

# **One Hundred Second Legislature - Second Session - 2012**

## **Introducer's Statement of Intent**

### **LB963**

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**Chairperson: Senator Rich Pahls**

**Committee: Banking, Commerce and Insurance**

**Date of Hearing: January 30, 2012**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 963 is a bill introduced at the request of the Nebraska Department of Banking and Finance (Department). Its primary purpose is to update laws relating to financial institutions by providing for the annual renewal of the three depository financial institution "wild card" statutes; requiring out-of-state trust companies without a Nebraska office and other out-of-state entities that may be appointed as trustees to pledge securities to the Department; and implementing two of the provisions of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") through amendments to the bank lending limit statute to include derivative transactions and revisions to state restrictions on bank interstate branching and mergers.

Section 1 would amend Section 8-141, the bank lending limit statute, to authorize state banks to engage in derivative transactions in the manner and to the extent of credit exposure determined by the Director of the Department. The amendment would also define "derivative transaction" and "loan" in accordance with Section 611 of the Dodd-Frank Act, and comes into operation on January 21, 2013.

Sections 2, 3, and 14 to 21 provide for amendments to the Interstate Branching by Merger Act of 1997 (Sections 8-2101 to 8-2108) and provide for harmonizing amendments to other banking statutes which reference that Act. The proposed amendments are a result of Section 613 of the Dodd-Frank Act which essentially preempt state restrictions on interstate branching.

The amendments to the Interstate Branching and Merger Act of 1997 include:

Changing the name of the Act to the Interstate Branching and Merger Act (Sections 14, 15, 18, and 20 of the bill);

Removing the requirement that a Nebraska state-chartered bank could establish a branch in another state only through a merger with an out-of-state bank that has been in existence for five years (Section 16 of the bill);

Removing the reciprocal requirement for an out-of-state bank to establish a branch in Nebraska (Section 17 of the bill);

Coordinating the powers that may be exercised at an out-of-state branch and a Nebraska bank (Sections 16 and 17 of the bill);

Updating the authority of the Department with respect to interstate branch and merger applications and examinations (Sections 16, 17, and 19 of the bill); and

Updating the limits on deposits that can be controlled following an interstate merger transaction and the date of reports on which the limits are based to conform to prior statutory changes under the Nebraska Bank Holding Company Act (Section 18 of the bill).

Harmonizing amendments related to the new name of the Act and to the statutory revisions are proposed in Sections 2, 3, and 21 of the bill, which address Section 8-157 (the general bank branching statute), Section 8-183.05 (savings and loan conversion to bank charter statute) and Section 8-2403 (credit card bank charter statute).

Sections 4, 11, and 21 would respectively re-enact the "wild card" statutes for banks, savings and loan associations, and credit unions. Sections 8-1,140, 8-355, and 21-17,115 would provide parity between state-chartered depository financial institutions and their federal counterparts, as of January 1, 2012. These laws must be re-enacted on an annual basis due to the Nebraska Constitution.

Section 5 amends Section 8-209 to require out-of-state trust companies without a Nebraska office and other out-of-state entities that may be appointed as trustees in Nebraska to pledge securities to the Department to be held against losses by the pledging entity. This is an extension of the requirement currently applicable to Nebraska trust companies, out-of-state trust companies covered under the Interstate Trust Company Office Act, and depository financial institutions with trust powers, and is intended to provide a measure of safety for the trust funds.

Sections 6 to 10 are coordinating amendments required as a result of the amendment to Section 5 of the bill. The statutes affected are Sections 8-212 to 8-215, and Section 8-230.

Section 12 would amend Section 8-602, which is the general fees statute for applications made to the Department by depository financial institutions, to reflect the updates to the interstate branching and merger statutes, and the change to the pledging of securities statutes. No new fees are imposed by these amendments.

Section 13 would amend Section 8-1901, which defines terms used in Sections 8-1902 and 8-1903. Those laws prohibit the use of confusingly similar names of financial institutions. The amendment would clarify that the restriction extends to out-of-state state-chartered bank offices in Nebraska.

Section 23 contains the amendatory repeal provisions for the bill.

Section 24 would outright repeal Section 8-2105, which provides that out-of-state banks may only establish branches in Nebraska through an interstate merger transaction, because the restriction has been preempted by the Dodd-Frank Act.

Section 25 provides the emergency clause for the bill.

**Principal Introducer:** \_\_\_\_\_

**Senator Rich Pahls**