been in existence and doing business prior to December 1, 1975, under a name composed in part of the word bank or some derivative thereof.

(3) This section does not apply to an individual, firm, company, corporation, or association doing business in Nebraska which uses the word bank or any derivative thereof as any part of a title or description of any business activity if such use is unlikely to mislead or confuse the public or give the impression that such individual, firm, company, corporation, or association is lawfully organized and operating as a bank under the Nebraska Banking Act or the authority of the federal government, or as a building and loan association, savings and loan association, or savings bank under Chapter

8, article 3, or the authority of the federal government.

(3) (4) Any violation of this section shall be a Class V misdemeanor.

Sec. 2. Original section 8-113, Revised Statutes Supplement, 2009, is repealed.

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