

LEGISLATIVE BILL 155

Approved by the Governor March 18, 2015

Introduced by Williams, 36; Stinner, 48.

A BILL FOR AN ACT relating to banks and banking; to amend sections 8-116, 8-128, and 8-153, Reissue Revised Statutes of Nebraska, and section 8-1402, Revised Statutes Cumulative Supplement, 2014; to change amounts of and notice requirements for capital stock requirements; to change provisions relating to the clearing and settlement of checks; to change provisions relating to the cost of disclosure of confidential records; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 8-116, Reissue Revised Statutes of Nebraska, is amended to read:

8-116 (1) ~~Except as provided in subsection (2) of this section, a charter for a bank hereafter organized shall not be issued unless the corporation applying therefor has shall have a surplus and paid-up capital stock in an amount not less than the amount necessary for compliance with subsection (1) of section 8-702 for the insurance of deposits of not less than seventy thousand dollars or seventy percent of its paid-up capital stock, whichever is greater, and a paid-up capital stock as follows: In villages or counties of less than one thousand inhabitants, one hundred thousand dollars; in cities, villages, or counties of one thousand or more and less than twenty-five thousand inhabitants, not less than one hundred fifty thousand dollars; in cities or counties of twenty-five thousand or more and less than one hundred thousand inhabitants, not less than two hundred thousand dollars; and in cities or counties of one hundred thousand or more inhabitants, not less than five hundred thousand dollars.~~

~~(2) The Notwithstanding subsection (1) of this section, the department shall have the authority to determine the minimum amount of paid-up capital stock and surplus required for any corporation applying for a bank charter, which amount amounts shall not be less than the amount amounts provided in subsection (1) of this section.~~

~~(3) For purposes of this section, population shall be determined by the most recent federal decennial census.~~

Sec. 2. Section 8-128, Reissue Revised Statutes of Nebraska, is amended to read:

8-128 The paid-in capital stock of any bank may be increased or decreased in the following manner: The stockholders at any regular meeting or at any special meeting duly called for such purpose shall by vote of those owning two-thirds of the capital stock authorize the president or cashier to notify the department of the proposed increase or reduction of paid-in capital stock, and a notice containing a statement of the amount of any proposed reduction of paid-in capital stock shall be published for two ~~four~~ weeks in some newspaper published and of general circulation in the county where such bank is located. Reduction of paid-in capital stock shall be discretionary with the department, but shall be denied if granting the same would reduce the paid-in capital stock below the requirements of the Nebraska Banking Act or would impair the security of the depositors. The bank shall notify the department when the proposed increase or decrease of the paid-in capital stock has been consummated.

Sec. 3. Section 8-153, Reissue Revised Statutes of Nebraska, is amended to read:

8-153 All checks, unless sent to banks as special collection items, shall have preprinted the magnetically encoded routing and transit symbol of the bank and either the name of the maker or the magnetically encoded account number of the maker. Except for checks sent to banks as special collection items or checks presented for payment by the payee in person, all checks drawn on any bank organized under the laws of this state shall be cleared at par by the bank on which they are drawn. The term at par applies only to the settlement of checks between collecting and paying or remitting banks and does not apply to or prohibit a bank from deducting a fee from the face amount of the check for paying the check if the check is presented to the bank by the payee in person.

Sec. 4. Section 8-1402, Revised Statutes Cumulative Supplement, 2014, is amended to read:

8-1402 (1) Any person, party, agency, or organization requesting disclosure of records or information pursuant to section 8-1401 shall pay the costs of providing such records or information, unless:

(a) The request for disclosure is made pursuant to subdivision (1)(a) of section 8-1401 and a Nebraska Supreme Court rule provides for the method of payment;

~~(b) The request is made pursuant to subdivision (1)(b) of section 8-1401 and the rules for discovery provide for the method of payment;~~

~~(b e) The request for disclosure is made pursuant to subdivision (1)(d) or (1)(e) of section 8-1401;~~

~~(c d) Otherwise ordered by a court of competent jurisdiction; or~~

~~(d e) The person making the disclosure waives any or all of the costs.~~

(2)(a) ~~The requesting person, party, agency, or organization shall pay five dollars per hour per person for the time actually spent on the service or, if such person can show that its actual expense in providing the records or information was greater than five dollars per hour per person, it shall be paid the actual cost of providing the records or information.~~

(b) For purposes of this subsection, actual cost means:

(i) Search and processing costs, including the total amount of personnel direct time incurred in locating and retrieving, reproducing, packaging, and preparing records or information for shipment or delivery. Search and processing costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies;

(ii) Reproduction costs incurred in making copies of records or information requested. The rate for reproduction costs for making copies of requested records or information shall be the usual rate charged by the person making the disclosure to its customers for reproducing copies, including copies produced by reader-printer reproduction processes. Photographs, films, and other materials shall be reimbursed at actual cost; and

(iii) Transportation costs, including transport of personnel to locate and retrieve the records or information requested and including all other reasonably necessary costs to convey the records or information.

(3) No person authorized to receive payment pursuant to subsection (1) of this section has an obligation to provide any records or information pursuant to section 8-1401 until assurances are received that the costs due under this section will be paid, except for requests made pursuant to subdivisions (1)(d), (1)(e), (1)(f), and (1)(g) of section 8-1401.

Sec. 5. Original sections 8-116, 8-128, and 8-153, Reissue Revised Statutes of Nebraska, and section 8-1402, Revised Statutes Cumulative Supplement, 2014, are repealed.

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