

AMENDMENTS TO LB909

Introduced by Banking, Commerce and Insurance.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 8-103, Revised Statutes Cumulative Supplement,  
4 2018, is amended to read:

5           8-103 (1)(a) The director shall have charge of and full supervision  
6 over the examination of banks and the enforcement of compliance with the  
7 statutes by banks and their holding companies in their business and  
8 functions and shall constructively aid and assist banks in maintaining  
9 proper banking standards and efficiency.

10          (b) The director shall also have charge of and full supervision over  
11 the examination of and the enforcement of compliance with the statutes by  
12 trust companies, building and loan associations, savings and loan  
13 associations, and credit unions in their business and functions and shall  
14 constructively aid and assist trust companies, building and loan  
15 associations, savings and loan associations, and credit unions in  
16 maintaining proper standards and efficiency.

17          (2) If the director is financially interested directly or indirectly  
18 in any financial institution chartered by the department, the financial  
19 institution shall be under the direct supervision of the Governor, and as  
20 to such financial institution, the Governor shall exercise all the  
21 supervisory powers otherwise vested in the director by the laws of this  
22 state, and reports of examination by state bank examiners, foreign state  
23 bank examiners, examiners of the Federal Reserve Board, examiners of the  
24 Office of the Comptroller of the Currency, examiners of the Federal  
25 Deposit Insurance Corporation, and examiners of the Consumer Financial  
26 Protection Bureau shall be transmitted to the Governor.

27          (3)(a) Neither the director nor any ~~No~~ person employed by the

1 department as a deputy director, counsel, attorney, or financial  
2 institution examiner shall borrow money from any financial institution  
3 chartered by the department, except that ~~any~~ such person may borrow money  
4 in the normal course of business from the Nebraska State Employees Credit  
5 Union. If the credit union is acquired by, or merged into, a Nebraska  
6 state-chartered credit union, persons employed by the department may  
7 borrow money in the normal course of business from the successor credit  
8 union.

9 (b) In the event a loan to a person employed by the department as a  
10 deputy director, counsel, attorney, or financial institution examiner is  
11 sold or otherwise transferred to a financial institution chartered by the  
12 department, no violation of this section occurs if (i) such person did  
13 not solicit the sale or transfer of the loan and (ii) such person gives  
14 notice to the director of such sale or transfer. The director, in his or  
15 her discretion, may require such person to make all reasonable efforts to  
16 seek another lender.

17 (4) Any person who intentionally violates this section or who aids,  
18 abets, or assists in a violation of this section is guilty of a Class IV  
19 felony.

20 Sec. 2. Section 8-135, Revised Statutes Supplement, 2019, is amended  
21 to read:

22 8-135 (1) All persons, regardless of age, may become depositors in  
23 any bank and shall be subject to the same duties and liabilities  
24 respecting their deposits. Whenever a deposit is accepted by any bank in  
25 the name of any person, regardless of age, the deposit may be withdrawn  
26 by the depositor by any of the following methods:

27 (a) Check or other instrument in writing. The check or other  
28 instrument in writing constitutes a receipt or acquittance if the check  
29 or other instrument in writing is signed by the depositor and constitutes  
30 a valid release and discharge to the bank for all payments so made; or

31 (b) Electronic means through:

- 1 (i) Preauthorized direct withdrawal;
- 2 (ii) An automatic teller machine;
- 3 (iii) A debit card;
- 4 (iv) A transfer by telephone;
- 5 (v) A network, including the Internet; or
- 6 (vi) Any electronic terminal, computer, magnetic tape, or other
- 7 electronic means.

8 (2) All persons, individually or with others and regardless of age,  
9 may enter into an agreement with a bank for the lease of a safe deposit  
10 box and shall be bound by the terms of the agreement.

11 (3) This section shall not be construed to affect the rights,  
12 liabilities, or responsibilities of participants in an electronic fund  
13 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693  
14 et seq., as such act existed on January 1, 2020 ~~2019~~, and shall not  
15 affect the legal relationships between a minor and any person other than  
16 the bank.

17 Sec. 3. Section 8-141, Revised Statutes Cumulative Supplement, 2018,  
18 is amended to read:

19 8-141 (1) No bank shall directly or indirectly loan to any single  
20 corporation, limited liability company, firm, or individual, including in  
21 such loans all loans made to the several members or shareholders of such  
22 corporation, limited liability company, or firm, for the use and benefit  
23 of such corporation, limited liability company, firm, or individual, more  
24 than twenty-five percent of the paid-up capital, surplus, and capital  
25 notes and debentures or fifteen percent of the unimpaired capital and  
26 unimpaired surplus of such bank, whichever is greater. Such limitations  
27 shall be subject to the following exceptions:

28 (a) Obligations of any person, partnership, limited liability  
29 company, association, or corporation in the form of notes or drafts  
30 secured by shipping documents or instruments transferring or securing  
31 title covering livestock or giving a lien on livestock, when the market

1 value of the livestock securing the obligation is not at any time less  
2 than one hundred fifteen percent of the face amount of the notes covered  
3 by such documents, shall be subject under this section to a limitation of  
4 ten percent of such capital, surplus, and capital notes and debentures or  
5 ten percent of such unimpaired capital and unimpaired surplus, whichever  
6 is greater, in addition to such twenty-five percent of such capital and  
7 surplus or such fifteen percent of such unimpaired capital and unimpaired  
8 surplus;

9 (b) Obligations of any person, partnership, limited liability  
10 company, association, or corporation secured by not less than a like  
11 amount of bonds or notes of the United States issued since April 24,  
12 1917, or certificates of indebtedness of the United States, treasury  
13 bills of the United States, or obligations fully guaranteed both as to  
14 principal and interest by the United States shall be subject under this  
15 section to a limitation of ten percent of such capital, surplus, and  
16 capital notes and debentures or ten percent of such unimpaired capital  
17 and unimpaired surplus, whichever is greater, in addition to such twenty-  
18 five percent of such capital and surplus or such fifteen percent of such  
19 unimpaired capital and unimpaired surplus;

20 (c) Obligations of any person, partnership, limited liability  
21 company, association, or corporation which are secured by negotiable  
22 warehouse receipts in an amount not less than one hundred fifteen percent  
23 of the face amount of the note or notes secured by such documents shall  
24 be subject under this section to a limitation of ten percent of such  
25 capital, surplus, and capital notes and debentures or ten percent of such  
26 unimpaired capital and unimpaired surplus, whichever is greater, in  
27 addition to such twenty-five percent of such capital and surplus or such  
28 fifteen percent of such unimpaired capital and unimpaired surplus; or

29 (d) Obligations of any person, partnership, limited liability  
30 company, association, or corporation which are secured by readily  
31 marketable collateral having a market value, as determined by reliable

1 and continuously available price quotations, in an amount at least equal  
2 to the face amount of the note or notes secured by such collateral, shall  
3 be subject under this section to a limitation of ten percent of such  
4 capital, surplus, and capital notes and debentures or ten percent of such  
5 unimpaired capital and unimpaired surplus, whichever is greater, in  
6 addition to such twenty-five percent of such capital and surplus or such  
7 fifteen percent of such unimpaired capital and unimpaired surplus.

8 (2)(a) For purposes of this section, the discounting of bills of  
9 exchange, drawn in good faith against actually existing values, and the  
10 discounting of commercial paper actually owned by the persons negotiating  
11 the bills of exchange or commercial paper shall not be considered as the  
12 lending of money.

13 (b) Loans or obligations shall not be subject to any limitation  
14 under this section, based upon such capital and surplus or such  
15 unimpaired capital and unimpaired surplus, to the extent that such  
16 capital and surplus or such unimpaired capital and unimpaired surplus are  
17 secured or covered by guaranties, or by commitments or agreements to take  
18 over or to purchase such capital and surplus or such unimpaired capital  
19 and unimpaired surplus, made by any federal reserve bank or by the United  
20 States Government or any authorized agency thereof, including any  
21 corporation wholly owned directly or indirectly by the United States, or  
22 general obligations of any state of the United States or any political  
23 subdivision of the state. The phrase general obligation of any state or  
24 any political subdivision of the state means an obligation supported by  
25 the full faith and credit of an obligor possessing general powers of  
26 taxation, including property taxation, but does not include municipal  
27 revenue bonds and sanitary and improvement district warrants which are  
28 subject to the limitations set forth in this section.

29 (c) Any bank may subscribe to, invest in, purchase, and own single-  
30 family mortgages secured by the Federal Housing Administration or the  
31 United States Department of Veterans Affairs and mortgage-backed

1 certificates of the Government National Mortgage Association which are  
2 guaranteed as to payment of principal and interest by the Government  
3 National Mortgage Association. Such mortgages and certificates shall not  
4 be subject under this section to any limitation based upon such capital  
5 and surplus or such unimpaired capital and unimpaired surplus.

6 (d) Obligations representing loans to any national banking  
7 association or to any banking institution organized under the laws of any  
8 state, when such loans are approved by the director by rule and  
9 regulation or otherwise, shall not be subject under this section to any  
10 limitation based upon such capital and surplus or such unimpaired capital  
11 and unimpaired surplus.

12 (e) Loans or extensions of credit secured by a segregated deposit  
13 account in the lending bank shall not be subject under this section to  
14 any limitation based on such capital and surplus or such unimpaired  
15 capital and unimpaired surplus. The director may adopt and promulgate  
16 rules and regulations governing the terms and conditions of such security  
17 interest and segregated deposit account.

18 (f) For the purpose of determining lending limits, partnerships  
19 shall not be treated as separate entities. Each individual shall be  
20 charged with his or her personal debt plus the debt of every partnership  
21 in which he or she is a partner, except that for purposes of this section

22 (a) an individual shall only be charged with the debt of any limited  
23 partnership in which he or she is a partner to the extent that the terms  
24 of the limited partnership agreement provide that such individual is to  
25 be held liable for the debts or actions of such limited partnership and

26 (b) no individual shall be charged with the debt of any general  
27 partnership in which he or she is a partner beyond the extent to which

28 (i) his or her liability for such partnership debt is limited by the  
29 terms of a contract or other written agreement between the bank and such  
30 individual and (ii) any personal debt of such individual is incurred for  
31 the use and benefit of such general partnership.

1           (3) A loan made within lending limits at the initial time the loan  
2 was made may be renewed, extended, or serviced without regard to changes  
3 in the lending limit of a bank following the initial extension of the  
4 loan if (a) the renewal, extension, or servicing of the loan does not  
5 result in the extension of funds beyond the initial amount of the loan or  
6 (b) the accrued interest on the loan is not added to the original amount  
7 of the loan in the process of renewal, extension, or servicing.

8           (4) Any bank may purchase or take an interest in life insurance  
9 contracts for any purpose incidental to the business of banking. A bank's  
10 purchase of any life insurance contract, as measured by its cash  
11 surrender value, from any one life insurance company shall not at any  
12 time exceed twenty-five percent of the paid-up capital, surplus, and  
13 capital notes and debentures of such bank or fifteen percent of the  
14 unimpaired capital and unimpaired surplus of such bank, whichever is  
15 greater. A bank's purchase of life insurance contracts, as measured by  
16 their cash surrender values, in the aggregate from all life insurance  
17 companies shall not at any time exceed thirty-five percent of the paid-up  
18 capital, surplus, undivided profits, and capital notes and debentures of  
19 such bank. The limitations under this subsection on a bank's purchase of  
20 life insurance contracts, in the aggregate from all life insurance  
21 companies, shall not apply to any contract purchased prior to April 5,  
22 1994.

23           (5) On and after January 21, 2013, the director has the authority to  
24 determine the manner and extent to which credit exposure resulting from  
25 derivative transactions, repurchase agreements, reverse repurchase  
26 agreements, securities lending transactions, and securities borrowing  
27 transactions shall be taken into account for purposes of determining  
28 compliance with this section. In making such determinations, the director  
29 may, but is not required to, act by rule and regulation or order.

30           (6) For purposes of this section:

31           (a) Derivative transaction means any transaction that is a contract,

1 agreement, swap, warrant, note, or option that is based, in whole or in  
2 part, on the value of, any interest in, or any quantitative measure or  
3 the occurrence of any event relating to, one or more commodities,  
4 securities, currencies, interest or other rates, indices, or other  
5 assets;

6 (b) Loan includes:

7 (i) All direct and indirect advances of funds to a person made on  
8 the basis of any obligation of that person to repay the funds or  
9 repayable from specific property pledged by or on behalf of that person;

10 (ii) To the extent specified by rule and regulation or order of the  
11 director, any liability of a state bank to advance funds to or on behalf  
12 of a person pursuant to a contractual commitment; and

13 (iii) Any credit exposure to a person arising from a derivative  
14 transaction, repurchase agreement, reverse repurchase agreement,  
15 securities lending transaction, or securities borrowing transaction  
16 between the bank and the person; and

17 (c) Unimpaired capital and unimpaired surplus means:

18 (i) For qualifying banks that have elected to use the community bank  
19 leverage ratio framework, as set forth under the Capital Adequacy  
20 Standards of the appropriate federal banking agency:

21 (A) The bank's tier 1 capital as reported according to the capital  
22 guidelines of the appropriate federal banking agency; and

23 (B) The bank's allowance for loan and lease losses or allowance for  
24 credit losses, as applicable, as reported in the most recent consolidated  
25 report of condition filed under 12 U.S.C. 1817(a)(3), as such section  
26 existed on January 1, 2020; and

27 (ii) For all other banks:

28 (A) The ~~the~~ bank's tier 1 and tier 2 capital included in the bank's  
29 risk-based capital under the capital guidelines of the appropriate  
30 federal banking agency, based on the bank's most recent consolidated  
31 report of condition filed under 12 U.S.C. 1817(a)(3), as such section



1 existed on January 1, 2020; 7 and

2 (B) The ~~(ii)~~ the balance of the bank's allowance for loan and lease  
3 losses not included in the bank's tier 2 capital for purposes of the  
4 calculation of risk-based capital by the appropriate federal banking  
5 agency, based on the bank's most recent consolidated report of condition  
6 filed under 12 U.S.C. 1817(a)(3), as such section existed on January 1,  
7 2020.

8 (7) Notwithstanding the provisions of section 8-1,140, the director  
9 may, by order, deny or limit the inclusion of goodwill in the calculation  
10 of a bank's unimpaired capital and unimpaired surplus or in the  
11 calculation of a bank's paid-up capital and surplus.

12 Sec. 4. Section 8-143.01, Revised Statutes Supplement, 2019, is  
13 amended to read:

14 8-143.01 (1) No bank shall extend credit to any of its executive  
15 officers, directors, or principal shareholders or to any related interest  
16 of such persons in an amount that, when aggregated with the amount of all  
17 other extensions of credit by the bank to that person and to all related  
18 interests of that person, exceeds the higher of twenty-five thousand  
19 dollars or five percent of the bank's unimpaired capital and unimpaired  
20 surplus unless (a) the extension of credit has been approved in advance  
21 by a majority vote of the entire board of directors of the bank, a record  
22 of which shall be made and kept as a part of the records of such bank,  
23 and (b) the interested party has abstained from participating directly or  
24 indirectly in such vote.

25 (2) No bank shall extend credit to any of its executive officers,  
26 directors, or principal shareholders or to any related interest of such  
27 persons in an amount that, when aggregated with the amount of all other  
28 extensions of credit by the bank to that person and to all related  
29 interests of that person, exceeds five hundred thousand dollars except by  
30 complying with the requirements of subdivisions (1)(a) and (b) of this  
31 section.

1 (3) No bank shall extend credit to any of its executive officers,  
2 and no such executive officer shall borrow from or otherwise become  
3 indebted to his or her bank, except in the amounts and for the purposes  
4 set forth in subsection (4) of this section.

5 (4) A bank shall be authorized to extend credit to any of its  
6 executive officers:

7 (a) In any amount to finance the education of such executive  
8 officer's children;

9 (b)(i) In any amount to finance or refinance the purchase,  
10 construction, maintenance, or improvement of a residence of such  
11 executive officer if the extension of credit is secured by a first lien  
12 on the residence and the residence is owned or is expected to be owned  
13 after the extension of credit by the executive officer and (ii) in the  
14 case of a refinancing, only the amount of the refinancing used to repay  
15 the original extension of credit, together with the closing costs of the  
16 refinancing, and any additional amount thereof used for any of the  
17 purposes enumerated in this subdivision are included within this category  
18 of credit;

19 (c) In any amount if the extension of credit is (i) secured by a  
20 perfected security interest in bonds, notes, certificates of  
21 indebtedness, or Treasury Bills of the United States or in other such  
22 obligations fully guaranteed as to principal and interest by the United  
23 States, (ii) secured by unconditional takeout commitments or guarantees  
24 of any department, agency, bureau, board, commission, or establishment of  
25 the United States or any corporation wholly owned directly or indirectly  
26 by the United States, or (iii) secured by a perfected security interest  
27 in a segregated deposit account in the lending bank; or

28 (d) For any other purpose not specified in subdivisions (a), (b),  
29 and (c) of this subsection if the aggregate amount of such other  
30 extensions of credit to such executive officer does not exceed, at any  
31 one time, the greater of two and one-half percent of the bank's

1 unimpaired capital and unimpaired surplus or twenty-five thousand  
2 dollars, but in no event greater than one hundred thousand dollars or the  
3 amount of the bank's lending limit as prescribed in section 8-141,  
4 whichever is less.

5 (5)(a) Except as provided in subdivision (b) or (c) of this  
6 subsection, any executive officer shall make, on an annual basis, a  
7 written report to the board of directors of the bank of which he or she  
8 is an executive officer stating the date and amount of all loans or  
9 indebtedness on which he or she is a borrower, cosigner, or guarantor,  
10 the security therefor, and the purpose for which the proceeds have been  
11 or are to be used.

12 (b) Except as provided in subdivision (c) of this subsection, in  
13 lieu of the reports required by subdivision (a) of this subsection, the  
14 board of directors of a bank may obtain a credit report from a recognized  
15 credit agency, on an annual basis, for any or all of its executive  
16 officers.

17 (c) Subdivisions (a) and (b) of this subsection do not apply to any  
18 executive officer if such officer is excluded by a resolution of the  
19 board of directors or by the bylaws of the bank from participating in the  
20 major policymaking functions of the bank and does not actually  
21 participate in the major policymaking functions of the bank.

22 (6) No bank shall extend credit to any of its executive officers,  
23 directors, or principal shareholders or to any related interest of such  
24 persons in an amount that, when aggregated with the amount of all other  
25 extensions of credit by the bank to that person and to all related  
26 interests of that person, exceeds the lending limit of the bank as  
27 prescribed in section 8-141.

28 (7)(a) Except as provided in subdivision (b) of this subsection, no  
29 bank shall extend credit to any of its executive officers, directors, or  
30 principal shareholders or to any related interest of such persons unless  
31 the extension of credit (i) is made on substantially the same terms,

1 including interest rates and collateral, as, and following credit-  
2 underwriting procedures that are not less stringent than, those  
3 prevailing at the time for comparable transactions by the bank with other  
4 persons that are not covered by this section and who are not employed by  
5 the bank and (ii) does not involve more than the normal risk of repayment  
6 or present other unfavorable features.

7 (b) Nothing in subdivision (a) of this subsection shall prohibit any  
8 extension of credit made by a bank pursuant to a benefit or compensation  
9 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation  
10 existed on January 1, 2020 ~~2019~~.

11 (8) For purposes of this section:

12 (a) Executive officer means a person who participates or has  
13 authority to participate, other than in the capacity of director, in the  
14 major policymaking functions of the bank, whether or not the officer has  
15 an official title, the title designates such officer as an assistant, or  
16 such officer is serving without salary or other compensation. Executive  
17 officer includes the chairperson of the board of directors, the  
18 president, all vice presidents, the cashier, the corporate secretary, and  
19 the treasurer, unless the executive officer is excluded by a resolution  
20 of the board of directors or by the bylaws of the bank from  
21 participating, other than in the capacity of director, in the major  
22 policymaking functions of the bank, and the executive officer does not  
23 actually participate in such functions. A manager or assistant manager of  
24 a branch of a bank shall not be considered to be an executive officer  
25 unless such individual participates or is authorized to participate in  
26 the major policymaking functions of the bank; and

27 (b) Unimpaired capital and unimpaired surplus means the sum of:

28 (i) The total equity capital of the bank reported on its most recent  
29 consolidated report of condition filed under section 8-166;

30 (ii) Any subordinated notes and debentures approved as an addition  
31 to the bank's capital structure by the appropriate federal banking

1 agency; and

2 (iii) Any valuation reserves created by charges to the bank's income  
3 reported on its most recent consolidated report of condition filed under  
4 section 8-166.

5 (9) Any executive officer, director, or principal shareholder of a  
6 bank or any other person who intentionally violates this section or who  
7 aids, abets, or assists in a violation of this section is guilty of a  
8 Class IV felony.

9 (10) The Director of Banking and Finance may adopt and promulgate  
10 rules and regulations to carry out this section, including rules and  
11 regulations defining or further defining terms used in this section,  
12 consistent with the provisions of 12 U.S.C. 84 and implementing  
13 Regulation O as such section and regulation existed on January 1, 2020  
14 ~~2019~~.

15 Sec. 5. Section 8-157.01, Revised Statutes Supplement, 2019, is  
16 amended to read:

17 8-157.01 (1) Any establishing financial institution may establish  
18 and maintain any number of automatic teller machines at which all banking  
19 transactions, defined as receiving deposits of every kind and nature and  
20 crediting such to customer accounts, cashing checks and cash withdrawals,  
21 transferring funds from checking accounts to savings accounts,  
22 transferring funds from savings accounts to checking accounts,  
23 transferring funds from either checking accounts and savings accounts to  
24 accounts of other customers, transferring payments from customer accounts  
25 into accounts maintained by other customers of the financial institution  
26 or the financial institution, including preauthorized draft authority,  
27 preauthorized loans, and credit transactions, receiving payments payable  
28 at the financial institution or otherwise, account balance inquiry, and  
29 any other transaction incidental to the business of the financial  
30 institution or which will provide a benefit to the financial  
31 institution's customers or the general public, may be conducted. Any

1 automatic teller machine owned by a nonfinancial institution third party  
2 shall be sponsored by an establishing financial institution. Neither such  
3 automatic teller machines nor the transactions conducted thereat shall be  
4 construed as the establishment of a branch or as branch banking.

5 (2) Any financial institution may become a user financial  
6 institution by agreeing to pay the establishing financial institution the  
7 automatic teller machine usage fee. Such agreement shall be implied by  
8 the use of such automatic teller machines.

9 (3)(a)(i) All automatic teller machines shall be made available on a  
10 nondiscriminating basis for use by Nebraska customers of a user financial  
11 institution and (ii) all Nebraska automatic teller machine transactions  
12 initiated by Nebraska customers of a user financial institution shall be  
13 made on a nondiscriminating basis.

14 (b) It shall not be deemed discrimination if (i) an automatic teller  
15 machine does not offer the same transaction services as other automatic  
16 teller machines, (ii) there are no automatic teller machine usage fees  
17 charged between affiliate financial institutions for the use of automatic  
18 teller machines, (iii) the automatic teller machine usage fees of an  
19 establishing financial institution that authorizes and directly or  
20 indirectly routes Nebraska automatic teller machine transactions to  
21 multiple switches, all of which comply with the requirements of  
22 subdivision (3)(d) of this section, differ solely based upon the fees  
23 established by the switches, (iv) automatic teller machine usage fees  
24 differ based upon whether the transaction initiated at an automatic  
25 teller machine is subject to a surcharge or provided on a surcharge-free  
26 basis, or (v) the automatic teller machines established or sponsored by  
27 an establishing financial institution are made available for use by  
28 Nebraska customers of any user financial institution which agrees to pay  
29 the automatic teller machine usage fee and which conforms to the  
30 operating rules and technical standards established by the switch to  
31 which a Nebraska automatic teller machine transaction is directly or

1 indirectly routed.

2 (c) The director, upon notice and after a hearing, may terminate or  
3 suspend the use of any automatic teller machine if he or she determines  
4 that the automatic teller machine is not made available on a  
5 nondiscriminating basis or that Nebraska automatic teller machine  
6 transactions initiated at such automatic teller machine are not made on a  
7 nondiscriminating basis.

8 (d) A switch (i) shall provide to all financial institutions that  
9 have a main office or approved branch located in the State of Nebraska  
10 and that conform to the operating rules and technical standards  
11 established by the switch an equal opportunity to participate in the  
12 switch for the use of and access thereto; (ii) shall be capable of  
13 operating to accept and route Nebraska automatic teller machine  
14 transactions, whether receiving data from an automatic teller machine, an  
15 establishing financial institution, or a data processing center; and  
16 (iii) shall be capable of being directly or indirectly connected to every  
17 data processing center for any automatic teller machine.

18 (e) The director, upon notice and after a hearing, may terminate or  
19 suspend the operation of any switch with respect to all Nebraska  
20 automatic teller machine transactions if he or she determines that the  
21 switch is not being operated in the manner required under subdivision (3)  
22 (d) of this section.

23 (f) Subject to the requirement for a financial institution to comply  
24 with this subsection, no user financial institution or establishing  
25 financial institution shall be required to become a member of any  
26 particular switch.

27 (4) Any consumer initiating an electronic funds transfer at an  
28 automatic teller machine for which an automatic teller machine surcharge  
29 will be imposed shall receive notice in accordance with the provisions of  
30 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,  
31 2020 ~~2019~~. Such notice shall appear on the screen of the automatic teller

1 machine or appear on a paper notice issued from such machine after the  
2 transaction is initiated and before the consumer is irrevocably committed  
3 to completing the transaction.

4 (5) A point-of-sale terminal may be established at any point within  
5 this state by a financial institution, a group of two or more financial  
6 institutions, or a combination of a financial institution or financial  
7 institutions and a third party or parties. Such parties may contract with  
8 a seller of goods and services or any other third party for the operation  
9 of point-of-sale terminals.

10 (6) A seller of goods and services or any other third party on whose  
11 premises one or more point-of-sale terminals are established shall not  
12 be, solely by virtue of such establishment, a financial institution and  
13 shall not be subject to the laws governing, or other requirements imposed  
14 on, financial institutions, except for the requirement that it faithfully  
15 perform its obligations in connection with any transaction originated at  
16 any point-of-sale terminal on its premises.

17 (7) Nothing in this section shall be construed to prohibit nonbank  
18 employees from assisting in transactions originated at automatic teller  
19 machines or point-of-sale terminals, and such assistance shall not be  
20 deemed to be engaging in the business of banking.

21 (8)(a) Annually by September 1, any entity operating as a switch in  
22 Nebraska shall file a notice with the department setting forth its name,  
23 address, and contact information for an officer authorized to answer  
24 inquiries related to its operations in Nebraska.

25 (b) Any entity intending to operate in Nebraska as a switch shall  
26 file a notice with the department setting forth its name, address, and  
27 contact information for an officer authorized to answer inquiries related  
28 to its operations in Nebraska. Such notice shall be filed at least thirty  
29 days prior to the date on which the switch commences operations, and  
30 thereafter annually by September 1.

31 (9) Nothing in this section prohibits ordinary clearinghouse



1 transactions between financial institutions.

2 (10) Nothing in this section shall prevent any financial institution  
3 which has a main chartered office or an approved branch located in the  
4 State of Nebraska from participating in a national automatic teller  
5 machine program to allow its customers to use automatic teller machines  
6 located outside of the State of Nebraska which are established by out-of-  
7 state financial institutions or foreign financial institutions or to  
8 allow customers of out-of-state financial institutions or foreign  
9 financial institutions to use its automatic teller machines. Such  
10 participation and any automatic teller machine usage fees charged or  
11 received pursuant to the national automatic teller machine program or  
12 usage fees charged for the use of its automatic teller machines by  
13 customers of out-of-state financial institutions or foreign financial  
14 institutions shall not be considered for purposes of determining (a) if  
15 an automatic teller machine has been made available or Nebraska automatic  
16 teller machine transactions have been made on a nondiscriminating basis  
17 for use by Nebraska customers of a user financial institution or (b) if a  
18 switch complies with subdivision (3)(d) of this section.

19 (11) An agreement to operate or share an automatic teller machine  
20 may not prohibit, limit, or restrict the right of the operator or owner  
21 of the automatic teller machine to charge a customer conducting a  
22 transaction using an account from a foreign financial institution an  
23 access fee or surcharge not otherwise prohibited under state or federal  
24 law.

25 (12) Switch fees shall not be subject to this section or be  
26 regulated by the department.

27 (13) Nothing in this section shall prevent a group of two or more  
28 credit unions, each of which has a main chartered office or an approved  
29 branch located in the State of Nebraska, from participating in a credit  
30 union service organization organized on or before January 1, 2015, for  
31 the purpose of owning automatic teller machines, provided that all

1 participating credit unions have an ownership interest in the credit  
2 union service organization and that the credit union service organization  
3 has an ownership interest in each of the participating credit unions'  
4 automatic teller machines. Such participation and any automatic teller  
5 machine usage fees associated with Nebraska automatic teller machine  
6 transactions initiated by customers of participating credit unions at  
7 such automatic teller machines shall not be considered for purposes of  
8 determining if such automatic teller machines have been made available on  
9 a nondiscriminating basis or if Nebraska automatic teller machine  
10 transactions initiated at such automatic teller machines have been made  
11 on a nondiscriminating basis, provided that all Nebraska automatic teller  
12 machine transactions initiated by customers of participating credit  
13 unions result in the same automatic teller machine usage fees for  
14 essentially the same service routed over the same switch.

15 (14) Nebraska automatic teller machine usage fees and any agreements  
16 relating to Nebraska automatic teller machine usage fees shall comply  
17 with subsection (3) of this section.

18 (15) For purposes of this section:

19 (a) Access means the ability to utilize an automatic teller machine  
20 or a point-of-sale terminal to conduct permitted banking transactions or  
21 purchase goods and services electronically;

22 (b) Account means a checking account, a savings account, a share  
23 account, or any other customer asset account held by a financial  
24 institution. Such an account may also include a line of credit which a  
25 financial institution has agreed to extend to its customer;

26 (c) Affiliate financial institution means any financial institution  
27 which is a subsidiary of the same bank holding company;

28 (d) Automatic teller machine usage fee means any per transaction fee  
29 established by a switch or otherwise established on behalf of an  
30 establishing financial institution and collected from the user financial  
31 institution and paid to the establishing financial institution for the

1 use of the automatic teller machine. An automatic teller machine usage  
2 fee shall not include switch fees;

3 (e) Electronic funds transfer means any transfer of funds, other  
4 than a transaction originated by check, draft, or similar paper  
5 instrument, that is initiated through a point-of-sale terminal, an  
6 automatic teller machine, or a personal terminal for the purpose of  
7 ordering, instructing, or authorizing a financial institution to debit or  
8 credit an account;

9 (f) Essentially the same service means the same Nebraska automatic  
10 teller machine transaction offered by an establishing financial  
11 institution irrespective of the user financial institution, the Nebraska  
12 customer of which initiates the Nebraska automatic teller machine  
13 transaction. A Nebraska automatic teller machine transaction that is  
14 subject to a surcharge is not essentially the same service as the same  
15 banking transaction for which a surcharge is not imposed;

16 (g) Establishing financial institution means any financial  
17 institution which has a main chartered office or approved branch located  
18 in the State of Nebraska that establishes or sponsors an automatic teller  
19 machine or any out-of-state financial institution that establishes or  
20 sponsors an automatic teller machine;

21 (h) Financial institution means a bank, savings bank, building and  
22 loan association, savings and loan association, or credit union, whether  
23 chartered by the department, the United States, or a foreign state  
24 agency; any other similar organization which is covered by federal  
25 deposit insurance; or a subsidiary of any such entity;

26 (i) Foreign financial institution means a financial institution  
27 located outside the United States;

28 (j) Nebraska automatic teller machine transaction means a banking  
29 transaction as defined in subsection (1) of this section which is (i)  
30 initiated at an automatic teller machine established in whole or in part  
31 or sponsored by an establishing financial institution, (ii) for an

1 account of a Nebraska customer of a user financial institution, and (iii)  
2 processed through a switch regardless of whether it is routed directly or  
3 indirectly from an automatic teller machine;

4 (k) Personal terminal means a personal computer and telephone,  
5 wherever located, operated by a customer of a financial institution for  
6 the purpose of initiating a transaction affecting an account of the  
7 customer;

8 (l) Sponsoring an automatic teller machine means the acceptance of  
9 responsibility by an establishing financial institution for compliance  
10 with all provisions of law governing automatic teller machines and  
11 Nebraska automatic teller machine transactions in connection with an  
12 automatic teller machine owned by a nonfinancial institution third party;

13 (m) Switch fee means a fee established by a switch and assessed to a  
14 user financial institution or to an establishing financial institution  
15 other than an automatic teller machine usage fee; and

16 (n) User financial institution means any financial institution which  
17 has a main chartered office or approved branch located in the State of  
18 Nebraska which avails itself of and provides its customers with automatic  
19 teller machine services.

20 Sec. 6. Section 8-167, Revised Statutes Cumulative Supplement, 2018,  
21 is amended to read:

22 8-167 Each report required by section 8-166 shall exhibit in detail  
23 and under appropriate headings the resources and liabilities of the bank  
24 at the close of business on any past day specified by the call for report  
25 and shall be submitted to the department within thirty days, or as may be  
26 required by the department, after the receipt of requisition for the  
27 report. ~~A summary of such report in the form prescribed by the department  
28 shall be published one time in a legal newspaper in the place where the  
29 main office of such bank is located. If there is no legal newspaper in  
30 the place where the main office of the bank is located, then such summary  
31 shall be published in a legal newspaper published in the same county or,~~

1 ~~if none is published in the county, in a legal newspaper of general~~  
2 ~~circulation in the county. Such publication shall be at the expense of~~  
3 ~~such bank. Proof of such publication shall be transmitted to the~~  
4 ~~department within thirty days, or as may be required by the director,~~  
5 ~~from the date fixed for such report.~~

6 Sec. 7. Section 8-183.04, Revised Statutes Supplement, 2019, is  
7 amended to read:

8 8-183.04 (1) Notwithstanding any other provision of the Nebraska  
9 Banking Act or any other Nebraska law, a state or federal savings  
10 association which was formed and in operation as a mutual savings  
11 association as of July 15, 1998, may elect to retain its mutual form of  
12 corporate organization upon conversion to a state bank.

13 (2) All references to shareholders or stockholders for state banks  
14 shall be deemed to be references to members for such a converted savings  
15 association.

16 (3) The amount and type of capital required for such a converted  
17 savings association shall be as required for federal mutual savings  
18 associations in 12 C.F.R. 5.21, as such regulation existed on January 1,  
19 2020 ~~2019~~, except that if at any time the department determines that the  
20 capital of such a converted savings association is impaired, the director  
21 may require the members to make up the capital impairment.

22 (4) The director may adopt and promulgate rules and regulations  
23 governing such converted mutual savings associations. In adopting and  
24 promulgating such rules and regulations, the director may consider the  
25 provisions of sections 8-301 to 8-384 governing savings associations in  
26 mutual form of corporate organization.

27 Sec. 8. Section 8-1,140, Revised Statutes Supplement, 2019, is  
28 amended to read:

29 8-1,140 Notwithstanding any of the other provisions of the Nebraska  
30 Banking Act or any other Nebraska statute, any bank incorporated under  
31 the laws of this state and organized under the provisions of the act, or

1 under the laws of this state as they existed prior to May 9, 1933, shall  
2 directly, or indirectly through a subsidiary or subsidiaries, have all  
3 the rights, powers, privileges, benefits, and immunities which may be  
4 exercised as of January 1, 2020 ~~2019~~, by a federally chartered bank doing  
5 business in Nebraska, including the exercise of all powers and activities  
6 that are permitted for a financial subsidiary of a federally chartered  
7 bank. Such rights, powers, privileges, benefits, and immunities shall not  
8 relieve such bank from payment of state taxes assessed under any  
9 applicable laws of this state.

10 Sec. 9. Section 8-224.01, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 8-224.01 (1) No charge shall be allowed against an estate or trust  
13 for legal services performed by an attorney who is a salaried employee of  
14 the trust company or when a portion of the charge for legal service is  
15 retained by the trust company. Any officer or employee of the trust  
16 company causing or consenting to such division of fee for legal service  
17 shall be guilty of a Class I misdemeanor. No investments of an estate or  
18 trust shall be made in the capital stock or securities of the trust  
19 company, in the stock or securities of its affiliated companies, or in  
20 obligations, either direct or indirect, of any director, officer, or  
21 employee of the trust company. The trust company shall not substitute any  
22 of the assets of an estate or trust under its control for securities of  
23 the trust company. A trust company may administer, in a fiduciary  
24 capacity, an estate or trust which contains such capital stock,  
25 securities, or obligations as part of its assets if such assets are  
26 received in kind from the grantor of the estate or trust and retention of  
27 such capital stock, securities, or obligations is properly authorized by  
28 the terms of the governing document. Any officer or employee of the trust  
29 company making such an investment or consenting to such an investment or  
30 causing such substitution or consenting to such substitution shall be  
31 guilty of a Class III felony.

1           (2) No loan of the assets of the trust company shall be made to any  
2 officer or director of such corporation. No trust company shall cause or  
3 allow funds of any account entrusted to the trust company to be loaned,  
4 directly or indirectly, to any director, officer, or employee of the  
5 trust company except when the director, officer, or employee has a  
6 specific beneficial interest in the account and such loans are allowed in  
7 governing account documents and are not prohibited by other state or  
8 federal law. Any director, officer, or employee of the trust company  
9 causing, consenting to, or receiving funds from a loan made in violation  
10 of this section shall be guilty of a Class III felony.

11           (3) This section shall not apply to:

12           (a) Investments authorized in section 30-3205; or

13           (b) Investments for which the will or trust states that the stock of  
14 the trust company or securities of a company or companies affiliated with  
15 the trust company may be acquired for the estate or trust.

16           Sec. 10. Section 8-318, Revised Statutes Supplement, 2019, is  
17 amended to read:

18           8-318 (1)(a) Shares of stock in any association, or in any federal  
19 savings and loan association incorporated under the provisions of the  
20 federal Home Owners' Loan Act, with its principal office and place of  
21 business in this state, may be subscribed for, held, transferred,  
22 surrendered, withdrawn, and forfeited and payments thereon received and  
23 receipted for by any person, regardless of age, in the same manner and  
24 with the same binding effect as though such person were of the age of  
25 majority, except that a minor or his or her estate shall not be bound on  
26 his or her subscription to stock except to the extent of payments  
27 actually made thereon.

28           (b) Whenever a share account is accepted by any building and loan  
29 association in the name of any person, regardless of age, the deposit may  
30 be withdrawn by the shareholder by any of the following methods:

31           (i) Check or other instrument in writing. The check or other

1 instrument in writing constitutes a receipt or acquittance if the check  
2 or other instrument in writing is signed by the shareholder and  
3 constitutes a valid release in discharge to the building and loan  
4 association for all payments so made; or

5 (ii) Electronic means through:

6 (A) Preauthorized direct withdrawal;

7 (B) An automatic teller machine;

8 (C) A debit card;

9 (D) A transfer by telephone;

10 (E) A network, including the Internet; or

11 (F) Any electronic terminal, computer, magnetic tape, or other  
12 electronic means.

13 (c) This section shall not be construed to affect the rights,  
14 liabilities, or responsibilities of participants in an electronic fund  
15 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693  
16 et seq., as it existed on January 1, 2020 ~~2019~~, and shall not affect the  
17 legal relationships between a minor and any person other than the  
18 building and loan association.

19 (2) All trustees, guardians, personal representatives,  
20 administrators, and conservators appointed by the courts of this state  
21 may invest and reinvest in, acquire, make withdrawals in whole or in  
22 part, hold, transfer, or make new or additional investments in or  
23 transfers of shares of stock in any (a) building and loan association  
24 organized under the laws of the State of Nebraska or (b) federal savings  
25 and loan association incorporated under the provisions of the federal  
26 Home Owners' Loan Act, having its principal office and place of business  
27 in this state, without an order of approval from any court.

28 (3) Trustees created solely by the terms of a trust instrument may  
29 invest in, acquire, hold, and transfer such shares, and make withdrawals,  
30 in whole or in part, therefrom, without any order of court, unless  
31 expressly limited, restricted, or prohibited therefrom by the terms of



1 such trust instrument.

2 (4) All building and loan associations referred to in this section  
3 are qualified to act as trustee or custodian within the provisions of the  
4 federal Self-Employed Individuals Tax Retirement Act of 1962, as amended,  
5 or under the terms and provisions of section 408(a) of the Internal  
6 Revenue Code, if the provisions of such retirement plan require the funds  
7 of such trust or custodianship to be invested exclusively in shares or  
8 accounts in the association or in other associations. If any such  
9 retirement plan, within the judgment of the association, constitutes a  
10 qualified plan under the federal Self-Employed Individuals Tax Retirement  
11 Act of 1962, or under the terms and provisions of section 408(a) of the  
12 Internal Revenue Code, and the regulations promulgated thereunder at the  
13 time the trust was established and accepted by the association, is  
14 subsequently determined not to be such a qualified plan or subsequently  
15 ceases to be such a qualified plan, in whole or in part, the association  
16 may continue to act as trustee of any deposits theretofore made under  
17 such plan and to dispose of the same in accordance with the directions of  
18 the member and beneficiaries thereof. No association, in respect to  
19 savings made under this section, shall be required to segregate such  
20 savings from other assets of the association. The association shall keep  
21 appropriate records showing in proper detail all transactions engaged in  
22 under the authority of this section.

23 Sec. 11. Section 8-355, Revised Statutes Supplement, 2019, is  
24 amended to read:

25 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,  
26 or any other Nebraska statute, except as provided in section 8-345.02,  
27 any association incorporated under the laws of the State of Nebraska and  
28 organized under the provisions of such article shall have all the rights,  
29 powers, privileges, benefits, and immunities which may be exercised as of  
30 January 1, 2020 ~~2019~~, by a federal savings and loan association doing  
31 business in Nebraska. Such rights, powers, privileges, benefits, and

1 immunities shall not relieve such association from payment of state taxes  
2 assessed under any applicable laws of this state.

3 Sec. 12. Section 8-1101, Revised Statutes Supplement, 2019, is  
4 amended to read:

5 8-1101 For purposes of the Securities Act of Nebraska, unless the  
6 context otherwise requires:

7 (1) Agent means any individual other than a broker-dealer who  
8 represents a broker-dealer or issuer in effecting or attempting to effect  
9 sales of securities, but agent does not include an individual who  
10 represents (a) an issuer in (i) effecting a transaction in a security  
11 exempted by subdivision (6), (7), or (8) of section 8-1110, (ii)  
12 effecting certain transactions exempted by section 8-1111, (iii)  
13 effecting transactions in a federal covered security as described in  
14 section 18(b)(3) of the Securities Act of 1933, or (iv) effecting  
15 transactions with existing employees, limited liability company members,  
16 partners, or directors of the issuer or any of its subsidiaries if no  
17 commission or other remuneration is paid or given directly or indirectly  
18 for soliciting any person in this state or (b) a broker-dealer in  
19 effecting transactions described in section 15(h)(2) of the Securities  
20 Exchange Act of 1934. A partner, limited liability company member,  
21 officer, or director of a broker-dealer is an agent only if he or she  
22 otherwise comes within this definition;

23 (2) Broker-dealer means any person engaged in the business of  
24 effecting transactions in securities for the account of others or for his  
25 or her own account. Broker-dealer does not include (a) an issuer-dealer,  
26 agent, bank, savings institution, or trust company, (b) an issuer  
27 effecting a transaction in its own security exempted by subdivision (5)  
28 (a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a  
29 federal covered security pursuant to section 18(b)(1) of the Securities  
30 Act of 1933, (c) a person who has no place of business in this state if  
31 he or she effects transactions in this state exclusively with or through

1 the issuers of the securities involved in the transactions, other broker-  
2 dealers, or banks, savings institutions, credit unions, trust companies,  
3 insurance companies, investment companies as defined in the Investment  
4 Company Act of 1940, pension or profit-sharing trusts, or other financial  
5 institutions or institutional buyers, whether acting for themselves or as  
6 trustees, (d) a person who has no place of business in this state if  
7 during any period of twelve consecutive months he or she does not direct  
8 more than five offers to sell or to buy into this state in any manner to  
9 persons other than those specified in subdivision (2)(c) of this section,  
10 or (e) a person who is a resident of Canada and who has no office or  
11 other physical presence in Nebraska if the following conditions are  
12 satisfied: (i) The person must be registered with, or be a member of, a  
13 securities self-regulatory organization in Canada or a stock exchange in  
14 Canada; (ii) the person must maintain, in good standing, its provisional  
15 or territorial registration or membership in a securities self-regulatory  
16 organization in Canada, or stock exchange in Canada; (iii) the person  
17 effects, or attempts to effect, (A) a transaction with or for a Canadian  
18 client who is temporarily present in this state and with whom the  
19 Canadian broker-dealer had a bona fide customer relationship before the  
20 client entered this state or (B) a transaction with or for a Canadian  
21 client in a self-directed tax advantaged retirement plan in Canada of  
22 which that client is the holder or contributor; and (iv) the person  
23 complies with all provisions of the Securities Act of Nebraska relating  
24 to the disclosure of material information in connection with the  
25 transaction;

26 (3) Department means the Department of Banking and Finance. Director  
27 means the Director of Banking and Finance of the State of Nebraska except  
28 as further provided in section 8-1120;

29 (4) Federal covered adviser means a person who is registered under  
30 section 203 of the Investment Advisers Act of 1940;

31 (5) Federal covered security means any security described as a

1 covered security under section 18(b) of the Securities Act of 1933 or  
2 rules and regulations under the act;

3 (6) Guaranteed means guaranteed as to payment of principal,  
4 interest, or dividends;

5 (7) Investment adviser means any person who for compensation engages  
6 in the business of advising others, either directly or through  
7 publications or writings, as to the value of securities or as to the  
8 advisability of investing in, purchasing, or selling securities or who  
9 for compensation and as a part of a regular business issues or  
10 promulgates analyses or reports concerning securities. Investment adviser  
11 also includes financial planners and other persons who, as an integral  
12 component of other financially related services, provide the foregoing  
13 investment advisory services to others for compensation and as part of a  
14 business or who hold themselves out as providing the foregoing investment  
15 advisory services to others for compensation. Investment adviser does not  
16 include (a) an investment adviser representative, (b) a bank, savings  
17 institution, or trust company, (c) a lawyer, accountant, engineer, or  
18 teacher whose performance of these services is solely incidental to the  
19 practice of his or her profession, (d) a broker-dealer or its agent whose  
20 performance of these services is solely incidental to its business as a  
21 broker-dealer and who receives no special compensation for them, (e) an  
22 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,  
23 newsletter, news magazine, or business or financial publication or  
24 service, whether communicated in hard copy form, by electronic means, or  
25 otherwise which does not consist of the rendering of advice on the basis  
26 of the specific investment situation of each client, (g) a person who has  
27 no place of business in this state if (i) his or her only clients in this  
28 state are other investment advisers, federal covered advisers, broker-  
29 dealers, banks, savings institutions, credit unions, trust companies,  
30 insurance companies, investment companies as defined in the Investment  
31 Company Act of 1940, pension or profit-sharing trusts, or other financial

1 institutions or institutional buyers, whether acting for themselves or as  
2 trustees, or (ii) during the preceding twelve-month period, he or she has  
3 had five or fewer clients who are residents of this state other than  
4 those persons specified in subdivision (g)(i) of this subdivision, (h)  
5 any person that is a federal covered adviser or is excluded from the  
6 definition of investment adviser under section 202 of the Investment  
7 Adviser Act of 1940, or (i) such other persons not within the intent of  
8 this subdivision as the director may by rule and regulation or order  
9 designate;

10 (8) Investment adviser representative means any partner, limited  
11 liability company member, officer, or director or any person occupying a  
12 similar status or performing similar functions of a partner, limited  
13 liability company member, officer, or director or other individual,  
14 except clerical or ministerial personnel, who is employed by or  
15 associated with an investment adviser that is registered or required to  
16 be registered under the Securities Act of Nebraska or who has a place of  
17 business located in this state and is employed by or associated with a  
18 federal covered adviser, and who (a) makes any recommendations or  
19 otherwise renders advice regarding securities, (b) manages accounts or  
20 portfolios of clients, (c) determines which recommendation or advice  
21 regarding securities should be given, (d) solicits, offers, or negotiates  
22 for the sale of or sells investment advisory services, or (e) supervises  
23 employees who perform any of the foregoing;

24 (9) Issuer means any person who issues or proposes to issue any  
25 security, except that (a) with respect to certificates of deposit,  
26 voting-trust certificates, or collateral-trust certificates or with  
27 respect to certificates of interest or shares in an unincorporated  
28 investment trust not having a board of directors, or persons performing  
29 similar functions, or of the fixed, restricted management, or unit type,  
30 the term issuer means the person or persons performing the acts and  
31 assuming the duties of depositor or manager pursuant to the provisions of

1 the trust or other agreement or instrument under which the security is  
2 issued and (b) with respect to a fractional or pooled interest in a  
3 viatical settlement contract, issuer means the person who creates, for  
4 the purpose of sale, the fractional or pooled interest. In the case of a  
5 viatical settlement contract that is not fractionalized or pooled, issuer  
6 means the person effecting a transaction with a purchaser of such  
7 contract;

8 (10) Issuer-dealer means (a) any issuer located in the State of  
9 Nebraska or (b) any issuer which registered its securities by  
10 qualification who proposes to sell to the public of the State of Nebraska  
11 the securities that it issues without the benefit of another registered  
12 broker-dealer. Such securities shall have been approved for sale in the  
13 State of Nebraska pursuant to section 8-1104;

14 (11) Nonissuer means not directly or indirectly for the benefit of  
15 the issuer;

16 (12) Person means an individual, a corporation, a partnership, a  
17 limited liability company, an association, a joint-stock company, a trust  
18 in which the interests of the beneficiaries are evidenced by a security,  
19 an unincorporated organization, a government, or a political subdivision  
20 of a government;

21 (13) Sale or sell includes every contract of sale of, contract to  
22 sell, or disposition of a security or interest in a security for value.  
23 Offer or offer to sell includes every attempt or offer to dispose of, or  
24 solicitation of an offer to buy, a security or interest in a security for  
25 value. Any security given or delivered with or as a bonus on account of  
26 any purchase of securities or any other thing is considered to constitute  
27 part of the subject of the purchase and to have been offered and sold for  
28 value. A purported gift of assessable stock shall be considered to  
29 involve an offer and sale. Every sale or offer of a warrant or right to  
30 purchase or subscribe to another security of the same or another issuer,  
31 as well as every sale or offer of a security which gives the holder a

1 present or future right or privilege to convert into another security of  
2 the same or another issuer, shall be considered to include an offer of  
3 the other security;

4 (14) Securities Act of 1933, Securities Exchange Act of 1934,  
5 Investment Advisers Act of 1940, Investment Company Act of 1940, and  
6 Commodity Exchange Act, and the federal Interstate Land Sales Full  
7 Disclosure Act means the acts as they existed on January 1, 2020 ~~2019~~;

8 (15) Security means any note, stock, treasury stock, bond,  
9 debenture, units of beneficial interest in a real estate trust, evidence  
10 of indebtedness, certificate of interest or participation in any profit-  
11 sharing agreement, collateral-trust certificate, preorganization  
12 certificate or subscription, transferable share, investment contract,  
13 viatical settlement contract or any fractional or pooled interest in such  
14 contract, membership interest in any limited liability company organized  
15 under Nebraska law or any other jurisdiction unless otherwise excluded  
16 from this definition, voting-trust certificate, certificate of deposit  
17 for a security, certificate of interest or participation in an oil, gas,  
18 or mining title or lease or in payments out of production under such a  
19 title or lease, in general any interest or instrument commonly known as a  
20 security, or any certificate of interest or participation in, temporary  
21 or interim certificate for, guarantee of, or warrant or right to  
22 subscribe to or purchase any of the foregoing. Security does not include  
23 any insurance or endowment policy or annuity contract issued by an  
24 insurance company. Security also does not include a membership interest  
25 in a limited liability company when all of the following exist: (a) The  
26 member enters into a written commitment to be engaged actively and  
27 directly in the management of the limited liability company; and (b) all  
28 members of the limited liability company are actively engaged in the  
29 management of the limited liability company. For the limited purposes of  
30 determining professional malpractice insurance premiums, a security  
31 issued through a transaction that is exempted pursuant to subdivision

1 (23) of section 8-1111 shall not be considered a security;

2 (16) State means any state, territory, or possession of the United  
3 States as well as the District of Columbia and Puerto Rico; and

4 (17) Viatical settlement contract means an agreement for the  
5 purchase, sale, assignment, transfer, devise, or bequest of all or any  
6 portion of the death benefit or ownership of a life insurance policy or  
7 contract for consideration which is less than the expected death benefit  
8 of the life insurance policy or contract. Viatical settlement contract  
9 does not include (a) the assignment, transfer, sale, devise, or bequest  
10 of a death benefit of a life insurance policy or contract made by the  
11 viator to an insurance company or to a viatical settlement provider or  
12 broker licensed pursuant to the Viatical Settlements Act, (b) the  
13 assignment of a life insurance policy or contract to a bank, savings  
14 bank, savings and loan association, credit union, or other licensed  
15 lending institution as collateral for a loan, or (c) the exercise of  
16 accelerated benefits pursuant to the terms of a life insurance policy or  
17 contract and consistent with applicable law.

18 Sec. 13. Section 8-1101.01, Revised Statutes Supplement, 2019, is  
19 amended to read:

20 8-1101.01 For purposes of the Securities Act of Nebraska:

21 (1) Federal , ~~federal~~ rules and regulations adopted under the  
22 Investment Advisors Act of 1940 or the Securities Act of 1933 means such  
23 rules and regulations as they existed on January 1, 2020; and ~~2019~~.

24 (2) Fair practice or ethical rules or standards promulgated by the  
25 Securities and Exchange Commission, the Financial Industry Regulatory  
26 Authority, or a self-regulatory organization approved by the Securities  
27 and Exchange Commission means such practice, rules, or standards as they  
28 existed on January 1, 2020.

29 Sec. 14. Section 8-1103, Revised Statutes Supplement, 2019, is  
30 amended to read:

31 8-1103 (1) It shall be unlawful for any person to transact business



1 in this state as a broker-dealer, issuer-dealer, or agent, except in  
2 certain transactions exempt under section 8-1111, unless he or she is  
3 registered under the Securities Act of Nebraska. It shall be unlawful for  
4 any broker-dealer to employ an agent for purposes of effecting or  
5 attempting to effect transactions in this state unless the agent is  
6 registered. It shall be unlawful for an issuer to employ an agent unless  
7 the issuer is registered as an issuer-dealer and unless the agent is  
8 registered. The registration of an agent shall not be effective unless  
9 the agent is employed by a broker-dealer or issuer-dealer registered  
10 under the act. When the agent begins or terminates employment with a  
11 registered broker-dealer or issuer-dealer, the broker-dealer or issuer-  
12 dealer shall promptly notify the director.

13 (2)(a) It shall be unlawful for any person to transact business in  
14 this state as an investment adviser or as an investment adviser  
15 representative unless he or she is registered under the act.

16 (b) Except with respect to federal covered advisers whose only  
17 clients are those described in subdivision (7)(g)(i) of section 8-1101,  
18 it shall be unlawful for any federal covered adviser to conduct advisory  
19 business in this state unless such person files with the director the  
20 documents which are filed with the Securities and Exchange Commission, as  
21 the director may by rule and regulation or order require, a consent to  
22 service of process, and payment of the fee prescribed in subsection (6)  
23 of this section prior to acting as a federal covered adviser in this  
24 state.

25 (c)(i) It shall be unlawful for any investment adviser required to  
26 be registered under the Securities Act of Nebraska to employ an  
27 investment adviser representative unless the investment adviser  
28 representative is registered under the act.

29 (ii) It shall be unlawful for any federal covered adviser to employ,  
30 supervise, or associate with an investment adviser representative having  
31 a place of business located in this state unless such investment adviser

1 representative is registered under the Securities Act of Nebraska or is  
2 exempt from registration.

3 (d) The registration of an investment adviser representative shall  
4 not be effective unless the investment adviser representative is employed  
5 by a registered investment adviser or a federal covered adviser. When an  
6 investment adviser representative begins or terminates employment with an  
7 investment adviser, the investment adviser shall promptly notify the  
8 director. When an investment adviser representative begins or terminates  
9 employment with a federal covered adviser, the investment adviser  
10 representative shall promptly notify the director.

11 (3) A broker-dealer, issuer-dealer, agent, investment adviser, or  
12 investment adviser representative may apply for registration by filing  
13 with the director an application and payment of the fee prescribed in  
14 subsection (6) of this section. If the applicant is an individual, the  
15 application shall include the applicant's social security number.  
16 Registration of a broker-dealer or issuer-dealer shall automatically  
17 constitute registration of all partners, limited liability company  
18 members, officers, or directors of such broker-dealer or issuer-dealer as  
19 agents, except any partner, limited liability company member, officer, or  
20 director whose registration as an agent is denied, suspended, or revoked  
21 under subsection (9) of this section, without the filing of applications  
22 for registration as agents or the payment of fees for registration as  
23 agents. The application shall contain whatever information the director  
24 requires concerning such matters as:

25 (a) The applicant's form and place of organization;

26 (b) The applicant's proposed method of doing business;

27 (c) The qualifications and business history of the applicant and, in  
28 the case of a broker-dealer or investment adviser, the qualifications and  
29 business history of any partner, limited liability company member,  
30 officer, director, person occupying a similar status or performing  
31 similar functions of a partner, limited liability company member,

1 officer, or director, or person directly or indirectly controlling the  
2 broker-dealer or investment adviser;

3 (d) Any injunction or administrative order or conviction of a  
4 misdemeanor involving a security or any aspect of the securities business  
5 and any conviction of a felony;

6 (e) The applicant's financial condition and history; and

7 (f) Information to be furnished or disseminated to any client or  
8 prospective client if the applicant is an investment adviser.

9 (4)(a) If no denial order is in effect and no proceeding is pending  
10 under subsection (9) of this section, registration shall become effective  
11 at noon of the thirtieth day after an application is filed, complete with  
12 all amendments. The director may specify an earlier effective date.

13 (b) The director shall require as conditions of registration:

14 (i) That the applicant, except for renewal, and, in the case of a  
15 corporation, partnership, or limited liability company, the officers,  
16 directors, partners, or limited liability company members pass such  
17 examination or examinations as the director may prescribe as evidence of  
18 knowledge of the securities business;

19 (ii) That an issuer-dealer and its agents pass an examination  
20 prescribed and administered by the department. Such examination shall be  
21 administered upon request and upon payment of an examination fee of five  
22 dollars. Any applicant for issuer-dealer registration who has  
23 satisfactorily passed any other examination approved by the director  
24 shall be exempted from this requirement upon furnishing evidence of  
25 satisfactory completion of such examination to the director;

26 (iii) That an issuer-dealer have a minimum net capital of twenty-  
27 five thousand dollars. In lieu of a minimum net capital requirement of  
28 twenty-five thousand dollars, the director may require an issuer-dealer  
29 to post a corporate surety bond with a surety company licensed to do  
30 business in Nebraska in an amount equal to such capital requirements.  
31 When the director finds that a surety bond with a surety company would

1 cause an undue burden on an issuer-dealer, the director may require the  
2 issuer-dealer to post a signature bond. Every such surety or signature  
3 bond shall run in favor of Nebraska, shall provide for an action thereon  
4 by any person who has a cause of action under section 8-1118, and shall  
5 provide that no action may be maintained to enforce any liability on the  
6 bond unless brought within the time periods specified by section 8-1118;

7 (iv) That a broker-dealer have such minimum net capital as the  
8 director may by rule and regulation or order require, subject to the  
9 limitations provided in section 15 of the Securities Exchange Act of  
10 1934. In lieu of any such minimum net capital requirement, the director  
11 may by rule and regulation or order require a broker-dealer to post a  
12 corporate surety bond with a surety company licensed to do business in  
13 Nebraska in an amount equal to such capital requirement, subject to the  
14 limitations of section 15 of the Securities Exchange Act of 1934. Every  
15 such surety bond shall run in favor of Nebraska, shall provide for an  
16 action thereon by any person who has a cause of action under section  
17 8-1118, and shall provide that no action may be maintained to enforce any  
18 liability on the bond unless brought within the time periods specified by  
19 section 8-1118; and

20 (v) That an investment adviser have such minimum net capital as the  
21 director may by rule and regulation or order require, subject to the  
22 limitations of section 222 of the Investment Advisers Act of 1940, which  
23 may include different requirements for those investment advisers who  
24 maintain custody of clients' funds or securities or who have  
25 discretionary authority over such funds or securities and those  
26 investment advisers who do not. In lieu of any such minimum net capital  
27 requirement, the director may require by rule and regulation or order an  
28 investment adviser to post a corporate surety bond with a surety company  
29 licensed to do business in Nebraska in an amount equal to such capital  
30 requirement, subject to the limitations of section 222 of the Investment  
31 Advisers Act of 1940. Every such surety bond shall run in favor of

1 Nebraska, shall provide for an action thereon by any person who has a  
2 cause of action under section 8-1118, and shall provide that no action  
3 may be maintained to enforce any liability on the bond unless brought  
4 within the time periods specified by section 8-1118.

5 (c) The director may waive the requirement of an examination for any  
6 applicant who by reason of prior experience can demonstrate his or her  
7 knowledge of the securities business. Registration of a broker-dealer,  
8 agent, investment adviser, and investment adviser representative shall be  
9 effective for a period of not more than one year and shall expire on  
10 December 31 unless renewed. Registration of an issuer-dealer shall be  
11 effective for a period of not more than one year and may be renewed as  
12 provided in this section. Notice filings by a federal covered adviser  
13 shall be effective for a period of not more than one year and shall  
14 expire on December 31 unless renewed.

15 (d) The director may restrict or limit an applicant as to any  
16 function or activity in this state for which registration is required  
17 under the Securities Act of Nebraska.

18 (5) Registration of a broker-dealer, issuer-dealer, agent,  
19 investment adviser, or investment adviser representative may be renewed  
20 by filing with the director or with a registration depository designated  
21 by the director prior to the expiration date such information as the  
22 director by rule and regulation or order may require to indicate any  
23 material change in the information contained in the original application  
24 or any renewal application for registration as a broker-dealer, issuer-  
25 dealer, agent, investment adviser, or investment adviser representative  
26 previously filed with the director by the applicant, and payment of the  
27 prescribed fee. A federal covered adviser may renew its notice filing by  
28 filing with the director prior to the expiration thereof the documents  
29 filed with the Securities and Exchange Commission, as the director by  
30 rule and regulation or order may require, a consent to service of  
31 process, and the prescribed fee.

1           (6) The fee for initial or renewal registration shall be two hundred  
2 fifty dollars for a broker-dealer, two hundred dollars for an investment  
3 adviser, one hundred dollars for an issuer-dealer, forty dollars for an  
4 agent, and forty dollars for an investment adviser representative. The  
5 fee for initial or renewal filings for a federal covered adviser shall be  
6 two hundred dollars. When an application is denied or withdrawn, the  
7 director shall retain all of the fee.

8           (7)(a) Every registered broker-dealer, issuer-dealer, and investment  
9 adviser shall make and keep such accounts, correspondence, memoranda,  
10 papers, books, and other records as the director may prescribe by rule  
11 and regulation or order, except as provided by section 15 of the  
12 Securities Exchange Act of 1934, in connection with broker-dealers, and  
13 section 222 of the Investment Advisers Act of 1940, in connection with  
14 investment advisers. All records so required shall be preserved for such  
15 period as the director may prescribe by rule and regulation or order.

16           (b) All the records of a registered broker-dealer, issuer-dealer, or  
17 investment adviser shall be subject at any time or from time to time to  
18 such reasonable periodic, special, or other examinations by  
19 representatives of the director, within or without this state, as the  
20 director deems necessary or appropriate in the public interest or for the  
21 protection of investors and advisory clients. For the purpose of avoiding  
22 unnecessary duplication of examinations, the director, insofar as he or  
23 she deems it practicable in administering this subsection, may cooperate  
24 with the securities administrators of other states, the Securities and  
25 Exchange Commission, and any national securities exchange or national  
26 securities association registered under the Securities Exchange Act of  
27 1934. Costs of such examinations shall be borne by the registrant.

28           (c) Every registered broker-dealer, except as provided in section 15  
29 of the Securities Exchange Act of 1934, and investment adviser, except as  
30 provided by section 222 of the Investment Advisers Act of 1940, shall  
31 file such financial reports as the director may prescribe by rule and

1 regulation or order.

2 (d) If any information contained in any document filed with the  
3 director is or becomes inaccurate or incomplete in any material respect,  
4 a broker-dealer, issuer-dealer, agent, investment adviser, or investment  
5 adviser representative shall promptly file a correcting amendment or a  
6 federal covered adviser shall file a correcting amendment when such  
7 amendment is required to be filed with the Securities and Exchange  
8 Commission.

9 (8) With respect to investment advisers, the director may require  
10 that certain information be furnished or disseminated to clients as  
11 necessary or appropriate in the public interest or for the protection of  
12 investors and advisory clients. To the extent determined by the director  
13 in his or her discretion, information furnished to clients of an  
14 investment adviser that would be in compliance with the Investment  
15 Advisers Act of 1940 and the rules and regulations under such act may be  
16 used in whole or in part to satisfy the information requirement  
17 prescribed in this subsection.

18 (9)(a) The director may by order deny, suspend, or revoke  
19 registration of any broker-dealer, issuer-dealer, agent, investment  
20 adviser, or investment adviser representative or bar, censure, or impose  
21 a fine pursuant to subsection (4) of section 8-1108.01 on any registrant  
22 or any partner, limited liability company member, officer, director, or  
23 person occupying a similar status or performing similar functions of a  
24 partner, limited liability company member, officer, or director for a  
25 registrant from employment with any broker-dealer, issuer-dealer, or  
26 investment adviser if he or she finds that the order is in the public  
27 interest and that the applicant or registrant or, in the case of a  
28 broker-dealer, issuer-dealer, or investment adviser, any partner, limited  
29 liability company member, officer, director, person occupying a similar  
30 status or performing similar functions of a partner, limited liability  
31 company member, officer, or director, or person directly or indirectly

1 controlling the broker-dealer, issuer-dealer, or investment adviser:

2 (i) Has filed an application for registration under this section  
3 which, as of any date after filing in the case of an order denying  
4 effectiveness, was incomplete in any material respect or contained any  
5 statement which was, in the light of the circumstances under which it was  
6 made, false or misleading with respect to any material fact;

7 (ii) Has willfully violated or willfully failed to comply with any  
8 provision of the Securities Act of Nebraska or any rule and regulation or  
9 order under the act;

10 (iii) Has been convicted, within the past ten years, of any  
11 misdemeanor involving a security or commodity or any aspect of the  
12 securities or commodities business or any felony;

13 (iv) Is permanently or temporarily enjoined by any court of  
14 competent jurisdiction from engaging in or continuing any conduct or  
15 practice involving any aspect of the securities or commodities business;

16 (v) Is the subject of an order of the director denying, suspending,  
17 or revoking registration as a broker-dealer, issuer-dealer, agent,  
18 investment adviser, or investment adviser representative;

19 (vi) Is the subject of an adjudication or determination, after  
20 notice and opportunity for hearing, within the past ten years by a  
21 securities or commodities agency or administrator of another state or a  
22 court of competent jurisdiction that the person has willfully violated  
23 the Securities Act of 1933, the Securities Exchange Act of 1934, the  
24 Investment Advisers Act of 1940, the Investment Company Act of 1940, the  
25 Commodity Exchange Act, or the securities or commodities law of any other  
26 state;

27 (vii) Has engaged in dishonest or unethical practices in the  
28 securities or commodities business;

29 (viii) Is insolvent, either in the sense that his or her liabilities  
30 exceed his or her assets or in the sense that he or she cannot meet his  
31 or her obligations as they mature, but the director may not enter an



1 order against a broker-dealer, issuer-dealer, or investment adviser under  
2 this subdivision without a finding of insolvency as to the broker-dealer,  
3 issuer-dealer, or investment adviser;

4 (ix) Has not complied with a condition imposed by the director under  
5 subsection (4) of this section or is not qualified on the basis of such  
6 factors as training, experience, or knowledge of the securities business;

7 (x) Has failed to pay the proper filing fee, but the director may  
8 enter only a denial order under this subdivision, and he or she shall  
9 vacate any such order when the deficiency has been corrected;

10 (xi) Has failed to reasonably supervise his or her agents or  
11 employees, if he or she is a broker-dealer or issuer-dealer, or his or  
12 her investment adviser representatives or employees, if he or she is an  
13 investment adviser, to assure their compliance with the Securities Act of  
14 Nebraska;

15 (xii) Has been denied the right to do business in the securities  
16 industry, or the person's respective authority to do business in an  
17 investment-related industry has been revoked by any other state, federal,  
18 or foreign governmental agency or self-regulatory organization for cause,  
19 or the person has been the subject of a final order in a criminal, civil,  
20 injunctive, or administrative action for securities, commodities, or  
21 fraud-related violations of the law of any state, federal, or foreign  
22 governmental unit; or

23 (xiii) Has refused to allow or otherwise impedes the department from  
24 conducting an examination under subsection (7) of this section or has  
25 refused the department access to a registrant's office to conduct an  
26 examination under subsection (7) of this section.

27 (b) The director may by order bar any person from engaging in the  
28 securities business in this state if the director finds that the order is  
29 in the public interest and that the person has:

30 (i) Willfully violated or willfully failed to comply with any  
31 provision of the Securities Act of Nebraska or any rule and regulation or

1 order under the act; or

2 (ii) Engaged in dishonest or unethical practices in the securities  
3 business, which activity at the time was subject to regulation by the  
4 Securities Act of Nebraska.

5 (c)(i) For purposes of subdivisions (9)(a)(vii) and (9)(b)(ii) of  
6 this section, the director may, by rule and regulation or order,  
7 determine that a violation of any provision of the fair practice or  
8 ethical rules or standards promulgated by the Securities and Exchange  
9 Commission, the Financial Industry Regulatory Authority, or a self-  
10 regulatory organization approved by the Securities and Exchange  
11 Commission, ~~in effect on January 1, 2019,~~ constitutes a dishonest or  
12 unethical practice in the securities or commodities business.

13 (ii) The director may not institute a proceeding under this section  
14 on the basis of a final judicial or administrative order made known to  
15 him or her by the applicant prior to the effective date of the  
16 registration unless the proceeding is instituted within the next ninety  
17 days following registration. For purposes of this subdivision, a final  
18 judicial or administrative order does not include an order that is stayed  
19 or subject to further review or appeal. This subdivision shall not apply  
20 to renewed registrations.

21 (iii) The director may by order summarily postpone or suspend  
22 registration pending final determination of any proceeding under this  
23 subsection. Upon the entry of the order, the director shall promptly  
24 notify the applicant or registrant, as well as the employer or  
25 prospective employer if the applicant or registrant is an agent or  
26 investment adviser representative, that it has been entered and of the  
27 reasons therefor and that within fifteen business days after the receipt  
28 of a written request the matter will be set down for hearing. If no  
29 hearing is requested within fifteen business days of the issuance of the  
30 order and none is ordered by the director, the order shall automatically  
31 become a final order and shall remain in effect until it is modified or

1 vacated by the director. If a hearing is requested or ordered, the  
2 director, after notice of and opportunity for hearing, shall enter his or  
3 her written findings of fact and conclusions of law and may affirm,  
4 modify, or vacate the order. No order may be entered under this section  
5 denying or revoking registration without appropriate prior notice to the  
6 applicant or registrant, as well as the employer or prospective employer  
7 if the applicant or registrant is an agent or investment adviser  
8 representative, and opportunity for hearing.

9 (10)(a) If the director finds that any registrant or applicant for  
10 registration is no longer in existence or has ceased to do business as a  
11 broker-dealer, issuer-dealer, agent, investment adviser, or investment  
12 adviser representative, is subject to an adjudication of mental  
13 incompetence or to the control of a committee, conservator, or guardian,  
14 or cannot be located after reasonable search, the director may by order  
15 cancel the registration or application.

16 (b) If an applicant for registration does not complete the  
17 registration application and fails to respond to a notice or notices from  
18 the department to correct the deficiency or deficiencies for a period of  
19 one hundred twenty days or more after the date the department sends the  
20 initial notice to correct the deficiency, the department may deem the  
21 registration application as abandoned and may issue a notice of  
22 abandonment of the registration application to the applicant in lieu of  
23 proceedings to deny the application.

24 (c) Withdrawal from registration as a broker-dealer, issuer-dealer,  
25 agent, investment adviser, or investment adviser representative shall  
26 become effective thirty days after receipt of an application to withdraw  
27 or within a shorter period of time as the director may determine unless a  
28 revocation or suspension proceeding is pending when the application is  
29 filed or a proceeding to revoke or suspend or to impose conditions upon  
30 the withdrawal is instituted within thirty days after the application is  
31 filed. If a revocation or suspension proceeding is pending or instituted,

1 withdrawal shall become effective at such time and upon such conditions  
2 as the director shall order.

3 Sec. 15. Section 8-1111, Revised Statutes Supplement, 2019, is  
4 amended to read:

5 8-1111 Except as provided in this section, sections 8-1103 to 8-1109  
6 shall not apply to any of the following transactions:

7 (1) Any isolated transaction, whether effected through a broker-  
8 dealer or not;

9 (2)(a) Any nonissuer transaction by a registered agent of a  
10 registered broker-dealer, and any resale transaction by a sponsor of a  
11 unit investment trust registered under the Investment Company Act of  
12 1940, in a security of a class that has been outstanding in the hands of  
13 the public for at least ninety days if, at the time of the transaction:

14 (i) The issuer of the security is actually engaged in business and  
15 not in the organization stage or in bankruptcy or receivership and is not  
16 a blank check, blind pool, or shell company whose primary plan of  
17 business is to engage in a merger or combination of the business with, or  
18 an acquisition of, an unidentified person or persons;

19 (ii) The security is sold at a price reasonably related to the  
20 current market price of the security;

21 (iii) The security does not constitute the whole or part of an  
22 unsold allotment to, or a subscription or participation by, the broker-  
23 dealer as an underwriter of the security;

24 (iv) A nationally recognized securities manual designated by rule  
25 and regulation or order of the director or a document filed with the  
26 Securities and Exchange Commission which is publicly available through  
27 the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR)  
28 contains:

29 (A) A description of the business and operations of the issuer;

30 (B) The names of the issuer's officers and the names of the issuer's  
31 directors, if any, or, in the case of a non-United-States issuer, the

1 corporate equivalents of such persons in the issuer's country of  
2 domicile;

3 (C) An audited balance sheet of the issuer as of a date within  
4 eighteen months or, in the case of a reorganization or merger when  
5 parties to the reorganization or merger had such audited balance sheet, a  
6 pro forma balance sheet; and

7 (D) An audited income statement for each of the issuer's immediately  
8 preceding two fiscal years, or for the period of existence of the issuer  
9 if in existence for less than two years, or, in the case of a  
10 reorganization or merger when the parties to the reorganization or merger  
11 had such audited income statement, a pro forma income statement; and

12 (v) The issuer of the security has a class of equity securities  
13 listed on a national securities exchange registered under the Securities  
14 Exchange Act of 1934 unless:

15 (A) The issuer of the security is a unit investment trust registered  
16 under the Investment Company Act of 1940;

17 (B) The issuer of the security has been engaged in continuous  
18 business, including predecessors, for at least three years; or

19 (C) The issuer of the security has total assets of at least two  
20 million dollars based on an audited balance sheet as of a date within  
21 eighteen months or, in the case of a reorganization or merger when  
22 parties to the reorganization or merger had such audited balance sheet, a  
23 pro forma balance sheet; or

24 (b) Any nonissuer transaction in a security by a registered agent of  
25 a registered broker-dealer if:

26 (i) The issuer of the security is actually engaged in business and  
27 not in the organization stage or in bankruptcy or receivership and is not  
28 a blank check, blind pool, or shell company whose primary plan of  
29 business is to engage in a merger or combination of the business with, or  
30 an acquisition of, an unidentified person or persons; and

31 (ii) The security is senior in rank to the common stock of the

1 issuer both as to payment of dividends or interest and upon dissolution  
2 or liquidation of the issuer and such security has been outstanding at  
3 least three years and the issuer or any predecessor has not defaulted  
4 within the current fiscal year or the three immediately preceding fiscal  
5 years in the payment of any dividend, interest, principal, or sinking  
6 fund installment on the security when due and payable.

7       The director may by order deny or revoke the exemption specified in  
8 subdivision (a) or (b) of subdivision (2) of this section with respect to  
9 a specific security. Upon the entry of such an order, the director shall  
10 promptly notify all registered broker-dealers that such order has been  
11 entered and the reasons for such order and that within fifteen business  
12 days after receipt of a written request the matter will be set for  
13 hearing. If no hearing is requested within fifteen business days of the  
14 issuance of the order and none is ordered by the director, the order  
15 shall automatically become a final order and shall remain in effect until  
16 modified or vacated by the director. If a hearing is requested or  
17 ordered, the director shall, after notice of and opportunity for hearing  
18 to all interested persons, enter his or her written findings of fact and  
19 conclusions of law and may affirm, modify, or vacate the order. No such  
20 order shall operate retroactively. No person may be considered to have  
21 violated the Securities Act of Nebraska by reason of any offer or sale  
22 effected after the entry of any such order if he or she sustains the  
23 burden of proof that he or she did not know, and in the exercise of  
24 reasonable care could not have known, of the order;

25       (3) Any nonissuer transaction effected by or through a registered  
26 agent of a registered broker-dealer pursuant to an unsolicited order or  
27 offer to buy, but the director may by rule and regulation or order  
28 require that the customer acknowledge upon a specified form that the sale  
29 was unsolicited and that a signed copy of each such form be preserved by  
30 the broker-dealer for a specified period;

31       (4) Any transaction between the issuer or other person on whose

1 behalf the offering is made and an underwriter or among underwriters;

2 (5) Any transaction in a bond or other evidence of indebtedness  
3 secured by a real or chattel mortgage or deed of trust or by an agreement  
4 for the sale of real estate or chattels if the entire mortgage, deed of  
5 trust, or agreement, together with all the bonds or other evidences of  
6 indebtedness secured thereby, are offered and sold as a unit. Such  
7 exemption shall not apply to any transaction in a bond or other evidence  
8 of indebtedness secured by a real estate mortgage or deed of trust or by  
9 an agreement for the sale of real estate if the real estate securing the  
10 evidences of indebtedness are parcels of real estate the sale of which  
11 requires the subdivision in which the parcels are located to be  
12 registered under the federal Interstate Land Sales Full Disclosure Act,  
13 15 U.S.C. 1701 et seq., ~~as such act existed on January 1, 2019;~~

14 (6) Any transaction by an executor, personal representative,  
15 administrator, sheriff, marshal, receiver, guardian, or conservator;

16 (7) Any transaction executed by a bona fide pledgee without any  
17 purpose of evading the Securities Act of Nebraska;

18 (8)(a) Any offer or sale to any of the following, whether the  
19 purchaser is acting for itself or in some fiduciary capacity:

20 (i) A bank, savings institution, credit union, trust company, or  
21 other financial institution;

22 (ii) An insurance company;

23 (iii) An investment company as defined in the Investment Company Act  
24 of 1940;

25 (iv) A pension or profit-sharing trust;

26 (v) A broker-dealer;

27 (vi) A corporation with total assets in excess of five million  
28 dollars, not formed for the specific purpose of acquiring the securities  
29 offered;

30 (vii) A Massachusetts or similar business trust with total assets in  
31 excess of five million dollars, not formed for the specific purpose of

1 acquiring the securities offered;

2 (viii) A partnership with total assets in excess of five million  
3 dollars, not formed for the specific purpose of acquiring the securities  
4 offered;

5 (ix) A trust with total assets in excess of five million dollars,  
6 not formed for the specific purpose of acquiring the securities, whose  
7 purchase is directed by a person who has such knowledge and experience in  
8 financial and business matters that he or she is capable of evaluating  
9 the merits and risks of the prospective investment;

10 (x) Any entity in which all of the equity owners are individuals who  
11 are individual accredited investors as defined in subdivision (b) of this  
12 subdivision;

13 (xi) An institutional buyer as may be defined by the director by  
14 rule and regulation or order; or

15 (xii) An individual accredited investor.

16 (b) For purposes of subdivision (8)(a) of this section, individual  
17 accredited investor means (i) any director, executive officer, or general  
18 partner of the issuer of the securities being offered or sold, or any  
19 director, executive officer, or general partner of a general partner of  
20 that issuer, (ii) any manager of a limited liability company that is the  
21 issuer of the securities being offered or sold, (iii) any natural person  
22 whose individual net worth, or joint net worth with that person's spouse,  
23 at the time of his or her purchase, exceeds one million dollars,  
24 excluding the value of the primary residence of such person, or (iv) any  
25 natural person who had an individual income in excess of two hundred  
26 thousand dollars in each of the two most recent years or joint income  
27 with that person's spouse in excess of three hundred thousand dollars in  
28 each of those years and has a reasonable expectation of reaching the same  
29 income level in the current year;

30 (9)(a) Any transaction pursuant to an offering in which sales are  
31 made to not more than fifteen persons, other than those designated in



1 subdivisions (8), (11), and (17) of this section, in this state during  
2 any period of twelve consecutive months if (i) the seller reasonably  
3 believes that all the buyers are purchasing for investment, (ii) no  
4 commission or other remuneration is paid or given directly or indirectly  
5 for soliciting any prospective buyer except to a registered agent of a  
6 registered broker-dealer, (iii) a notice generally describing the terms  
7 of the transaction and containing a representation that the conditions of  
8 this exemption are met is filed by the seller with the director within  
9 thirty days after the first sale for which this exemption is claimed,  
10 except that failure to give such notice may be cured by an order issued  
11 by the director in his or her discretion, and (iv) no general or public  
12 advertisements or solicitations are made.

13 (b) If a seller (i) makes sales pursuant to this subdivision for  
14 five consecutive twelve-month periods or (ii) makes sales of at least one  
15 million dollars from an offering or offerings pursuant to this  
16 subdivision, the seller shall, within ninety days after the earlier of  
17 either such occurrence, file with the director audited financial  
18 statements and a sales report which lists the names and addresses of all  
19 purchasers and holders of the seller's securities and the amount of  
20 securities held by such persons. Subsequent thereto, such seller shall  
21 file audited financial statements and sales reports with the director  
22 each time an additional one million dollars in securities is sold  
23 pursuant to this subdivision or after the elapse of each additional  
24 sixty-month period during which sales are made pursuant to this  
25 subdivision;

26 (10) Any offer or sale of a preorganization certificate or  
27 subscription if (a) no commission or other remuneration is paid or given  
28 directly or indirectly for soliciting any prospective subscriber, (b) the  
29 number of subscribers does not exceed ten, and (c) no payment is made by  
30 any subscriber;

31 (11) Any transaction pursuant to an offer to existing security

1 holders of the issuer, including persons who at the time of the  
2 transaction are holders of convertible securities, nontransferable  
3 warrants, or transferable warrants exercisable within not more than  
4 ninety days of their issuance, if (a) no commission or other  
5 remuneration, other than a standby commission, is paid or given directly  
6 or indirectly for soliciting any security holder in this state or (b) the  
7 issuer first files a notice specifying the terms of the offer and the  
8 director does not by order disallow the exemption within the next five  
9 full business days;

10 (12) Any offer, but not a sale, of a security for which registration  
11 statements have been filed under both the Securities Act of Nebraska and  
12 the Securities Act of 1933 if no stop order or refusal order is in effect  
13 and no public proceeding or examination looking toward such an order is  
14 pending under either the Securities Act of Nebraska or the Securities Act  
15 of 1933;

16 (13) The issuance of any stock dividend, whether the corporation  
17 distributing the dividend is the issuer of the stock or not, if nothing  
18 of value is given by the stockholders for the distribution other than the  
19 surrender of a right to a cash dividend when the stockholder can elect to  
20 take a dividend in cash or stock;

21 (14) Any transaction incident to a right of conversion or a  
22 statutory or judicially approved reclassification, recapitalization,  
23 reorganization, quasi-reorganization, stock split, reverse stock split,  
24 merger, consolidation, or sale of assets;

25 (15) Any transaction involving the issuance for cash of any evidence  
26 of ownership interest or indebtedness by a cooperative formed as a  
27 corporation under section 21-1301 or 21-1401 or a limited cooperative  
28 association formed under the Nebraska Limited Cooperative Association Act  
29 if the issuer has first filed a notice of intention to issue with the  
30 director and the director has not by order, mailed to the issuer by  
31 certified or registered mail within ten business days after receipt

1 thereof, disallowed the exemption;

2 (16) Any transaction in this state not involving a public offering  
3 when (a) there is no general or public advertising or solicitation, (b)  
4 no commission or remuneration is paid directly or indirectly for  
5 soliciting any prospective buyer, except to a registered agent of a  
6 registered broker-dealer or registered issuer-dealer, (c) a notice  
7 generally describing the terms of the transaction and containing a  
8 representation that the conditions of this exemption are met is filed by  
9 the seller with the director within thirty days after the first sale for  
10 which this exemption is claimed, except that failure to give such notice  
11 may be cured by an order issued by the director in his or her discretion,  
12 (d) a filing fee of two hundred dollars is paid at the time of filing the  
13 notice, and (e) any such transaction is effected in accordance with rules  
14 and regulations of the director relating to this section when the  
15 director finds in adopting and promulgating such rules and regulations  
16 that the applicability of sections 8-1104 to 8-1107 is not necessary or  
17 appropriate in the public interest or for the protection of investors.  
18 For purposes of this subdivision, not involving a public offering means  
19 any offering in which the seller has reason to believe that the  
20 securities purchased are taken for investment and in which each offeree,  
21 by reason of his or her knowledge about the affairs of the issuer or  
22 otherwise, does not require the protections afforded by registration  
23 under sections 8-1104 to 8-1107 in order to make a reasonably informed  
24 judgment with respect to such investment;

25 (17) Any security issued in connection with an employees' stock  
26 purchase, savings, option, profit-sharing, pension, or similar employees'  
27 benefit plan, including any securities, plan interests, and guarantees  
28 issued under a compensatory benefit plan or compensation contract,  
29 contained in a record, established by the issuer, its parents, its  
30 majority-owned subsidiaries, or the majority-owned subsidiaries of the  
31 issuer's parent for the participation of their employees, if no

1 commission or other remuneration is paid or given directly or indirectly  
2 for soliciting any prospective buyer except to a registered agent of a  
3 registered broker-dealer. This subdivision shall apply to offers and  
4 sales to the following individuals:

5 (a) Directors; general partners; trustees, if the issuer is a  
6 business trust; officers; consultants; and advisors;

7 (b) Family members who acquire such securities from those persons  
8 through gifts or domestic relations orders;

9 (c) Former employees, directors, general partners, trustees,  
10 officers, consultants, and advisors if those individuals were employed by  
11 or providing services to the issuer when the securities were offered; and

12 (d) Insurance agents who are exclusive insurance agents of the  
13 issuer, or the issuer's subsidiaries or parents, or who derive more than  
14 fifty percent of their annual income from those organizations;

15 (18) Any interest in a common trust fund or similar fund maintained  
16 by a bank or trust company organized and supervised under the laws of any  
17 state or a bank organized under the laws of the United States for the  
18 collective investment and reinvestment of funds contributed to such  
19 common trust fund or similar fund by the bank or trust company in its  
20 capacity as trustee, personal representative, administrator, or guardian  
21 and any interest in a collective investment fund or similar fund  
22 maintained by the bank or trust company for the collective investment of  
23 funds contributed to such collective investment fund or similar fund by  
24 the bank or trust company in its capacity as trustee or agent which  
25 interest is issued in connection with an employee's savings, pension,  
26 profit-sharing, or similar benefit plan or a self-employed person's  
27 retirement plan, if a notice generally describing the terms of the  
28 collective investment fund or similar fund is filed by the bank or trust  
29 company with the director within thirty days after the establishment of  
30 the fund. Failure to give the notice may be cured by an order issued by  
31 the director in his or her discretion;

1           (19) Any transaction in which a United States Series EE Savings Bond  
2 is given or delivered with or as a bonus on account of any purchase of  
3 any item or thing;

4           (20) Any transaction in this state not involving a public offering  
5 by a Nebraska issuer selling solely to Nebraska residents, when (a) any  
6 such transaction is effected in accordance with rules and regulations of  
7 the director relating to this section when the director finds in adopting  
8 and promulgating such rules and regulations that the applicability of  
9 sections 8-1104 to 8-1107 is not necessary or appropriate in the public  
10 interest or for the protection of investors, (b) no commission or  
11 remuneration is paid directly or indirectly for soliciting any  
12 prospective buyer, except to a registered agent of a registered broker-  
13 dealer or registered issuer-dealer, (c) a notice generally describing the  
14 terms of the transaction and containing a representation that the  
15 conditions of this exemption are met is filed by the seller with the  
16 director no later than twenty days prior to any sales for which this  
17 exemption is claimed, except that failure to give such notice may be  
18 cured by an order issued by the director in his or her discretion, (d) a  
19 filing fee of two hundred dollars is paid at the time of filing the  
20 notice, and (e) there is no general or public advertising or  
21 solicitation;

22           (21) Any transaction by a person who is an organization described in  
23 section 501(c)(3) of the Internal Revenue Code as defined in section  
24 49-801.01 involving an offering of interests in a fund described in  
25 section 3(c)(10)(B) of the Investment Company Act of 1940 solely to  
26 persons who are organizations described in section 501(c)(3) of the  
27 Internal Revenue Code as defined in section 49-801.01 when (a) there is  
28 no general or public advertising or solicitation, (b) a notice generally  
29 describing the terms of the transaction and containing a representation  
30 that the conditions of this exemption are met is filed by the seller with  
31 the director within thirty days after the first sale for which this

1 exemption is claimed, except that failure to give such notice may be  
2 cured by an order issued by the director in his or her discretion, and  
3 (c) any such transaction is effected by a trustee, director, officer,  
4 employee, or volunteer of the seller who is either a volunteer or is  
5 engaged in the overall fundraising activities of a charitable  
6 organization and receives no commission or other special compensation  
7 based on the number or the value of interests sold in the fund;

8 (22) Any offer or sale of any viatical settlement contract or any  
9 fractionalized or pooled interest therein in a transaction that meets all  
10 of the following criteria:

11 (a) Sales of such securities are made only to the following  
12 purchasers:

13 (i) A natural person who, either individually or jointly with the  
14 person's spouse, (A) has a minimum net worth of two hundred fifty  
15 thousand dollars and had taxable income in excess of one hundred twenty-  
16 five thousand dollars in each of the two most recent years and has a  
17 reasonable expectation of reaching the same income level in the current  
18 year or (B) has a minimum net worth of five hundred thousand dollars. Net  
19 worth shall be determined exclusive of home, home furnishings, and  
20 automobiles;

21 (ii) A corporation, partnership, or other organization specifically  
22 formed for the purpose of acquiring securities offered by the issuer in  
23 reliance upon this exemption if each equity owner of the corporation,  
24 partnership, or other organization is a person described in subdivision  
25 (22)(a)(i) of this section;

26 (iii) A pension or profit-sharing trust of the issuer, a self-  
27 employed individual retirement plan, or an individual retirement account,  
28 if the investment decisions made on behalf of the trust, plan, or account  
29 are made solely by persons described in subdivision (22)(a)(i) of this  
30 section; or

31 (iv) An organization described in section 501(c)(3) of the Internal

1 Revenue Code as defined in section 49-801.01, or a corporation,  
2 Massachusetts or similar business trust, or partnership with total assets  
3 in excess of five million dollars according to its most recent audited  
4 financial statements;

5 (b) The amount of the investment of any purchaser, except a  
6 purchaser described in subdivision (a)(ii) of this subdivision, does not  
7 exceed five percent of the net worth, as determined by this subdivision,  
8 of that purchaser;

9 (c) Each purchaser represents that the purchaser is purchasing for  
10 the purchaser's own account or trust account, if the purchaser is a  
11 trustee, and not with a view to or for sale in connection with a  
12 distribution of the security;

13 (d)(i) Each purchaser receives, on or before the date the purchaser  
14 remits consideration pursuant to the purchase agreement, the following  
15 information in writing:

16 (A) The name, principal business and mailing addresses, and  
17 telephone number of the issuer;

18 (B) The suitability standards for prospective purchasers as set  
19 forth in subdivision (a) of this subdivision;

20 (C) A description of the issuer's type of business organization and  
21 the state in which the issuer is organized or incorporated;

22 (D) A brief description of the business of the issuer;

23 (E) If the issuer retains ownership or becomes the beneficiary of  
24 the insurance policy, an audit report from an independent certified  
25 public accountant together with a balance sheet and related statements of  
26 income, retained earnings, and cash flows that reflect the issuer's  
27 financial position, the results of the issuer's operations, and the  
28 issuer's cash flows as of a date within fifteen months before the date of  
29 the initial issuance of the securities described in this subdivision. The  
30 financial statements shall be prepared in conformity with generally  
31 accepted accounting principles. If the date of the audit report is more

1 than one hundred twenty days before the date of the initial issuance of  
2 the securities described in this subdivision, the issuer shall provide  
3 unaudited interim financial statements;

4 (F) The names of all directors, officers, partners, members, or  
5 trustees of the issuer;

6 (G) A description of any order, judgment, or decree that is final as  
7 to the issuing entity of any state, federal, or foreign governmental  
8 agency or administrator, or of any state, federal, or foreign court of  
9 competent jurisdiction (I) revoking, suspending, denying, or censuring  
10 for cause any license, permit, or other authority of the issuer or of any  
11 director, officer, partner, member, trustee, or person owning or  
12 controlling, directly or indirectly, ten percent or more of the  
13 outstanding interest or equity securities of the issuer, to engage in the  
14 securities, commodities, franchise, insurance, real estate, or lending  
15 business or in the offer or sale of securities, commodities, franchises,  
16 insurance, real estate, or loans, (II) permanently restraining,  
17 enjoining, barring, suspending, or censuring any such person from  
18 engaging in or continuing any conduct, practice, or employment in  
19 connection with the offer or sale of securities, commodities, franchises,  
20 insurance, real estate, or loans, (III) convicting any such person of, or  
21 pleading nolo contendere by any such person to, any felony or misdemeanor  
22 involving a security, commodity, franchise, insurance, real estate, or  
23 loan, or any aspect of the securities, commodities, franchise, insurance,  
24 real estate, or lending business, or involving dishonesty, fraud, deceit,  
25 embezzlement, fraudulent conversion, or misappropriation of property, or  
26 (IV) holding any such person liable in a civil action involving breach of  
27 a fiduciary duty, fraud, deceit, embezzlement, fraudulent conversion, or  
28 misappropriation of property. This subdivision does not apply to any  
29 order, judgment, or decree that has been vacated or overturned or is more  
30 than ten years old;

31 (H) Notice of the purchaser's right to rescind or cancel the



1 investment and receive a refund;

2 (I) A statement to the effect that any projected rate of return to  
3 the purchaser from the purchase of a viatical settlement contract or any  
4 fractionalized or pooled interest therein is based on an estimated life  
5 expectancy for the person insured under the life insurance policy; that  
6 the return on the purchase may vary substantially from the expected rate  
7 of return based upon the actual life expectancy of the insured that may  
8 be less than, may be equal to, or may greatly exceed the estimated life  
9 expectancy; and that the rate of return would be higher if the actual  
10 life expectancy were less than, and lower if the actual life expectancy  
11 were greater than, the estimated life expectancy of the insured at the  
12 time the viatical settlement contract was closed;

13 (J) A statement that the purchaser should consult with his or her  
14 tax advisor regarding the tax consequences of the purchase of the  
15 viatical settlement contract or any fractionalized or pooled interest  
16 therein; and

17 (K) Any other information as may be prescribed by rule and  
18 regulation or order of the director; and

19 (ii) The purchaser receives in writing at least five business days  
20 prior to closing the transaction:

21 (A) The name, address, and telephone number of the issuing insurance  
22 company and the name, address, and telephone number of the state or  
23 foreign country regulator of the insurance company;

24 (B) The total face value of the insurance policy and the percentage  
25 of the insurance policy the purchaser will own;

26 (C) The insurance policy number, issue date, and type;

27 (D) If a group insurance policy, the name, address, and telephone  
28 number of the group and, if applicable, the material terms and conditions  
29 of converting the policy to an individual policy, including the amount of  
30 increased premiums;

31 (E) If a term insurance policy, the term and the name, address, and

1 telephone number of the person who will be responsible for renewing the  
2 policy if necessary;

3 (F) That the insurance policy is beyond the state statute for  
4 contestability and the reason therefor;

5 (G) The insurance policy premiums and terms of premium payments;

6 (H) The amount of the purchaser's money that will be set aside to  
7 pay premiums;

8 (I) The name, address, and telephone number of the person who will  
9 be the insurance policyowner and the person who will be responsible for  
10 paying premiums;

11 (J) The date on which the purchaser will be required to pay premiums  
12 and the amount of the premium, if known; and

13 (K) Any other information as may be prescribed by rule and  
14 regulation or order of the director;

15 (e) The purchaser may rescind or cancel the purchase for any reason  
16 by giving written notice of rescission or cancellation to the issuer or  
17 the issuer's agent within (i) fifteen calendar days after the date the  
18 purchaser remits the required consideration or receives the disclosure  
19 required under subdivision (d)(i) of this subdivision and (ii) five  
20 business days after the date the purchaser receives the disclosure  
21 required by subdivision (d)(ii) of this subdivision. No specific form is  
22 required for the rescission or cancellation. The notice is effective when  
23 personally delivered, deposited in the United States mail, or deposited  
24 with a commercial courier or delivery service. The issuer shall refund  
25 all the purchaser's money within seven calendar days after receiving the  
26 notice of rescission or cancellation;

27 (f) A notice of the issuer's intent to sell securities pursuant to  
28 this subdivision, signed by a duly authorized officer of the issuer and  
29 notarized, together with a filing fee of two hundred dollars, is filed  
30 with the department before any offers or sales of securities are made  
31 under this subdivision. Such notice shall include:

1 (i) The issuer's name, the issuer's type of organization, the state  
2 in which the issuer is organized, the date the issuer intends to begin  
3 selling securities within or from this state, and the issuer's principal  
4 business;

5 (ii) A consent to service of process; and

6 (iii) An audit report of an independent certified public accountant  
7 together with a balance sheet and related statements of income, retained  
8 earnings and cash flows that reflect the issuer's financial position, the  
9 results of the issuer's operations, and the issuer's cash flows as of a  
10 date within fifteen months before the date of the notice prescribed in  
11 this subdivision. The financial statements shall be prepared in  
12 conformity with generally accepted accounting principles and shall be  
13 examined according to generally accepted auditing standards. If the date  
14 of the audit report is more than one hundred twenty days before the date  
15 of the notice prescribed in this subdivision, the issuer shall provide  
16 unaudited interim financial statements;

17 (g) No commission or remuneration is paid directly or indirectly for  
18 soliciting any prospective purchaser, except to a registered agent of a  
19 registered broker-dealer or registered issuer-dealer; and

20 (h) At least ten days before use within this state, the issuer files  
21 with the department all advertising and sales materials that will be  
22 published, exhibited, broadcast, or otherwise used, directly or  
23 indirectly, in the offer or sale of a viatical settlement contract in  
24 this state;

25 (23) Any transaction in this state not involving a public offering  
26 by a Nebraska issuer selling solely to Nebraska residents when:

27 (a) The proceeds from all sales of securities by the issuer in any  
28 two-year period do not exceed seven hundred fifty thousand dollars or  
29 such greater amount as from time to time may be set in accordance with  
30 rules and regulations adopted and promulgated by the director to adjust  
31 the amount to reflect changes in the Consumer Price Index for All Urban

1 Consumers as prepared by the United States Department of Labor, Bureau of  
2 Labor Statistics, and at least eighty percent of the proceeds are used in  
3 Nebraska;

4 (b) No commission or other remuneration is paid or given directly or  
5 indirectly for soliciting any prospective buyer except to a registered  
6 agent of a registered broker-dealer;

7 (c) The issuer, any partner or limited liability company member of  
8 the issuer, any officer, director, or any person occupying a similar  
9 status of the issuer, any person performing similar functions for the  
10 issuer, or any person holding a direct or indirect ownership interest in  
11 the issuer or in any way a beneficial interest in such sale of securities  
12 of the issuer, has not been:

13 (i) Found by a final order of any state or federal administrative  
14 agency or a court of competent jurisdiction to have violated any  
15 provision of the Securities Act of Nebraska or a similar act of any other  
16 state or of the United States;

17 (ii) Convicted of any felony or misdemeanor in connection with the  
18 offer, purchase, or sale of any security or any felony involving fraud or  
19 deceit, including, but not limited to, forgery, embezzlement, obtaining  
20 money under false pretenses, larceny, or conspiracy to defraud;

21 (iii) Found by any state or federal administrative agency or court  
22 of competent jurisdiction to have engaged in fraud or deceit, including,  
23 but not limited to, making an untrue statement of a material fact or  
24 omitting to state a material fact; or

25 (iv) Temporarily or preliminarily restrained or enjoined by a court  
26 of competent jurisdiction from engaging in or continuing any conduct or  
27 practice in connection with the purchase or sale of any security or  
28 involving the making of any false filing with any state or with the  
29 Securities and Exchange Commission;

30 (d)(i) At least fifteen business days prior to the offer or sale,  
31 the issuer files a notice with the director, which notice shall include:

1 (A) The name, address, telephone number, and email address of the  
2 issuer;

3 (B) The name and address of each person holding direct or indirect  
4 ownership or beneficial interest in the issuer;

5 (C) The amount of the offering; and

6 (D) The type of security being offered, the manner in which  
7 purchasers will be solicited, and a statement made upon oath or  
8 affirmation that the conditions of this exemption have been or will be  
9 met.

10 (ii) Failure to give such notice may be cured by an order issued by  
11 the director in his or her discretion;

12 (e) Prior to payment of consideration for the securities, the  
13 offeree receives a written disclosure statement containing (i) a  
14 description of the proposed use of the proceeds of the offering; (ii) the  
15 name of each partner or limited liability company member of the issuer,  
16 officer, director, or person occupying a similar status of the issuer or  
17 performing similar functions for the issuer; and (iii) the financial  
18 condition of the issuer;

19 (f) The purchaser signs a subscription agreement in which the  
20 purchaser acknowledges that he or she:

21 (i) Has received the written disclosure statement;

22 (ii) Understands the investment involves a high level of risk; and

23 (iii) Has the financial resources to withstand the total loss of the  
24 money invested; and

25 (g) The issuer, within thirty days after the completion of the  
26 offering, files with the department a statement indicating the number of  
27 investors, the total dollar amount raised, and the use of the offering  
28 proceeds; or

29 (24)(a) An offer or a sale of a security made after August 30, 2015,  
30 by an issuer if the offer or sale is conducted in accordance with all the  
31 following requirements:

1 (i) The issuer of the security is a business entity organized under  
2 the laws of Nebraska and authorized to do business in Nebraska;

3 (ii) The transaction meets the requirements of the federal exemption  
4 for intrastate offerings in section 3(a)(11) of the Securities Act of  
5 1933 and Rule 147 adopted under the Securities Act of 1933, or complies  
6 with Rule 147A adopted under the Securities Act of 1933;

7 (iii) Except as provided in subdivision (c) of this subdivision, the  
8 sum of all cash and other consideration to be received for all sales of  
9 the security in reliance on the exemption under this subdivision,  
10 excluding sales to any accredited investor, does not exceed the following  
11 amount:

12 (A) If the issuer has not undergone, and made available to each  
13 prospective investor and the director the documentation resulting from, a  
14 financial audit of its most recently completed fiscal year that complies  
15 with generally accepted accounting principles, one million dollars, less  
16 the aggregate amount received for all sales of securities by the issuer  
17 within the twelve months before the first offer or sale made in reliance  
18 on the exemption under this subdivision; or

19 (B) If the issuer has undergone, and made available to each  
20 prospective investor and the director the documentation resulting from, a  
21 financial audit of its most recently completed fiscal year that complies  
22 with generally accepted accounting principles, two million dollars, less  
23 the aggregate amount received for all sales of securities by the issuer  
24 within the twelve months before the first offer or sale made in reliance  
25 on the exemption under this subdivision;

26 (iv) The issuer does not accept more than five thousand dollars from  
27 any single purchaser except that such limitation shall not apply to an  
28 accredited investor;

29 (v) Unless waived by written consent by the director, not less than  
30 ten days before the commencement of an offering of securities in reliance  
31 on the exemption under this subdivision, the issuer must do all the

1 following:

2 (A) Make a notice filing with the department on a form prescribed by  
3 the director;

4 (B) Pay a filing fee of two hundred dollars. However, no filing fee  
5 is required to file amendments to the form;

6 (C) Provide the director a copy of the disclosure document to be  
7 provided to prospective investors under subdivision (a)(xi) of this  
8 subdivision;

9 (D) Provide the director a copy of an escrow agreement with a bank,  
10 regulated trust company, savings bank, savings and loan association, or  
11 credit union authorized to do business in Nebraska in which the issuer  
12 will deposit the investor funds or cause the investor funds to be  
13 deposited. The bank, regulated trust company, savings bank, savings and  
14 loan association, or credit union in which the investor funds are  
15 deposited is only responsible to act at the direction of the party  
16 establishing the escrow agreement and does not have any duty or  
17 liability, contractual or otherwise, to any investor or other person;

18 (E) The issuer shall not access the escrow funds until the aggregate  
19 funds raised from all investors equals or exceeds the minimum amount  
20 specified in the escrow agreement; and

21 (F) An investor may cancel the investor's commitment to invest if  
22 the target offering amount is not raised before the time stated in the  
23 escrow agreement;

24 (vi) The issuer is not, either before or as a result of the  
25 offering, an investment company, as defined in section 3 of the  
26 Investment Company Act of 1940, an entity that would be an investment  
27 company but for the exclusions provided in section 3(c) of the Investment  
28 Company Act of 1940, or subject to the reporting requirements of section  
29 13 or 15(d) of the Securities Exchange Act of 1934;

30 (vii) The issuer informs all prospective purchasers of securities  
31 offered under an exemption under this subdivision that the securities

1 have not been registered under federal or state securities law and that  
2 the securities are subject to limitations on resale. The issuer shall  
3 display the following legend conspicuously on the cover page of the  
4 disclosure document:

5 IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN  
6 EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE  
7 MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY  
8 ANY FEDERAL OR STATE SECURITIES COMMISSION, DEPARTMENT, OR DIVISION OR  
9 OTHER REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE  
10 NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT.  
11 ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE  
12 SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND  
13 MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (e) OF  
14 SEC RULE 147 OR SUBSECTION (e) OF RULE 147A ADOPTED UNDER THE SECURITIES  
15 ACT OF 1933 AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO  
16 REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY  
17 WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN  
18 INDEFINITE PERIOD OF TIME.;

19 (viii) The issuer requires each purchaser to certify in writing or  
20 electronically as follows:

21 I understand and acknowledge that I am investing in a high-risk,  
22 speculative business venture. I may lose all of my investment, or under  
23 some circumstances more than my investment, and I can afford this loss.  
24 This offering has not been reviewed or approved by any state or federal  
25 securities commission, department, or division or other regulatory  
26 authority and no such person or authority has confirmed the accuracy or  
27 determined the adequacy of any disclosure made to me relating to this  
28 offering. The securities I am acquiring in this offering are illiquid,  
29 there is no ready market for the sale of such securities, it may be  
30 difficult or impossible for me to sell or otherwise dispose of this  
31 investment, and, accordingly, I may be required to hold this investment



1 indefinitely. I may be subject to tax on my share of the taxable income  
2 and losses of the company, whether or not I have sold or otherwise  
3 disposed of my investment or received any dividends or other  
4 distributions from the company.;

5 (ix) The issuer obtains from each purchaser of a security offered  
6 under an exemption under this subdivision evidence that the purchaser is  
7 a resident of Nebraska and, if applicable, is an individual accredited  
8 investor;

9 (x) All payments for purchase of securities offered under an  
10 exemption under this subdivision are directed to and held by the  
11 financial institution specified in subdivision (a)(v)(D) of this  
12 subdivision. The director may request from the financial institutions  
13 information necessary to ensure compliance with this section. This  
14 information is not a public record and is not available for public  
15 inspection;

16 (xi) The issuer of securities offered under an exemption under this  
17 subdivision provides a disclosure document to each prospective investor  
18 at the time the offer of securities is made to the prospective investor  
19 that contains all the following:

20 (A) A description of the company, its type of entity, the address  
21 and telephone number of its principal office, its history, its business  
22 plan, and the intended use of the offering proceeds, including any  
23 amounts to be paid, as compensation or otherwise, to any owner, executive  
24 officer, director, managing member, or other person occupying a similar  
25 status or performing similar functions on behalf of the issuer;

26 (B) The identity of all persons owning more than twenty percent of  
27 the ownership interests of any class of securities of the company;

28 (C) The identity of the executive officers, directors, managing  
29 members, and other persons occupying a similar status or performing  
30 similar functions in the name of and on behalf of the issuer, including  
31 their titles and their prior experience;

1 (D) The terms and conditions of the securities being offered and of  
2 any outstanding securities of the company; the minimum and maximum amount  
3 of securities being offered, if any; either the percentage ownership of  
4 the company represented by the offered securities or the valuation of the  
5 company implied by the price of the offered securities; the price per  
6 share, unit, or interest of the securities being offered; any  
7 restrictions on transfer of the securities being offered; and a  
8 disclosure of any anticipated future issuance of securities that might  
9 dilute the value of securities being offered;

10 (E) The identity of any person who has been or will be retained by  
11 the issuer to assist the issuer in conducting the offering and sale of  
12 the securities, including any portal operator but excluding persons  
13 acting solely as accountants or attorneys and employees whose primary job  
14 responsibilities involve the operating business of the issuer rather than  
15 assisting the issuer in raising capital;

16 (F) For each person identified as required in subdivision (a)(xi)(E)  
17 of this subdivision, a description of the consideration being paid to the  
18 person for such assistance;

19 (G) A description of any litigation, legal proceedings, or pending  
20 regulatory action involving the company or its management;

21 (H) The names and addresses of each portal operator that will be  
22 offering or selling the issuer's securities under an exemption under this  
23 subdivision;

24 (I) The Uniform Resource Locator for each funding portal that will  
25 be used by the portal operator to offer or sell the issuer's securities  
26 under an exemption under this subdivision; and

27 (J) Any additional information material to the offering, including,  
28 if appropriate, a discussion of significant factors that make the  
29 offering speculative or risky. This discussion must be concise and  
30 organized logically and may not be limited to risks that could apply to  
31 any issuer or any offering;

1 (xii) The offering or sale exempted under this subdivision is made  
2 exclusively through one or more funding portals and each funding portal  
3 is subject to the following:

4 (A) Before any offer or sale of securities, the issuer must provide  
5 to the portal operator evidence that the issuer is organized under the  
6 laws of Nebraska and is authorized to do business in Nebraska;

7 (B) Subject to subdivisions (a)(xii)(C) and (E) of this subdivision,  
8 the portal operator must register with the department by filing a  
9 statement, accompanied by a two-hundred-dollar filing fee, that includes  
10 the following information:

11 (I) Documentation which demonstrates that the portal operator is a  
12 business entity and authorized to do business in Nebraska;

13 (II) A representation that the funding portal is being used to offer  
14 and sell securities pursuant to the exemption under this subdivision; and

15 (III) The identity and location of, and contact information for, the  
16 portal operator;

17 (C) The portal operator is not required to register as a broker-  
18 dealer if all of the following apply with respect to the funding portal  
19 and its portal operator:

20 (I) It does not offer investment advice or recommendations;

21 (II) It does not solicit purchases, sales, or offers to buy the  
22 securities offered or displayed on the funding portal;

23 (III) It does not compensate employees, agents, or other persons for  
24 the solicitation or based on the sale of securities displayed or  
25 referenced on the funding portal;

26 (IV) It is not compensated based on the amount of securities sold,  
27 and it does not hold, manage, possess, or otherwise handle investor funds  
28 or securities;

29 (V) The fee it charges an issuer for an offering of securities on  
30 the funding portal is a fixed amount for each offering, a variable amount  
31 based on the length of time that the securities are offered on the

1 funding portal, or a combination of the fixed and variable amounts;

2 (VI) It does not identify, promote, or otherwise refer to any  
3 individual security offered on the funding portal in any advertising for  
4 the funding portal;

5 (VII) It does not engage in any other activities that the director,  
6 by rule and regulation or order, determines are prohibited of the funding  
7 portal; and

8 (VIII) Neither the portal operator, nor any director, executive  
9 officer, general partner, managing member, or other person with  
10 management authority over the portal operator, has been subject to any  
11 conviction, order, judgment, decree, or other action specified in Rule  
12 506(d)(1) adopted under the Securities Act of 1933, that would disqualify  
13 an issuer under Rule 506(d) adopted under the Securities Act of 1933,  
14 from claiming an exemption specified in Rule 506(a) to Rule 506(c)  
15 adopted under the Securities Act of 1933. However, this subdivision does  
16 not apply if both of the following are met:

17 (1) On a showing of good cause and without prejudice to any other  
18 action by the Director of Banking and Finance, the director determines  
19 that it is not necessary under the circumstances that an exemption is  
20 denied; and

21 (2) The portal operator establishes that it made a factual inquiry  
22 into whether any disqualification existed under this subdivision but did  
23 not know, and in the exercise of reasonable care, could not have known,  
24 that a disqualification existed under this subdivision. The nature and  
25 scope of the requisite inquiry will vary based on the circumstances of  
26 the issuer and the other offering participants;

27 (D) If any change occurs that affects the funding portal's  
28 registration exemption, the portal operator must notify the department  
29 within thirty days after the change occurs;

30 (E) A registered broker-dealer who also serves as a portal operator  
31 must register with the department as a portal operator pursuant to

1 subdivision (a)(xii)(B) of this subdivision, except that the fee for  
2 registration shall be waived;

3 (F) The issuer and the portal operator must maintain records of all  
4 offers and sales of securities effected through the funding portal and  
5 must provide ready access to the records to the department, upon request.  
6 The records of a portal operator under this subdivision are subject to  
7 the reasonable periodic, special, or other audits or inspections by a  
8 representative of the director, in or outside Nebraska, as the director  
9 considers necessary or appropriate in the public interest and for the  
10 protection of investors. An audit or inspection may be made at any time  
11 and without prior notice. The director may copy, and remove for audit or  
12 inspection copies of, all records the director reasonably considers  
13 necessary or appropriate to conduct the audit or inspection. The director  
14 may assess a reasonable charge for conducting an audit or inspection  
15 under this subdivision;

16 (G) The portal operator shall limit web site access to the offer or  
17 sale of securities to only Nebraska residents;

18 (H) The portal operator shall not hold, manage, possess, or handle  
19 investor funds or securities; and

20 (I) The portal operator may not be an investor in any Nebraska  
21 offering under this subdivision.

22 (b) An issuer of a security, the offer and sale of which is exempt  
23 under this subdivision, shall provide, free of charge, a quarterly report  
24 to the issuer's investors until no securities issued under an exemption  
25 under this subdivision are outstanding. An issuer may satisfy the  
26 reporting requirement of this subdivision by making the information  
27 available on a funding portal if the information is made available within  
28 forty-five days after the end of each fiscal quarter and remains  
29 available until the succeeding quarterly report is issued. An issuer  
30 shall file each quarterly report under this subdivision with the  
31 department and, if the quarterly report is made available on a funding

1 portal, the issuer shall also provide a written copy of the report to any  
2 investor upon request. The report must contain all the following:

3 (i) Compensation received by each director and executive officer,  
4 including cash compensation earned since the previous report and on an  
5 annual basis and any bonuses, stock options, other rights to receive  
6 securities of the issuer or any affiliate of the issuer, or other  
7 compensation received; and

8 (ii) An analysis by management of the issuer of the business  
9 operations and financial condition of the issuer.

10 (c) An offer or a sale under this subdivision to an officer,  
11 director, partner, trustee, or individual occupying similar status or  
12 performing similar functions with respect to the issuer or to a person  
13 owning ten percent or more of the outstanding shares of any class or  
14 classes of securities of the issuer does not count toward the monetary  
15 limitations in subdivision (a)(iii) of this subdivision.

16 (d) The exemption under this subdivision may not be used in  
17 conjunction with any other exemption under the Securities Act of  
18 Nebraska, except for offers and sales to individuals identified in the  
19 disclosure document, during the immediately preceding twelve-month  
20 period.

21 (e) The exemption under this subdivision does not apply if an issuer  
22 or any director, executive officer, general partner, managing member, or  
23 other person with management authority over the issuer, has been subject  
24 to any conviction, order, judgment, decree, or other action specified in  
25 Rule 506(d)(1) adopted under the Securities Act of 1933, that would  
26 disqualify an issuer under Rule 506(d) adopted under the Securities Act  
27 of 1933, from claiming an exemption specified in Rule 506(a) to Rule  
28 506(c) adopted under the Securities Act of 1933. However, this  
29 subdivision does not apply if both of the following are met:

30 (i) On a showing of good cause and without prejudice to any other  
31 action by the Director of Banking and Finance, the director determines

1 that it is not necessary under the circumstances that an exemption is  
2 denied; and

3 (ii) The issuer establishes that it made a factual inquiry into  
4 whether any disqualification existed under this subdivision but did not  
5 know, and in the exercise of reasonable care, could not have known, that  
6 a disqualification existed under this subdivision. The nature and scope  
7 of the requisite inquiry will vary based on the circumstances of the  
8 issuer and the other offering participants.

9 (f) For purposes of this subdivision:

10 (i) Accredited investor means a bank, a savings institution, a trust  
11 company, an insurance company, an investment company as defined in the  
12 Investment Company Act of 1940, a pension or profit-sharing trust or  
13 other financial institution or institutional buyer, an individual  
14 accredited investor, or a broker-dealer, whether the purchaser is acting  
15 for itself or in some fiduciary capacity;

16 (ii) Funding portal means an Internet web site that is operated by a  
17 portal operator for the offer and sale of securities pursuant to this  
18 subdivision;

19 (iii) Individual accredited investor means (A) any director,  
20 executive officer, or general partner of the issuer of the securities  
21 being offered or sold, or any director, executive officer, or general  
22 partner of a general partner of that issuer, (B) any manager of a limited  
23 liability company that is the issuer of the securities being offered or  
24 sold, (C) any natural person whose individual net worth, or joint net  
25 worth with that person's spouse, at the time of his or her purchase,  
26 exceeds one million dollars, excluding the value of the primary residence  
27 of such person, or (D) any natural person who had an individual income in  
28 excess of two hundred thousand dollars in each of the two most recent  
29 years or joint income with that person's spouse in excess of three  
30 hundred thousand dollars in each of those years and has a reasonable  
31 expectation of reaching the same income level in the current year; and

1 (iv) Portal operator means an entity authorized to do business in  
2 this state which operates a funding portal and has registered with the  
3 department as required by this subdivision.

4 Sec. 16. Section 8-1704, Revised Statutes Supplement, 2019, is  
5 amended to read:

6 8-1704 CFTC rule shall mean any rule, regulation, or order of the  
7 Commodity Futures Trading Commission in effect on January 1, 2020 ~~2019~~.

8 Sec. 17. Section 8-1707, Revised Statutes Supplement, 2019, is  
9 amended to read:

10 8-1707 Commodity Exchange Act shall mean the act of Congress known  
11 as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2020  
12 ~~2019~~.

13 Sec. 18. For purposes of sections 18 to 20 of this act:

14 (1) Account means a contract of deposit of funds between the  
15 depositor and a financial institution and:

16 (a) The account is owned by a vulnerable adult or senior adult,  
17 whether individually or with one or more other persons; or

18 (b) A vulnerable adult or senior adult is a beneficiary of the  
19 account, including a formal or informal trust account, a payable on death  
20 account, a conservatorship account, or a guardianship account;

21 (2) Department means the Department of Health and Human Services;

22 (3) Financial exploitation means:

23 (a) The wrongful or unauthorized taking, withholding, appropriation,  
24 or use of the money, assets, or other property or the identifying  
25 information of a vulnerable adult or senior adult by any person; or

26 (b) An act or omission by a person, including through the use of a  
27 power of attorney on behalf of, or as the conservator or guardian of, a  
28 vulnerable adult or senior adult, to:

29 (i) Obtain control, through deception, intimidation, fraud, or undue  
30 influence, over the vulnerable adult's or senior adult's money, assets,  
31 or other property to deprive the vulnerable adult or senior adult of the



1 ownership, use, benefit, or possession of the property; or

2 (ii) Convert the money, assets, or other property of a vulnerable  
3 adult or senior adult to deprive a vulnerable adult or senior adult of  
4 the ownership, use, benefit, or possession of the property;

5 (4) Financial institution means a bank, savings bank, building and  
6 loan association, savings and loan association, or credit union, whether  
7 chartered by the Department of Banking and Finance, the United States, or  
8 a foreign state agency; any other similar organization which is covered  
9 by federal deposit insurance; a subsidiary or affiliate of any such  
10 entity; or a trust company as defined in section 8-230;

11 (5) Law enforcement agency has the same meaning as in section  
12 28-359;

13 (6) Senior adult has the same meaning as in section 28-366.01;

14 (7) Transaction means any of the following as applicable to services  
15 provided by a financial institution:

16 (a) A transfer or request to transfer or disburse funds or assets in  
17 an account;

18 (b) A request to initiate a wire transfer, initiate an automated  
19 clearinghouse transfer, or issue a money order, cashier's check, or  
20 official check;

21 (c) A request to negotiate a check or other negotiable instrument;

22 (d) A request to change the ownership of, or access to, an account;

23 (e) A request for a loan, guarantee of a loan, extension of credit,  
24 or draw on a line of credit;

25 (f) A request to encumber any movable or immovable property,  
26 including real property, personal property, or fixtures; and

27 (g) A request to designate or change the designation of  
28 beneficiaries to receive any property, benefit, or contract right for a  
29 vulnerable adult or senior adult at death; and

30 (8) Vulnerable adult has the same meaning as in section 28-371.

31 Sec. 19. (1) It is the intent of the Legislature to provide legal

1 protection to financial institutions so that they have the discretion to  
2 take action to assist in detecting and preventing financial exploitation;

3 (2) The Legislature recognizes that financial institutions are in a  
4 unique position to potentially discover financial exploitation when  
5 conducting transactions on behalf of and at the request of their  
6 customers;

7 (3) The Legislature recognizes that financial institutions have  
8 duties imposed by contract and duties imposed by both federal and state  
9 law to conduct transactions requested by their customers faithfully and  
10 timely in accordance with the customer's instructions; and

11 (4) The Legislature recognizes that financial institutions do not  
12 have a duty to contravene the valid instructions of their customers and  
13 nothing in sections 18 to 20 of this act creates such a duty.

14 Sec. 20. (1) When a financial institution, or an employee of a  
15 financial institution, reasonably believes, or has received information  
16 from the department or a law enforcement agency demonstrating that it is  
17 reasonable to believe, that financial exploitation of a vulnerable adult  
18 or senior adult may have occurred, may have been attempted, is occurring,  
19 or is being attempted, the financial institution may, but is not required  
20 to:

21 (a) Delay or refuse a transaction with or involving the vulnerable  
22 adult or senior adult;

23 (b) Delay or refuse to permit the withdrawal or disbursement of  
24 funds contained in the vulnerable adult's or senior adult's account;

25 (c) Prevent a change in ownership of the vulnerable adult's or  
26 senior adult's account;

27 (d) Prevent a transfer of funds from the vulnerable adult's or  
28 senior adult's account to an account owned wholly or partially by another  
29 person;

30 (e) Refuse to comply with instructions given to the financial  
31 institution by an agent or a person acting for or with an agent under a

1 power of attorney signed or purported to have been signed by the  
2 vulnerable adult or senior adult; or

3 (f) Prevent the designation or change the designation of  
4 beneficiaries to receive any property, benefit, or contract rights for a  
5 vulnerable adult or senior adult at death.

6 (2) A financial institution is not required to act under subsection  
7 (1) of this section when provided with information alleging that  
8 financial exploitation may have occurred, may have been attempted, is  
9 occurring, or is being attempted, but may use the financial institution's  
10 discretion to determine whether or not to act under subsection (1) of  
11 this section based on the information available to the financial  
12 institution at the time.

13 (3)(a)(i) A financial institution may notify any third party  
14 reasonably associated with a vulnerable adult or senior adult if the  
15 financial institution reasonably believes that the financial exploitation  
16 of a vulnerable adult or senior adult may have occurred, may have been  
17 attempted, is occurring, or is being attempted.

18 (ii) A third party reasonably associated with a vulnerable adult or  
19 senior adult includes, but is not limited to, the following: (A) A  
20 parent, spouse, adult child, sibling, or other known family member or  
21 close associate of a vulnerable adult or senior adult; (B) an authorized  
22 contact provided by a vulnerable adult or senior adult to the financial  
23 institution; (C) a co-owner, additional authorized signatory, or  
24 beneficiary on a vulnerable adult's or a senior adult's account; (D) an  
25 attorney in fact, trustee, conservator, guardian, or other fiduciary who  
26 has been selected by a vulnerable adult or senior adult, a court, or a  
27 third party to manage some or all of the financial affairs of the  
28 vulnerable adult or senior adult; and (E) an attorney known to represent  
29 or have represented the vulnerable adult or senior adult.

30 (b) A financial institution may choose not to notify any third party  
31 reasonably associated with a vulnerable adult or senior adult of

1 suspected financial exploitation of the vulnerable adult or senior adult  
2 if the financial institution reasonably believes the third party is, may  
3 be, or may have been engaged in the financial exploitation of the  
4 vulnerable adult or senior adult or if requested to refrain from making a  
5 notification by a law enforcement agency, if such notification could  
6 interfere with a law enforcement investigation.

7 (c) Nothing in this subsection shall prevent a financial institution  
8 from notifying the department or a law enforcement agency, if the  
9 financial institution reasonably believes that the financial exploitation  
10 of a vulnerable adult or senior adult may have occurred, may have been  
11 attempted, is occurring, or is being attempted.

12 (4) The authority granted the financial institution under subsection  
13 (1) of this section expires upon the sooner of: (a) Thirty business days  
14 after the date on which the financial institution first acted under  
15 subsection (1) of the section; (b) when the financial institution is  
16 satisfied that the transaction or act will not result in financial  
17 exploitation of the vulnerable adult or senior adult; or (c) upon  
18 termination by an order of a court of competent jurisdiction.

19 (5) Unless otherwise directed by order of a court of competent  
20 jurisdiction, a financial institution may extend the duration under  
21 subsection (4) of this section based on a reasonable belief that the  
22 financial exploitation of a vulnerable adult or senior adult may continue  
23 to occur or continue to be attempted.

24 (6) A financial institution and its bank holding company, if any,  
25 and any employees, agents, officers, and directors of the financial  
26 institution and its bank holding company, if any, shall be immune from  
27 any civil, criminal, or administrative liability that may otherwise exist  
28 (a) for delaying or refusing to execute a transaction, withdrawal, or  
29 disbursement, or for not delaying or refusing to execute such  
30 transaction, withdrawal, or disbursement under this section and (b) for  
31 actions taken in furtherance of determinations made under subsections (1)

1 through (5) of this section.

2 (7)(a) Notwithstanding any other law to the contrary, the refusal by  
3 a financial institution to engage in a transaction as authorized under  
4 subsection (1) of this section shall not constitute the wrongful dishonor  
5 of an item under section 4-402, Uniform Commercial Code.

6 (b) Notwithstanding any other law to the contrary, a reasonable  
7 belief that payment of a check will facilitate the financial exploitation  
8 of a vulnerable adult or senior adult shall constitute reasonable grounds  
9 to doubt the collectability of the item for purposes of the federal Check  
10 Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal  
11 Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R.  
12 part 229, as such acts and part existed on January 1, 2020.

13 Sec. 21. Section 21-17,115, Revised Statutes Supplement, 2019, is  
14 amended to read:

15 21-17,115 Notwithstanding any of the other provisions of the Credit  
16 Union Act or any other Nebraska statute, any credit union incorporated  
17 under the laws of the State of Nebraska and organized under the  
18 provisions of the act shall have all the rights, powers, privileges,  
19 benefits, and immunities which may be exercised as of January 1, 2020  
20 ~~2019~~, by a federal credit union doing business in Nebraska on the  
21 condition that such rights, powers, privileges, benefits, and immunities  
22 shall not relieve such credit union from payment of state taxes assessed  
23 under any applicable laws of this state.

24 Sec. 22. Section 30-3205, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 30-3205 (1) Notwithstanding the prohibition on investments in  
27 section 8-224.01, a A fiduciary holding funds for investment may invest  
28 such funds in securities of, or other interests in, a private investment  
29 fund or any open-end or closed-end management-type investment company or  
30 investment trust registered or exempt from registration under ~~pursuant to~~  
31 the federal Investment Company Act of 1940, as amended, if a court order,

1 will, agreement, or other instrument creating or defining the investment  
2 powers of the fiduciary directs, requires, authorizes, or permits the  
3 investment of such funds in any of the following:

4 (a) Such investments as the fiduciary may, in his or her discretion,  
5 select;

6 (b) Investments ~~investments~~ generally, other than those in which  
7 fiduciaries are by law authorized to invest trust funds; and

8 (c) United States Government obligations if the portfolio of such  
9 investment company or investment trust is limited to United States  
10 Government obligations and to repurchase agreements fully collateralized  
11 by such obligations and if such investment company or investment trust  
12 takes delivery of the collateral, either directly or through an  
13 authorized custodian.

14 (2)(a) Notwithstanding the prohibition on investments in section  
15 8-224.01, a (2)—A bank or trust company acting as a fiduciary, agent, or  
16 otherwise may, in the exercise of its investment discretion or at the  
17 direction of another person authorized to direct investment of funds held  
18 by the bank or trust company as a fiduciary, invest and reinvest  
19 interests in the securities of a private investment fund or an open-end  
20 or closed-end management-type investment company or investment trust  
21 registered or exempt from registration under ~~pursuant to~~ the federal  
22 Investment Company Act of 1940, as amended, or may retain, sell, or  
23 exchange such interests so long as the portfolio of the investment  
24 company or investment trust as an entity consists substantially of  
25 investments not prohibited by the instrument governing the fiduciary  
26 relationship.

27 (b) The fact that the bank or trust company or an affiliate of the  
28 bank or trust company provides services to the investment company, ~~or~~  
29 investment trust, or private investment fund, such as that of an  
30 investment advisor, custodian, transfer agent, registrar, sponsor,  
31 distributor, manager, or otherwise, and is receiving reasonable

1 compensation for the services shall not preclude the bank or trust  
2 company from investing, reinvesting, retaining, or exchanging any  
3 interest held by the trust estate in the securities of a private  
4 investment fund or any open-end or closed-end management-type investment  
5 company or investment trust registered or exempt from registration under  
6 pursuant to the federal Investment Company Act of 1940, as amended.

7 Sec. 23. Section 45-191.02, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 45-191.02 (1) Before advertising or making any oral or written  
10 representation or acting as a loan broker in this state a loan broker  
11 shall file with the department one copy of the disclosure statement and  
12 one copy of any loan brokerage agreement.

13 (2) The loan broker shall renew these filings no less than annually  
14 and shall also file any amendment to the disclosure statement within  
15 forty-five days after any material change in information required to be  
16 disclosed in the disclosure statement.

17 (3) The loan broker shall pay a one-hundred-fifty-dollar filing fee  
18 upon filing the initial disclosure statement and a one-hundred-dollar  
19 filing fee upon the filing of a renewal of the disclosure statement. The  
20 loan broker shall pay a fifty-dollar filing fee for each amendment filed.  
21 All funds collected by the department under this section shall be  
22 remitted to the State Treasurer for credit to the Securities Act  
23 ~~Financial Institution Assessment~~ Cash Fund.

24 (4) The information contained or filed under this section may be  
25 made available to the public under such rules and regulations as the  
26 department may prescribe.

27 Sec. 24. Section 45-191.09, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 45-191.09 (1) The director may summarily order a loan broker to  
30 cease and desist from acting as a loan broker or from the use of certain  
31 forms or practices relating to the loan broker's activities if the order

1 is in the public interest and the director finds:

2 (a) The disclosure statement on file is incomplete in any material  
3 respect or contains any statement which was, in light of the  
4 circumstances under which it was made, false or misleading with respect  
5 to any material fact;

6 (b) The loan broker has willfully violated or willfully failed to  
7 comply with any provision of sections 45-189 to 45-191.11;

8 (c) There has been a substantial failure to comply with any of the  
9 provisions of such sections;

10 (d) The continued use of certain forms or practices relating to the  
11 loan broker's activity would constitute a misrepresentation, deceit, or  
12 fraud upon the consumer; or

13 (e) Any person identified in the required disclosure statement has  
14 been convicted of an offense described in subdivision (2)(i)(i) of  
15 section 45-191.01 or is subject to an order or has had a civil judgment  
16 entered against him or her as described in subdivision (2)(i)(ii) or (2)  
17 (i)(iii) of section 45-191.01 and the involvement of such person in the  
18 loan broker's business creates an unreasonable risk to prospective  
19 borrowers.

20 (2) If the director believes, whether or not based upon an  
21 investigation conducted under section 45-191.08, that any person or loan  
22 broker has engaged in or is about to engage in any act or practice  
23 constituting a violation of any provision of sections 45-189 to 45-191.11  
24 or any rule, regulation, or order under such sections, the director may:

25 (a) Issue a cease and desist order;

26 (b) Impose a fine not to exceed one thousand dollars per violation,  
27 in addition to costs of the investigation; or

28 (c) Initiate an action in any court of competent jurisdiction to  
29 enjoin such acts or practices and to enforce compliance with such  
30 sections or any order under such sections.

31 (3) Upon a proper showing a permanent or temporary injunction,



1 restraining order, or writ of mandamus shall be granted. The director  
2 shall not be required to post a bond.

3 (4)(a) Any fines and costs imposed pursuant to this section shall be  
4 in addition to all other penalties imposed by the laws of this state. The  
5 department shall collect the fines and costs and remit them to the State  
6 Treasurer. The State Treasurer shall credit the costs to the Securities  
7 Act Cash Fund and distribute the fines in accordance with Article VII,  
8 section 5, of the Constitution of Nebraska ~~Any fine and costs imposed~~  
9 ~~pursuant to this section shall be in addition to all other penalties~~  
10 ~~imposed by the laws of this state and shall be collected by the~~  
11 ~~department and remitted to the State Treasurer. Costs shall be credited~~  
12 ~~to the Securities Act Cash Fund, and fines shall be credited to the~~  
13 ~~permanent school fund.~~

14 (b) If a person fails to pay the fine or costs of the investigation  
15 referred to in this subsection, a lien in the amount of the fine and  
16 costs may be imposed upon all of the assets and property of such person  
17 in this state and may be recovered by suit by the department. Failure of  
18 the person to pay a fine and costs shall constitute a separate violation  
19 of sections 45-189 to 45-191.11.

20 (5) Upon entry of an order pursuant to this section, the director  
21 shall promptly notify all persons to whom such order is directed that it  
22 has been entered and of the reasons for such order and that any person to  
23 whom the order is directed may request a hearing in writing within  
24 fifteen business days of the issuance of the order. Upon receipt of a  
25 written request, the matter shall be set down for hearing to commence  
26 within thirty business days after the receipt unless the parties consent  
27 to a later date or the hearing officer sets a later date for good cause.  
28 If a hearing is not requested within fifteen business days from the  
29 issuance of the order and none is ordered by the director, the order  
30 shall automatically become final and shall remain in effect until it is  
31 modified or vacated by the director. If a hearing is requested or

1 ordered, the director, after notice and hearing, shall enter his or her  
2 written findings of fact and conclusions of law and may affirm, modify,  
3 or vacate the order.

4 (6) The director may vacate or modify a cease and desist order if he  
5 or she finds that the conditions which caused its entry have changed or  
6 that it is otherwise in the public interest to do so.

7 (7) Any person aggrieved by a final order of the director may appeal  
8 the order. The appeal shall be in accordance with the Administrative  
9 Procedure Act.

10 Sec. 25. Section 45-601, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 45-601 Sections 45-601 to 45-622 and section 33 of this act shall be  
13 known and may be cited as the Collection Agency Act.

14 No person, firm, corporation, or association shall conduct or  
15 operate a collection agency or do a collection agency business as defined  
16 in the act until he, she, or it has secured a license as provided in the  
17 act. Any person, firm, corporation, or association conducting or  
18 operating such a collection agency or doing such a collection agency  
19 business without a license shall be guilty of a Class III misdemeanor for  
20 each day that such unlawful business is conducted. Any officer or agent  
21 of a firm, corporation, or association who personally participates in any  
22 violation of the act shall be guilty of a Class III misdemeanor.

23 Nothing contained in this section shall be construed to require a  
24 regular employee of a collection agency duly licensed as such in this  
25 state to procure a collection agency license.

26 Nothing in the act shall be construed to prohibit a person, firm,  
27 corporation, or association regulated as a collection agency in another  
28 state and residing in another state from communicating with a debtor in  
29 this state.

30 Sec. 26. Section 45-602, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1 45-602 For purposes of the Collection Agency Act:

2 (1) Board means ~~shall mean~~ the Collection Agency Licensing Board;

3 (2) Collection agency means ~~shall mean~~ and includes ~~include~~:

4 (a) All persons, firms, corporations, and associations directly or  
5 indirectly engaged in soliciting, from more than one person, firm,  
6 corporation, or association, claims of any kind owed or due or asserted  
7 to be owed or due such solicited person, firm, corporation, or  
8 association, and all persons, firms, corporations, and associations  
9 directly or indirectly engaged in asserting, enforcing, or prosecuting  
10 such claims;

11 (b) Any person, firm, corporation, or association which, in  
12 attempting to collect or in collecting his, her, or its own accounts or  
13 claims, uses a fictitious name or any name other than his, her, or its  
14 own name which would indicate to the debtor that a third person is  
15 collecting or attempting to collect such account or claim; and

16 (c) Any person, firm, corporation, or association which attempts to  
17 or does give away or sell to any person, firm, corporation, or  
18 association, other than one licensed under the act, any system or series  
19 of letters or forms for use in the collection of accounts or claims which  
20 assert or indicate, directly or indirectly, that the claim or account is  
21 being asserted or collected by any other person, firm, corporation, or  
22 association other than the creditor or owner of the claim or demand; ~~and~~

23 (3) Collection agency does ~~shall~~ not mean or include (a) regular  
24 employees of a single creditor, (b) banks, (c) trust companies, (d)  
25 savings and loan associations, (e) building and loan associations, (f)  
26 abstract companies doing an escrow business, (g) duly licensed real  
27 estate brokers and agents when the claims or accounts being handled by  
28 such broker or agent are related to or are in connection with such  
29 brokers' or agents' regular real estate business, (h) express and  
30 telegraph companies subject to public regulation and supervision, (i)  
31 attorneys at law handling claims and collections in their own names and

1 not operating a collection agency under the management of a layperson,  
2 (j) any person, firm, corporation, or association handling claims,  
3 accounts, or collections under an order or orders of any court, or (k) a  
4 person, firm, corporation, or association which, for valuable  
5 consideration, purchases accounts, claims, or demands of another and  
6 then, in such purchaser's own name, proceeds to assert or collect such  
7 accounts, claims, or demands; and -

8 (4) Nationwide Mortgage Licensing System and Registry means a  
9 licensing system developed and maintained by the Conference of State Bank  
10 Supervisors and the American Association of Residential Mortgage  
11 Regulators for the licensing and registration of mortgage loan  
12 originators, mortgage bankers, installment loan companies, and other  
13 state-regulated financial services entities and industries.

14 Sec. 27. Section 45-605, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 45-605 The board shall be responsible for the administration of the  
17 Collection Agency Act. All applications for licenses provided for in the  
18 act shall be made to the board. If the applicant is an individual, the  
19 application shall include the applicant's social security number. The  
20 board shall investigate the qualifications of each applicant for a  
21 license. Based on the results of the investigation, the board may either  
22 issue a license to the applicant upon the payment of the license fee and  
23 any processing fee allowed under section 33 of this act and the  
24 furnishing of the bond provided for in section 45-608 or refuse to issue  
25 such license. The action of the board may be appealed, and the appeal  
26 shall be in accordance with the Administrative Procedure Act.

27 Sec. 28. Section 45-606, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 45-606 (1) Any person, firm, corporation, or association desiring  
30 to engage in this state in the collection business under ~~as defined in~~  
31 the Collection Agency Act shall make written and sworn application for

1 such a license ~~therefor~~ to the board upon a form to be prescribed by the  
2 board, which application shall be accompanied by an investigation fee of  
3 not to exceed two hundred fifty dollars and any processing fee allowed  
4 under section 33 of this act. The amount of the investigation fee shall  
5 be fixed by the board and shall not exceed the amount actually necessary  
6 to sustain the administration and enforcement of the act. Such  
7 application shall be accompanied by a duly verified financial statement  
8 of the applicant in form prescribed by the board.

9 (2) The board may require applicants to utilize the Nationwide  
10 Mortgage Licensing System and Registry or an entity designated by the  
11 Nationwide Mortgage Licensing System and Registry for the processing of  
12 applications and fees.

13 Sec. 29. Section 45-609, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 45-609 The license provided for in section 45-607 shall be in such  
16 form as prescribed by the board. If the licensee maintains a branch  
17 office, the licensee he, she, or it shall not do a collection agency  
18 business in such branch office until the licensee he, she, or it has  
19 secured a branch office certificate for such branch office ~~therefor~~. A  
20 licensee, so long as his, her, or its license is in full force and effect  
21 and in good standing, shall be entitled to branch office certificates for  
22 any branch offices operated by such licensee upon payment of the fee as  
23 set forth therefor provided in section 45-620 and any processing fee  
24 allowed under section 33 of this act. A licensee shall display his, her,  
25 or its license in a conspicuous place in his, her, or its principal place  
26 of business, and if the licensee he, she, or it conducts a branch office,  
27 the branch office certificate shall be conspicuously displayed in the  
28 branch office.

29 Sec. 30. Section 45-610, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 45-610 The board shall, upon written application by a licensee and

1 the payment of the fee as set forth therefor provided in section 45-620  
2 and any processing fee allowed under section 33 of this act, issue  
3 solicitor's certificates to employees of the licensee who solicit or  
4 collect accounts, which certificates shall be in such form as determined  
5 by the board. Such certificates shall entitle the solicitor named in the  
6 certificate to solicit and handle, for the licensee named in the  
7 certificate, collection agency business, accounts, and claims. Upon the  
8 termination of the employment of the solicitor by the licensee, such  
9 certificate shall become null and void and shall be returned by such  
10 solicitor to the licensee for cancellation by the board.

11 Sec. 31. Section 45-611, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 45-611 (1) All licenses and certificates issued under the  
14 Collection Agency Act shall expire on December 31 following the date of  
15 issuance unless renewed as provided in this section prior to such date.  
16 All branch office certificates and solicitor's certificates shall  
17 continue in full force and effect only so long as the license under which  
18 they are issued is in full force and effect.

19 (2) Each licensee shall, if he or she desires to have his or her  
20 license renewed, make application to the board for such renewal on or  
21 before December 31 ~~1~~ of each year and shall, with such application,  
22 furnish the bond required by section 45-608 or furnish evidence of the  
23 continuation in effect of the prior bond so furnished and pay the renewal  
24 fee provided for in section 45-620 and any processing fee allowed under  
25 section 33 of this act.

26 (3) If an application for renewal of a license is denied, the  
27 applicant may appeal from such refusal the same as from the refusal to  
28 issue an original license.

29 (4) Upon renewal of a license, the board shall issue to the licensee  
30 a new license or a certificate of renewal of the previous license in such  
31 form as the board determines. Upon the renewal of a license, the licensee

1 may, if the licensee he, she, or it maintains a branch office, secure a  
2 renewal of his, her, or its branch office certificate upon payment of the  
3 renewal fee provided for in such section 45-620 and any processing fee  
4 allowed under section 33 of this act. Such licensee may also secure  
5 renewals of his, her, or its solicitor's certificates upon payment of the  
6 renewal fee provided for in such section 45-620 and any processing fee  
7 allowed under section 33 of this act.

8 Sec. 32. Section 45-620, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 45-620 No license, renewal of license, branch office certificate, or  
11 solicitor's certificate, as provided for in the Collection Agency Act,  
12 shall be issued by the board until any processing fee allowed under  
13 section 33 of this act has been paid and the following fees have been  
14 paid to the Secretary of State: For a license, not to exceed two hundred  
15 dollars; for renewal of a license, not to exceed one hundred dollars; for  
16 a branch office certificate, not to exceed fifty dollars; for renewal of  
17 a branch office certificate, not to exceed thirty-five dollars; for a  
18 solicitor's certificate and for renewal of a solicitor's certificate, not  
19 to exceed ten dollars. The amount of the fees to be paid to the Secretary  
20 of State shall be fixed by the board and shall not exceed the amounts  
21 actually necessary to sustain the administration and enforcement of the  
22 act.

23 Sec. 33. (1) Effective October 1, 2020, or within one year after  
24 the Nationwide Mortgage Licensing System and Registry is capable of  
25 processing licenses issued under the Collection Agency Act, whichever is  
26 later, the board, upon its discretion, may require licensees under the  
27 act to be licensed and registered through the Nationwide Mortgage  
28 Licensing System and Registry. In order to carry out this requirement,  
29 the board may participate in the Nationwide Mortgage Licensing System and  
30 Registry. For this purpose, the board may establish, by adopting and  
31 promulgating rules and regulations or by order, requirements as

1 necessary. The requirements may include, but not be limited to:

2 (a) Any information as deemed necessary by the Nationwide Mortgage  
3 Licensing System and Registry;

4 (b) The payment of fees to apply for or renew a license provided for  
5 in sections 45-606 and 45-620 and any processing fee allowed under this  
6 section through the Nationwide Mortgage Licensing System and Registry;

7 (c) The setting or resetting, as necessary, of renewal processing or  
8 reporting dates; and

9 (d) Amending or surrendering a license or any other such activities  
10 as the board deems necessary for participation in the Nationwide Mortgage  
11 Licensing System and Registry.

12 (2) In order to fulfill the purposes of the Nebraska Collection  
13 Agency Act, the board may establish relationships or contracts with the  
14 Nationwide Mortgage Licensing System and Registry or other entities  
15 designated by the Nationwide Mortgage Licensing System and Registry to  
16 collect and maintain records and process transaction fees or other fees  
17 related to licensees or other persons subject to the act. The board may  
18 allow such system to collect licensing fees on behalf of the board and  
19 allow such system to collect a processing fee for the services of the  
20 system directly from each licensee or applicant for a license.

21 (3) The board shall regularly report enforcement actions and other  
22 relevant information to the Nationwide Mortgage Licensing System and  
23 Registry.

24 (4) The board shall establish a process whereby applicants and  
25 licensees may challenge information entered into the Nationwide Mortgage  
26 Licensing System and Registry by the board.

27 (5) The board shall ensure that the Nationwide Mortgage Licensing  
28 System and Registry adopts a privacy, data security, and breach of  
29 security of the system notification policy. The board shall make  
30 available upon written request a copy of the contract between the board  
31 and the Nationwide Mortgage Licensing System and Registry pertaining to



1 the breach of security of the system provisions.

2 (6) Upon written request, the board shall provide the most recently  
3 available audited financial report of the Nationwide Mortgage Licensing  
4 System and Registry.

5 Sec. 34. Section 45-623, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 45-623 (1) Any state agency, county, city, village, or other  
8 political subdivision may contract to retain a collection agency licensed  
9 pursuant to the Collection Agency Act sections 45-601 to 45-622, within  
10 or without this state, for the purpose of collecting public debts owed by  
11 any person to such state agency, county, city, village, or other  
12 political subdivision.

13 (2) No debt owed pursuant to subsection (1) of this section may be  
14 assigned to a collection agency unless (a) there has been an attempt to  
15 advise the debtor by first-class mail, postage prepaid, at the last-known  
16 address of the debtor (i) of the existence of the debt and (ii) that the  
17 debt may be assigned to a collection agency for collection if the debt is  
18 not paid and (b) at least thirty days have elapsed from the time the  
19 notice was sent, except that in the case of an order for support being  
20 enforced by a county attorney, authorized attorney, or prosecuting  
21 attorney pursuant to Chapter 42 or 43, this notice requirement shall not  
22 apply and Title IV-D of the federal Social Security Act, as amended,  
23 shall be complied with.

24 (3) A collection agency which is assigned a debt under this section  
25 shall have only those remedies and powers which would be available to it  
26 as an assignee of a private creditor. This subsection shall not be  
27 construed to in any way limit the remedies and powers available to an  
28 authorized attorney as defined in section 43-512.

29 (4) For purposes of this section, debt shall include all delinquent  
30 fees or payments except delinquent property taxes on real estate. In the  
31 case of debt arising as a result of an order or judgment of a court in a

1 criminal or traffic matter, a collection fee may be added to the debt.  
2 The collection fee shall be twenty-five dollars or four and one-half  
3 percent of the debt, whichever is greater. The collection fee shall be  
4 paid by the person who owes the debt directly to the person or agency  
5 providing the collection service.

6 Sec. 35. Section 45-901, Revised Statutes Cumulative Supplement,  
7 2018, is amended to read:

8 45-901 Sections 45-901 to 45-931 and section 39 of this act shall be  
9 known and may be cited as the Delayed Deposit Services Licensing Act.

10 Sec. 36. Section 45-902, Revised Statutes Cumulative Supplement,  
11 2018, is amended to read:

12 45-902 For purposes of the Delayed Deposit Services Licensing Act:

13 (1) Annual percentage rate means an annual percentage rate as  
14 determined under section 107 of the federal Truth in Lending Act, 15  
15 U.S.C. 1606, as such section existed on January 1, 2020 ~~2018~~, and  
16 includes all fees, interest, and charges contained in a delayed deposit  
17 service contract, except for charges permitted for the presentation of  
18 instruments that are not negotiable under subdivision (1)(a)(v) of  
19 section 45-917 or returned unpaid under section 45-918.01;

20 (2) Check means any check, draft, or other instrument for the  
21 payment of money. Check also means an authorization to debit an account  
22 electronically;

23 (3) Default means a maker's failure to repay a delayed deposit  
24 transaction in compliance with the terms contained in a delayed deposit  
25 service agreement;

26 (4) Delayed deposit services business means any person who for a fee  
27 (a) accepts a check dated subsequent to the date it was written or (b)  
28 accepts a check dated on the date it was written and holds the check for  
29 a period of days prior to deposit or presentment pursuant to an agreement  
30 with or any representation made to the maker of the check, whether  
31 express or implied;

1 (5) Department means the Department of Banking and Finance;

2 (6) Director means the Director of Banking and Finance or his or her  
3 designee;

4 (7) Financial institution has the same meaning as in section  
5 8-101.03;

6 (8) Licensee means any person licensed under the Delayed Deposit  
7 Services Licensing Act;

8 (9) Maker means an individual who receives the proceeds of a delayed  
9 deposit transaction; ~~and~~

10 (10) Nationwide Mortgage Licensing System and Registry means a  
11 licensing system developed and maintained by the Conference of State Bank  
12 Supervisors and the American Association of Residential Mortgage  
13 Regulators for the licensing and registration of mortgage loan  
14 originators, mortgage bankers, installment loan companies, and other  
15 state-regulated financial services entities and industries; and

16 (11) (10) Person means an individual, proprietorship, association,  
17 joint venture, joint stock company, partnership, limited partnership,  
18 limited liability company, business corporation, nonprofit corporation,  
19 or any group of individuals however organized.

20 Sec. 37. Section 45-905, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 45-905 (1) An applicant for a license shall submit an application,  
23 under oath, to the director on forms prescribed by the director. The  
24 forms shall contain such information as the director may prescribe,  
25 including, but not limited to:

26 (a) The applicant's financial condition;

27 (b) The qualifications and business history of the applicant and of  
28 its officers, directors, shareholders, partners, or members;

29 (c) Whether the applicant or any of its officers, directors,  
30 shareholders, partners, or members have ever been convicted of any (i)  
31 misdemeanor involving any aspect of a delayed deposit services business

1 or any business of a similar nature or (ii) felony;

2 (d) Whether the applicant or any of its officers, directors,  
3 shareholders, partners, or members have ever been permanently or  
4 temporarily enjoined by a court of competent jurisdiction from engaging  
5 in or continuing any conduct or practice involving any aspect of a  
6 delayed deposit services business or any business of a similar nature;

7 (e) A description of the applicant's proposed method of doing  
8 business; and

9 (f) If the applicant is an individual, the applicant's social  
10 security number.

11 (2) The director shall cause a criminal history record information  
12 check to be conducted of the applicant, its officers, directors,  
13 shareholders, partners, or members and, on or after January 1, 2021, as  
14 provided in subsection (1) of section 39 of this act. The direct cost of  
15 the criminal history record information check shall be paid by the  
16 applicant.

17 Sec. 38. Section 45-906, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 45-906 The application required by section 45-905 shall be  
20 accompanied by:

21 (1) A nonrefundable application fee of five hundred dollars and any  
22 processing fee allowed under subsection (2) of section 39 of this act;  
23 and

24 (2) A surety bond in the base amount ~~sum~~ of fifty thousand dollars  
25 which, on or after January 1, 2021, shall be increased by fifty thousand  
26 dollars for each branch office established or to be established in  
27 Nebraska. The surety bond shall ~~to~~ be executed by the licensee and a  
28 surety company authorized to do business in Nebraska and approved by the  
29 director conditioned for the faithful performance by the licensee of the  
30 duties and obligations pertaining to the delayed deposit services  
31 business so licensed and the prompt payment of any judgment recovered

1 against the licensee. The bond or a substitute bond shall remain in  
2 effect during all periods of licensing or the licensee shall immediately  
3 cease doing business and its license shall be surrendered to or canceled  
4 by the department. A surety may cancel a bond only upon thirty days'  
5 written notice to the director.

6 (3) The director may at any time require the filing of a new or  
7 supplemental bond in the form as provided in subdivision (2) of this  
8 section if he or she determines that the bond filed under this section is  
9 exhausted or is inadequate for any reason, including, but not limited to,  
10 the financial condition of the licensee or the applicant for a license,  
11 or violations of the Delayed Deposit Services Licensing Act, any rule,  
12 regulation, or order thereunder, or any state or federal law applicable  
13 to the licensee or applicant for a license. The new or supplemental bond  
14 shall not exceed one hundred thousand dollars over the amount of the bond  
15 required by subdivision (2) of this section.

16 Sec. 39. (1) On and after January 1, 2021, licensees under the  
17 Delayed Deposit Services Licensing Act are required to be licensed and  
18 registered through the Nationwide Mortgage Licensing System and Registry.  
19 In order to carry out this requirement, the department is authorized to  
20 participate in the Nationwide Mortgage Licensing System and Registry. For  
21 this purpose, the director may establish requirements as necessary by  
22 adopting and promulgating rules and regulations or by order. The  
23 requirements may include, but are not limited to:

24 (a) Background checks of applicants and licensees, including, but  
25 not limited to:

26 (i) Fingerprints of any principal officer, director, partner,  
27 member, or sole proprietor submitted to the Federal Bureau of  
28 Investigation and any other governmental agency or entity authorized to  
29 receive such information for a state, national, and international  
30 criminal history record information check;

31 (ii) Checks of civil or administrative records;

- 1        (iii) Checks of an applicant's or a licensee's credit history; or  
2        (iv) Any other information as deemed necessary by the director;  
3        (b) The payment of fees to apply for or renew a license through the  
4 Nationwide Mortgage Licensing System and Registry;  
5        (c) The setting or resetting, as necessary, of renewal processing or  
6 reporting dates; and  
7        (d) Amending or surrendering a license or any other such activities  
8 as the director deems necessary for participation in the Nationwide  
9 Mortgage Licensing System and Registry.

10       (2) In order to fulfill the purposes of the Delayed Deposit Services  
11 Licensing Act, the department may contract with the Nationwide Mortgage  
12 Licensing System and Registry or other entities designated by the  
13 Nationwide Mortgage Licensing System and Registry to collect and maintain  
14 records and process transaction fees or other fees related to applicants,  
15 licensees, or other persons subject to the act. The department may allow  
16 such system to collect licensing fees on behalf of the department and may  
17 allow such system to collect a processing fee for the services of the  
18 system directly from each applicant or licensee.

19       (3) The director shall regularly report enforcement actions and  
20 other relevant information to the Nationwide Mortgage Licensing System  
21 and Registry.

22       (4) The director shall establish a process whereby applicants and  
23 licensees may challenge information entered by the director into the  
24 Nationwide Mortgage Licensing System and Registry.

25       (5) The department shall ensure that the Nationwide Mortgage  
26 Licensing System and Registry adopts a privacy, data security, and breach  
27 of security of the system notification policy. The director shall make  
28 available upon written request a copy of such policy and the contract  
29 between the department and the system.

30       (6) Upon written request the department shall provide the most  
31 recently available audited financial report of the Nationwide Mortgage

1 Licensing System and Registry.

2 (7) The director may use the Nationwide Mortgage Licensing System  
3 and Registry as a channeling agent for requesting information from and  
4 distributing information to the United States Department of Justice or  
5 any other governmental agency in order to reduce the points of contact  
6 which the Federal Bureau of Investigation may have to maintain for  
7 purposes of subsection (5) of this section.

8 Sec. 40. Section 45-910, Revised Statutes Cumulative Supplement,  
9 2018, is amended to read:

10 45-910 (1) A license issued pursuant to the Delayed Deposit Services  
11 Licensing Act shall be conspicuously posted at the licensee's place of  
12 business.

13 (2)(a) Except as provided in subdivision (2)(b) of this section, all  
14 (2) All licenses shall remain in effect until the next succeeding May 1,  
15 unless earlier canceled, suspended, or revoked by the director pursuant  
16 to section 45-922 or surrendered by the licensee pursuant to section  
17 45-911.

18 (b) All licenses issued on or after the operative date of this  
19 section and before January 1, 2021, shall remain in effect until December  
20 31, 2021, unless earlier canceled, suspended, or revoked by the director  
21 pursuant to section 45-922 or surrendered by the licensee pursuant to  
22 section 45-911. All licenses issued on or after January 1, 2021, shall  
23 remain in effect until the next succeeding December 31, unless earlier  
24 canceled, suspended, or revoked by the director pursuant to section  
25 45-922 or surrendered by the licensee pursuant to section 45-911.

26 (3) Licenses may be renewed annually by filing with the director (a)  
27 a renewal fee consisting of five hundred dollars and any processing fee  
28 allowed under subsection (2) of section 39 of this act for the main  
29 office location and five hundred dollars and any processing fee allowed  
30 under subsection (2) of section 39 of this act for each branch office  
31 location and (b) an application for renewal in writing through the

1 Nationwide Mortgage Licensing System and Registry containing such  
2 information as the director may require to indicate any material change  
3 in the information contained in the original application or succeeding  
4 renewal applications.

5 Sec. 41. Section 45-911, Revised Statutes Cumulative Supplement,  
6 2018, is amended to read:

7 45-911 A licensee may surrender a delayed deposit services business  
8 license by delivering to the director written notice that the license is  
9 surrendered and any processing fee allowed under subsection (2) of  
10 section 39 of this act. The department may issue a notice of cancellation  
11 of the license following such surrender in lieu of revocation  
12 proceedings. The surrender shall not affect the licensee's civil or  
13 criminal liability for acts committed prior to such surrender, affect the  
14 liability for any fines which may be levied against the licensee or any  
15 of its officers, directors, shareholders, partners, or members for acts  
16 committed before the surrender, affect the liability of the surety on the  
17 bond, or entitle such licensee to a return of any part of the annual  
18 license fee or fees. The director may establish procedures for the  
19 disposition of the books, accounts, and records of the licensee and may  
20 require such action as he or she deems necessary for the protection of  
21 the makers of checks which are outstanding at the time of surrender of  
22 the license.

23 Sec. 42. Section 45-912, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 45-912 A licensee shall be required to notify the director in  
26 writing through the Nationwide Mortgage Licensing System and Registry  
27 within thirty days after the occurrence of any material development,  
28 including, but not limited to:

29 (1) Bankruptcy or corporate reorganization;

30 (2) Business reorganization;

31 (3) Institution of license revocation procedures by any other state



1 or jurisdiction;

2 (4) The filing of a criminal indictment or complaint against the  
3 licensee or any of its officers, directors, shareholders, partners,  
4 members, employees, or agents;

5 (5) A felony conviction against the licensee or any of the  
6 licensee's officers, directors, shareholders, partners, members,  
7 employees, or agents; or

8 (6) The termination of employment or association with the licensee  
9 of any of the licensee's officers, directors, shareholders, partners,  
10 members, employees, or agents for violations or suspected violations of  
11 the Delayed Deposit Services Licensing Act, any rule, regulation, or  
12 order thereunder, or any state or federal law applicable to the licensee.

13 Sec. 43. Section 45-915, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 45-915 (1) Except as provided in subsection (2) of this section, a  
16 licensee, on or before December 31, 2020, may offer a delayed deposit  
17 services business only at an office designated as its principal place of  
18 business in the application. A licensee may change the location of its  
19 designated principal place of business with the prior written approval of  
20 the director. The director may establish forms and procedures for  
21 determining whether the change of location should be approved.

22 (2) On or before December 31, 2020, a A licensee may operate branch  
23 offices only in the same county in which the licensee's designated  
24 principal place of business is located. The licensee may establish a  
25 branch office or change the location of a branch office with the prior  
26 written approval of the director. The director may establish forms and  
27 procedures for determining whether an original branch or branches or a  
28 change of location of a branch should be approved.

29 (3) On or after January 1, 2021, a licensee shall designate an  
30 office in Nebraska as its principal place of business. A licensee may  
31 change the location of its designated principal place of business with

1 the prior written approval of the director. The director may establish  
2 forms and procedures for determining whether the change of location  
3 should be approved.

4 (4) On or after January 1, 2021, a licensee may operate branch  
5 offices in Nebraska. The licensee may establish a branch office or change  
6 the location of a branch office with the prior written approval of the  
7 director. The director may establish forms and procedures for determining  
8 whether an original branch or branches or a change of location of a  
9 branch should be approved.

10 (5) ~~(3)~~ A fee of one hundred fifty dollars and any processing fee  
11 allowed under shall be paid to the director for each request made  
12 pursuant to subsection (1) or (2) of this section 39 of this act shall be  
13 submitted with each request made pursuant to this section.

14 Sec. 44. Section 45-1017, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 45-1017 (1) The department shall inspect the business, records, and  
17 accounts of all persons that lend money subject to the Nebraska  
18 Installment Loan Act. The department may examine or investigate  
19 complaints about or reports of alleged violations by a licensee made to  
20 the department. The department may inspect and investigate the business,  
21 records, and accounts of all persons in the public business of lending  
22 money contrary to the act and who do not have a license under the act.  
23 The director may appoint examiners who shall, under his or her direction,  
24 investigate the loans and business and conduct examinations ~~examine the~~  
25 ~~books and records~~ of licensees as annually and more often as determined  
26 by the director. The expenses incurred by the department in examining the  
27 ~~books and records~~ of licensees and in administering the act ~~during each~~  
28 ~~calendar year~~ shall be charged to ~~paid by~~ the licensee as set forth in  
29 sections 8-605 and 8-606.

30 (2) Upon receipt by a licensee of a notice of investigation or  
31 inquiry request for information from the department, the licensee shall

1 respond within twenty-one calendar days. Each day a licensee fails to  
2 respond as required by this subsection constitutes a separate violation.

3 (3) If the director finds, after notice and opportunity for hearing  
4 in accordance with the Administrative Procedure Act, that any person has  
5 willfully and intentionally violated any provision of the Nebraska  
6 Installment Loan Act, any rule or regulation adopted and promulgated  
7 under the act, or any order issued under the act, the director may order  
8 such person to pay (a) an administrative fine of not more than one  
9 thousand dollars for each separate violation and (b) the costs of  
10 investigation. The department shall remit fines collected under this  
11 subsection to the State Treasurer for distribution in accordance with  
12 Article VII, section 5, of the Constitution of Nebraska. ~~All fines~~  
13 ~~collected by the department pursuant to this subsection shall be remitted~~  
14 ~~to the State Treasurer for credit to the permanent school fund.~~

15 (4) If a person fails to pay an administrative fine and the costs of  
16 investigation ordered pursuant to subsection (3) of this section, a lien  
17 in the amount of such fine and costs may be imposed upon all assets and  
18 property of such person in this state and may be recovered in a civil  
19 action by the director. The lien shall attach to the real property of  
20 such person when notice of the lien is filed and indexed against the real  
21 property in the office of the register of deeds in the county where the  
22 real property is located. The lien shall attach to any other property of  
23 such person when notice of the lien is filed against the property in the  
24 manner prescribed by law. Failure of the person to pay such fine and  
25 costs constitutes a separate violation of the act.

26 Sec. 45. Section 45-1033, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 45-1033 (1) The director may, following a hearing under the  
29 Administrative Procedure Act and the rules and regulations adopted and  
30 promulgated by the department under the act, suspend or revoke any  
31 license issued pursuant to the Nebraska Installment Loan Act. The

1 director may also impose an administrative fine on the licensee for each  
2 separate violation of the act. The director may take one or more of these  
3 actions if the director finds:

4 (a) The licensee has materially violated or demonstrated a  
5 continuing pattern of violating the Nebraska Installment Loan Act or  
6 rules and regulations adopted and promulgated under the act, any order  
7 issued under the act, or any other state or federal law applicable to the  
8 conduct of its business;

9 (b) A fact or condition exists which, if it had existed at the time  
10 of the original application for the license, would have warranted the  
11 director to deny the application;

12 (c) The licensee has violated a voluntary consent or compliance  
13 agreement which had been entered into with the director;

14 (d) The licensee has knowingly provided or caused to be provided to  
15 the director any false or fraudulent representation of a material fact or  
16 any false or fraudulent financial statement or suppressed or withheld  
17 from the director any information which, if submitted by the licensee,  
18 would have resulted in denial of the license application;

19 (e) The licensee has refused to permit an examination by the  
20 director of the licensee ~~licensee's business, records, and accounts~~  
21 pursuant to subsection (1) of section 45-1017 or refused or failed to  
22 comply with subsection (2) of section 45-1017 or failed to make any  
23 report required under section 45-1018. Each day the licensee continues in  
24 violation of this subdivision constitutes a separate violation;

25 (f) The licensee has failed to maintain records as required by the  
26 director following written notice. Each day the licensee continues in  
27 violation of this subdivision constitutes a separate violation;

28 (g) The licensee knowingly has employed any individual or knowingly  
29 has maintained a contractual relationship with any individual acting as  
30 an agent, if such individual has been convicted of, pleaded guilty to, or  
31 was found guilty after a plea of nolo contendere to (i) a misdemeanor

1 under any state or federal law which involves dishonesty or fraud or  
2 which involves any aspect of the mortgage banking business, financial  
3 institution business, or installment loan business or (ii) any felony  
4 under state or federal law;

5 (h) The licensee has violated the written restrictions or conditions  
6 under which the license was issued;

7 (i) The licensee, or if the licensee is a business entity, one of  
8 the officers, directors, members, partners, or controlling shareholders,  
9 was found guilty after a plea of nolo contendere to (i) a misdemeanor  
10 under any state or federal law which involves dishonesty or fraud or  
11 which involves any aspect of the mortgage banking business, financial  
12 institution business, or installment loan business or (ii) any felony  
13 under state or federal law; or

14 (j) The licensee knowingly has employed any individual or knowingly  
15 has maintained a contractual relationship with any individual acting as  
16 an agent, if such individual is conducting activities requiring a  
17 mortgage loan originator license in this state without first obtaining  
18 such license.

19 (2) Except as provided in this section, a license shall not be  
20 revoked or suspended except after notice and a hearing in accordance with  
21 the Administrative Procedure Act and the rules and regulations adopted  
22 and promulgated by the department under the act.

23 (3)(a) If a licensee fails to renew its license as required by  
24 subsection (1) of section 45-1013 and does not voluntarily surrender the  
25 license pursuant to section 45-1032, the department may issue a notice of  
26 expiration of the license to the licensee in lieu of revocation  
27 proceedings.

28 (b) If a licensee fails to maintain a surety bond as required by  
29 section 45-1007, the department may issue a notice of cancellation of the  
30 license in lieu of revocation proceedings.

31 (4) Revocation, suspension, cancellation, or expiration of a license

1 shall not impair or affect the obligation of a preexisting lawful  
2 contract between the licensee and any person, including a borrower.

3 (5) Revocation, suspension, cancellation, or expiration of a license  
4 shall not affect civil or criminal liability for acts committed before  
5 the revocation, suspension, cancellation, or expiration or liability for  
6 any fines which may be imposed against the licensee or any of its  
7 officers, directors, shareholders, partners, or members pursuant to this  
8 section or section 45-1069 for acts committed before the surrender.

9 Sec. 46. Section 52-1308, Revised Statutes Cumulative Supplement,  
10 2018, is amended to read:

11 52-1308 Farm product shall mean an agricultural commodity, a species  
12 of livestock used or produced in farming operations, or a product of such  
13 crop or livestock in its unmanufactured state, that is in the possession  
14 of a person engaged in farming operations. Farm products shall include,  
15 but are not limited to, apples, artichokes, asparagus, barley, bees,  
16 buffalo, bull semen, cantaloupe, carrots, cattle and calves, chickens,  
17 corn, cucumbers, dry beans, eggs, embryos or genetic products, emu, fish,  
18 flax seed, goats, grapes, hay, hemp, hogs, honey, honeydew melon, horses,  
19 llamas, milk, millet, muskmelon, oats, onions, ostrich, popcorn,  
20 potatoes, pumpkins, raspberries, rye, safflower, seed crops, sheep and  
21 lambs, silage, sorghum grain, soybeans, squash, strawberries, sugar  
22 beets, sunflower seeds, sweet corn, tomatoes, trees, triticale, turkeys,  
23 vetch, walnuts, watermelon, wheat, and wool. The Secretary of State may,  
24 by rule and regulation, add other farm products to the list specified in  
25 this section if such products are covered by the general definition  
26 provided by this section.

27 Sec. 47. Section 59-1722, Revised Statutes Cumulative Supplement,  
28 2018, is amended to read:

29 59-1722 (1) Any transaction involving the sale of a franchise as  
30 defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1,  
31 2020 in which the seller has complied with the Federal Trade Commission

1 ~~trade regulation rule titled Disclosure Requirements and Prohibitions~~  
2 ~~Concerning Franchising, 16 C.F.R. 436,~~ shall be exempt from the Seller-  
3 Assisted Marketing Plan Act, except that such transactions shall be  
4 subject to subdivision (1)(d) of section 59-1757, those provisions  
5 regulating or prescribing the use of the phrase buy-back or secured  
6 investment or similar phrases as set forth in sections 59-1726 to 59-1728  
7 and 59-1751, and all sections which provide for their enforcement. The  
8 exemption shall only apply if:

9 (a) The franchise is offered and sold in compliance with the  
10 requirements of 16 C.F.R. part 436, Disclosure Requirements and  
11 Prohibitions Concerning Franchising, as such part existed on January 1,  
12 2020 ~~The seller uses a disclosure document prepared in accordance with~~  
13 ~~either the Federal Trade Commission trade regulation rule titled~~  
14 ~~Disclosure Requirements and Prohibitions Concerning Franchising, 16~~  
15 ~~C.F.R. 436, or the then current guidelines for the preparation of the~~  
16 ~~Uniform Franchise Offering Circular adopted by the North American~~  
17 ~~Securities Administrators Association;~~

18 (b) Before placing any advertisement in a Nebraska-based  
19 publication, offering for sale to any prospective purchaser in Nebraska,  
20 or making any representations in connection with such offer or sale to  
21 any prospective purchaser in Nebraska, the seller files a notice with the  
22 Department of Banking and Finance which contains (i) the name, address,  
23 and telephone number of the seller and the name under which the seller  
24 intends to do business and (ii) a brief description of the plan offered  
25 by the seller; and

26 (c) The seller pays a filing fee of one hundred dollars.

27 (2) The department may request a copy of the disclosure document  
28 upon receipt of a written complaint or inquiry regarding the seller or  
29 upon a reasonable belief that a violation of the Seller-Assisted  
30 Marketing Plan Act has occurred or may occur. The seller shall provide  
31 such copy within ten business days of receipt of the request.

1           (3) All funds collected by the department under this section shall  
2 be remitted to the State Treasurer for credit to the Securities Act Cash  
3 Fund.

4           (4) The Director of Banking and Finance may by order deny or revoke  
5 an exemption specified in this section with respect to a particular  
6 offering of one or more business opportunities if the director finds that  
7 such an order is in the public interest or is necessary for the  
8 protection of purchasers. An order shall not be entered without  
9 appropriate prior notice to all interested parties, an opportunity for  
10 hearing, and written findings of fact and conclusions of law. If the  
11 public interest or the protection of purchasers so requires, the director  
12 may by order summarily deny or revoke an exemption specified in this  
13 section pending final determination of any proceedings under this  
14 section. An order under this section shall not operate retroactively.

15           Sec. 48. Section 59-1725.01, Reissue Revised Statutes of Nebraska,  
16 is amended to read:

17           59-1725.01 (1) The Director of Banking and Finance may summarily  
18 order a seller or any officer, director, employee, or agent of such  
19 seller to cease and desist from the further offer or sale of any seller-  
20 assisted marketing plan by the seller if the director finds:

21           (a) There has been a substantial failure to comply with any of the  
22 provisions of the Seller-Assisted Marketing Plan Act;

23           (b) The offer or sale of the plan would constitute misrepresentation  
24 to or deceit or fraud upon the purchasers; or

25           (c) Any person identified in the required disclosure document has  
26 been convicted of an offense described in subdivision (2)(a) of section  
27 59-1735 or is subject to an order or has had a civil judgment entered  
28 against him or her as described in subdivision (2)(b) or (c) of section  
29 59-1735, and the involvement of such person in the sale or management of  
30 the seller-assisted marketing plan creates an unreasonable risk to  
31 prospective purchasers.



1 (2) If the director believes, whether or not based upon an  
2 investigation conducted under section 59-1725, that any person has  
3 engaged in or is about to engage in any act or practice constituting a  
4 violation of any provision of the Seller-Assisted Marketing Plan Act or  
5 any rule, regulation, or order of the director, the director may:

6 (a) Issue a cease and desist order;

7 (b) Impose a fine not to exceed five thousand dollars per violation,  
8 in addition to costs of the investigation; or

9 (c) Initiate an action in any court of competent jurisdiction to  
10 enjoin such acts or practices and to enforce compliance with the Seller-  
11 Assisted Marketing Plan Act or any order under the act.

12 (3) Upon a proper showing, a permanent or temporary injunction,  
13 restraining order, or writ of mandamus shall be granted. The director  
14 shall not be required to post a bond.

15 (4)(a) Any fines and costs imposed under this section shall be in  
16 addition to all other penalties imposed by the laws of this state. The  
17 Department of Banking and Finance shall collect the fines and costs and  
18 remit them to the State Treasurer. The State Treasurer shall credit the  
19 costs to the Securities Act Cash Fund and distribute the fines in  
20 accordance with Article VII, section 5, of the Constitution of Nebraska  
21 ~~Any fine and costs imposed under this section shall be in addition to all~~  
22 ~~other penalties imposed by the laws of this state and shall be collected~~  
23 ~~by the Department of Banking and Finance and remitted to the State~~  
24 ~~Treasurer. Costs shall be credited to the Securities Act Cash Fund, and~~  
25 ~~fines shall be credited to the permanent school fund.~~

26 (b) If a person fails to pay the administrative fine or  
27 investigation costs referred to in this section, a lien in the amount of  
28 such fine and costs may be imposed upon all assets and property of such  
29 person in this state and may be recovered by suit by the director.  
30 Failure of the person to pay such fine and costs shall constitute a  
31 separate violation of the act.

1 (5) Upon entry of an order pursuant to this section, the director  
2 shall, in writing, promptly notify all persons to whom such order is  
3 directed that it has been entered and of the reasons for such order and  
4 that any person to whom the order is directed may request a hearing in  
5 writing within fifteen business days after the issuance of the order.  
6 Upon receipt of such written request, the matter shall be set down for  
7 hearing to commence within thirty business days after the receipt unless  
8 the parties consent to a later date or the hearing officer sets a later  
9 date for good cause. If a hearing is not requested within fifteen  
10 business days and none is ordered by the director, the order shall  
11 automatically become final and shall remain in effect until it is  
12 modified or vacated by the director. If a hearing is requested or  
13 ordered, the director, after notice and hearing, shall enter his or her  
14 written findings of fact and conclusions of law and may affirm, modify,  
15 or vacate the order.

16 (6) The director may vacate or modify a cease and desist order if he  
17 or she finds that the conditions which caused its entry have changed or  
18 that it is otherwise in the public interest to do so.

19 (7) Any person aggrieved by a final order of the director may appeal  
20 the order. The appeal shall be in accordance with the Administrative  
21 Procedure Act.

22 Sec. 49. Section 69-2103, Revised Statutes Supplement, 2019, is  
23 amended to read:

24 69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

25 (1) Advertisement means a commercial message in any medium that  
26 aids, promotes, or assists directly or indirectly a consumer rental  
27 purchase agreement but does not include in-store merchandising aids such  
28 as window signs and ceiling banners;

29 (2) Cash price means the price at which the lessor would have sold  
30 the property to the consumer for cash on the date of the consumer rental  
31 purchase agreement for the property;

1 (3) Consumer means a natural person who rents property under a  
2 consumer rental purchase agreement;

3 (4) Consumer rental purchase agreement means an agreement which is  
4 for the use of property by a consumer primarily for personal, family, or  
5 household purposes, which is for an initial period of four months or  
6 less, whether or not there is any obligation beyond the initial period,  
7 which is automatically renewable with each payment, and which permits the  
8 consumer to become the owner of the property. A consumer rental purchase  
9 agreement in compliance with the act shall not be construed to be a lease  
10 or agreement which constitutes a credit sale as defined in 12 C.F.R.  
11 1026.2(a)(16), as such regulation existed on January 1, 2020 ~~2019~~, and 15  
12 U.S.C. 1602(h), as such section existed on January 1, 2020 ~~2019~~, or a  
13 lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2,  
14 as such regulation existed on January 1, 2020 ~~2019~~. Consumer rental  
15 purchase agreement does not include:

- 16 (a) Any lease for agricultural, business, or commercial purposes;
- 17 (b) Any lease made to an organization;
- 18 (c) A lease or agreement which constitutes an installment sale or  
19 installment contract as defined in section 45-335;
- 20 (d) A security interest as defined in subdivision (35) of section  
21 1-201, Uniform Commercial Code; and

22 (e) A home solicitation sale as defined in section 69-1601;

23 (5) Consummation means the occurrence of an event which causes a  
24 consumer to become contractually obligated on a consumer rental purchase  
25 agreement;

26 (6) Department means the Department of Banking and Finance;

27 (7) Lease payment means a payment to be made by the consumer for the  
28 right of possession and use of the property for a specific lease period  
29 but does not include taxes imposed on such payment;

30 (8) Lease period means a week, month, or other specific period of  
31 time, during which the consumer has the right to possess and use the

1 property after paying the lease payment and applicable taxes for such  
2 period;

3 (9) Lessor means a person who in the ordinary course of business  
4 operates a commercial outlet which regularly leases, offers to lease, or  
5 arranges for the leasing of property under a consumer rental purchase  
6 agreement;

7 (10) Property means any property that is not real property under the  
8 laws of this state when made available for a consumer rental purchase  
9 agreement; and

10 (11) Total of payments to acquire ownership means the total of all  
11 charges imposed by the lessor and payable by the consumer as a condition  
12 of acquiring ownership of the property. Total of payments to acquire  
13 ownership includes lease payments and any initial nonrefundable  
14 administrative fee or required delivery charge but does not include  
15 taxes, late charges, reinstatement fees, or charges for optional products  
16 or services.

17 Sec. 50. Section 69-2104, Revised Statutes Supplement, 2019, is  
18 amended to read:

19 69-2104 (1) Before entering into any consumer rental purchase  
20 agreement, the lessor shall disclose to the consumer the following items  
21 as applicable:

22 (a) A brief description of the leased property sufficient to  
23 identify the property to the consumer and lessor;

24 (b) The number, amount, and timing of all payments included in the  
25 total of payments to acquire ownership;

26 (c) The total of payments to acquire ownership;

27 (d) A statement that the consumer will not own the property until  
28 the consumer has paid the total of payments to acquire ownership plus  
29 applicable taxes;

30 (e) A statement that the total of payments to acquire ownership does  
31 not include other charges such as taxes, late charges, reinstatement

1 fees, or charges for optional products or services the consumer may have  
2 elected to purchase and that the consumer should see the rental purchase  
3 agreement for an explanation of these charges;

4 (f) A statement that the consumer is responsible for the fair market  
5 value, remaining rent, early purchase option amount, or cost of repair of  
6 the property, whichever is less, if it is lost, stolen, damaged, or  
7 destroyed;

8 (g) A statement indicating whether the property is new or used. A  
9 statement that indicates that new property is used shall not be a  
10 violation of the Consumer Rental Purchase Agreement Act;

11 (h) A statement of the cash price of the property. When the  
12 agreement involves a lease for two or more items, a statement of the  
13 aggregate cash price of all items shall satisfy the requirement of this  
14 subdivision;

15 (i) The total amount of the initial payments required to be paid  
16 before consummation of the agreement or delivery of the property,  
17 whichever occurs later, and an itemization of the components of the  
18 initial payment, including any initial nonrefundable administrative fee  
19 or delivery charge, lease payment, taxes, or fee or charge for optional  
20 products or services;

21 (j) A statement clearly summarizing the terms of the consumer's  
22 options to purchase, including a statement that at any time after the  
23 first periodic payment is made the consumer may acquire ownership of the  
24 property by tendering an amount which may not exceed fifty-five percent  
25 of the difference between the total of payments to acquire ownership and  
26 the total of lease payments the consumer has paid on the property at that  
27 time;

28 (k) A statement identifying the party responsible for maintaining or  
29 servicing the property while it is being leased, together with a  
30 description of that responsibility and a statement that if any part of a  
31 manufacturer's warranty covers the leased property at the time the

1 consumer acquires ownership of the property, such warranty shall be  
2 transferred to the consumer if allowed by the terms of the warranty; and

3 (1) The date of the transaction and the names of the lessor and the  
4 consumer.

5 (2) With respect to matters specifically governed by the federal  
6 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act  
7 existed on January 1, 2020 ~~2019~~, compliance with such act shall satisfy  
8 the requirements of this section.

9 (3) Subsection (1) of this section shall not apply to a lessor who  
10 complies with the disclosure requirements of the federal Consumer Credit  
11 Protection Act, 15 U.S.C. 1667a, as such section existed on January 1,  
12 2020 ~~2019~~, with respect to a consumer rental purchase agreement entered  
13 into with a consumer.

14 Sec. 51. Section 69-2112, Revised Statutes Supplement, 2019, is  
15 amended to read:

16 69-2112 (1) Any advertisement for a consumer rental purchase  
17 agreement which refers to or states the amount of any payment or the  
18 right to acquire ownership for any specific item shall also state clearly  
19 and conspicuously the following if applicable:

20 (a) That the transaction advertised is a consumer rental purchase  
21 agreement;

22 (b) The total of payments to acquire ownership; and

23 (c) That the consumer acquires no ownership rights until the total  
24 of payments to acquire ownership is paid.

25 (2) Any owner or employee of any medium in which an advertisement  
26 appears or through which it is disseminated shall not be liable under  
27 this section.

28 (3) Subsection (1) of this section shall not apply to an  
29 advertisement which does not refer to a specific item of property, which  
30 does not refer to or state the amount of any payment, or which is  
31 published in the yellow pages of a telephone directory or any similar

1 directory of business.

2 (4) With respect to matters specifically governed by the federal  
3 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act  
4 existed on January 1, 2020 ~~2019~~, compliance with such act shall satisfy  
5 the requirements of this section.

6 Sec. 52. Section 77-2398, Revised Statutes Supplement, 2019, is  
7 amended to read:

8 77-2398 (1) As an alternative to the requirements to secure the  
9 deposit of public money or public funds in excess of the amount insured  
10 or guaranteed by the Federal Deposit Insurance Corporation pursuant to  
11 sections 77-2389 and 77-2394, a bank, capital stock financial  
12 institution, or qualifying mutual financial institution designated as a  
13 public depository may secure the deposits of one or more governmental  
14 units by providing a deposit guaranty bond or by depositing, pledging, or  
15 granting a security interest in a single pool of securities or by a  
16 combination thereof to secure the repayment of all public money or public  
17 funds deposited in the bank, capital stock financial institution, or  
18 qualifying mutual financial institution by such governmental units and  
19 not otherwise secured pursuant to law, if at all times the total value of  
20 the deposit guaranty bond and the aggregate market value of the pool of  
21 securities so deposited, pledged, or in which a security interest is  
22 granted is at least equal to one hundred two percent of the amount on  
23 deposit which is in excess of the amount so insured or guaranteed. Each  
24 such bank, capital stock financial institution, or qualifying mutual  
25 financial institution shall carry on its accounting records at all times  
26 a general ledger or other appropriate account of the total amount of all  
27 public money or public funds to be secured by a deposit guaranty bond or  
28 by the pool of securities, or any combination thereof, as determined at  
29 the opening of business each day, and the total value of the deposit  
30 guaranty bond or the aggregate market value of the pool of securities  
31 deposited, pledged, or in which a security interest is granted to secure

1 such public money or public funds. For purposes of this section, a pool  
2 of securities shall include shares of investment companies registered  
3 under the federal Investment Company Act of 1940 when the investment  
4 companies' assets are limited to obligations that are eligible for  
5 investment by the bank, capital stock financial institution, or  
6 qualifying mutual financial institution and limited by their prospectuses  
7 to owning securities enumerated in section 77-2387.

8 (2) A bank, capital stock financial institution, or qualifying  
9 mutual financial institution may secure the deposit of public money or  
10 public funds using the dedicated method, the single bank pooled method,  
11 or both methods as set forth in subsection (1) of this section.

12 (a) Under the dedicated method, a bank, capital stock financial  
13 institution, or qualifying mutual financial institution may secure the  
14 deposit of public money or public funds by each governmental unit  
15 separately by furnishing securities or providing a deposit guaranty bond,  
16 or any combination thereof, pursuant to the Public Funds Deposit Security  
17 Act.

18 (b)(i) Under the single bank pooled method, a bank, capital stock  
19 financial institution, or qualifying mutual financial institution may  
20 secure the deposit of public money or public funds of one or more  
21 governmental units by providing a deposit guaranty bond or through a pool  
22 of eligible securities established by such bank, capital stock financial  
23 institution, or qualifying mutual financial institution with a qualified  
24 trustee, or any combination thereof, to be held subject to the order of  
25 the director or the administrator for the benefit of the governmental  
26 units having public money or public funds with such bank, capital stock  
27 financial institution, or qualifying mutual financial institution as set  
28 forth in subsection (1) of this section. A bank, capital stock financial  
29 institution, or qualifying mutual financial institution may not retain  
30 any deposit of public money or public funds which is required to be  
31 secured unless, within ten days thereafter or such shorter period as has



1 been agreed upon by the bank, capital stock financial institution, or  
2 qualifying mutual financial institution and the director or  
3 administrator, it has secured the deposits for the benefit of the  
4 governmental units having public money or public funds with such bank,  
5 capital stock financial institution, or qualifying mutual financial  
6 institution pursuant to this section.

7 (ii) The director shall designate a bank, savings association, trust  
8 company, or other qualified firm, corporation, or association which is  
9 authorized to transact business in this state to serve as the  
10 administrator with respect to a single bank pooled method. Fees and  
11 expenses of such administrator shall be paid by the banks, capital stock  
12 financial institutions, or qualifying mutual financial institutions  
13 utilizing the single bank pooled method.

14 (iii) If a bank, capital stock financial institution, or qualifying  
15 mutual financial institution elects to secure the deposit of public money  
16 or public funds through the use of the single bank pooled method, such  
17 bank, capital stock financial institution, or qualifying mutual financial  
18 institution shall notify the administrator in writing that it has elected  
19 to utilize the single bank pooled method and the proposed effective date  
20 thereof.

21 (iv) The single bank pooled method shall not be utilized by any  
22 bank, capital stock financial institution, or qualifying mutual financial  
23 institution unless an administrator has been designated by the director  
24 pursuant to subdivision (2)(b)(ii) of this section and is acting as the  
25 administrator.

26 (3) Only a deposit guaranty bond and the securities listed in  
27 subdivision (14) of section 77-2387 may be provided and accepted as  
28 security for the deposit of public money or public funds and shall be  
29 eligible as collateral. The qualified trustee shall not accept any  
30 securities which are not listed in subdivision (14) of section 77-2387.

31 Sec. 53. Section 77-23,100, Revised Statutes Supplement, 2019, is

1 amended to read:

2 77-23,100 (1) Any bank, capital stock financial institution, or  
3 qualifying mutual financial institution in which public money or public  
4 funds have been deposited which satisfies its requirement to secure the  
5 deposit of public money or public funds in excess of the amount insured  
6 or guaranteed by the Federal Deposit Insurance Corporation, in whole or  
7 in part, by the deposit, pledge, or granting of a security interest in a  
8 single pool of securities shall designate a qualified trustee and place  
9 with the trustee for holding the securities so deposited, pledged, or in  
10 which a security interest has been granted pursuant to subsection (1) of  
11 section 77-2398, subject to the order of the director or the  
12 administrator. The bank, capital stock financial institution, or  
13 qualifying mutual financial institution shall give written notice of the  
14 designation of the qualified trustee to any custodial official depositing  
15 public money or public funds for which such securities are deposited,  
16 pledged, or in which a security interest has been granted, and if an  
17 affiliate of the bank, capital stock financial institution, or qualifying  
18 mutual financial institution is to serve as the qualified trustee, the  
19 notice shall disclose the affiliate relationship and shall be given prior  
20 to designation of the qualified trustee. The custodial official shall  
21 accept the written receipt of the trustee describing the pool of  
22 securities so deposited, pledged, or in which a security interest has  
23 been granted by the bank, capital stock financial institution, or  
24 qualifying mutual financial institution, a copy of which shall also be  
25 delivered to the bank, capital stock financial institution, or qualifying  
26 mutual financial institution.

27 (2) Any bank, capital stock financial institution, or qualifying  
28 mutual financial institution which satisfies its requirement to secure  
29 the deposit of public money or public funds in excess of the amount  
30 insured or guaranteed by the Federal Deposit Insurance Corporation under  
31 the Public Funds Deposit Security Act, in whole or in part, by providing

1 a deposit guaranty bond pursuant to the provisions of subsection (1) of  
2 section 77-2398, shall designate the director and cause to be issued a  
3 deposit guaranty bond which runs to the director acting for the benefit  
4 of the governmental units having public money or public funds on deposit  
5 with such bank, capital stock financial institution, or qualifying mutual  
6 financial institution and which is conditioned that the bank, capital  
7 stock financial institution, or qualifying mutual financial institution  
8 shall render to the administrator the statement required under subsection  
9 (3) of this section.

10 (3) Each bank, capital stock financial institution, or qualifying  
11 mutual financial institution which satisfies its requirement to secure  
12 the deposit of public money or public funds in excess of the amount  
13 insured or guaranteed by the Federal Deposit Insurance Corporation by  
14 providing a deposit guaranty bond or by depositing, pledging, or granting  
15 a security interest in a single pool of securities, or any combination  
16 thereof, shall, on or before the tenth day of each month, render to the  
17 administrator a statement showing as of the last business day of the  
18 previous month (a) the amount of public money or public funds deposited  
19 in such bank, capital stock financial institution, or qualifying mutual  
20 financial institution that is not insured or guaranteed by the Federal  
21 Deposit Insurance Corporation (i) by each governmental unit ~~custodial~~  
22 ~~official~~ separately and (ii) by all governmental units ~~custodial~~  
23 ~~officials~~ in the aggregate and (b) the total value of the deposit  
24 guaranty bond and the aggregate market value of the pool of securities  
25 deposited, pledged, or in which a security interest has been granted  
26 pursuant to subsection (1) of section 77-2398. The director shall be  
27 authorized, acting for the benefit of the governmental units having  
28 public money or public funds on deposit with such bank, capital stock  
29 financial institution, or qualifying mutual financial institution, to  
30 take any and all actions necessary to take title to or to effect a first  
31 perfected security interest in the securities deposited, pledged, or in

1 which a security interest is granted.

2 (4) Within twenty days after the deadline for receiving the  
3 statement required under subsection (3) of this section from a bank,  
4 capital stock financial institution, or qualifying mutual financial  
5 institution, the administrator shall provide a report to each  
6 governmental unit ~~custodial official~~ listed in such statement reflecting  
7 (a) the amount of public money or public funds deposited in such bank,  
8 capital stock financial institution, or qualifying mutual financial  
9 institution by each ~~governmental unit custodial official~~ as of the last  
10 business day of the previous month that is not insured or guaranteed by  
11 the Federal Deposit Insurance Corporation and that is secured pursuant to  
12 subsection (1) of section 77-2398 and (b) the total value of the deposit  
13 guaranty bond and the aggregate market value of the pool of securities  
14 deposited, pledged, or in which a security interest is granted pursuant  
15 to subsection (1) of section 77-2398 as of the last business day of the  
16 previous month. The report shall clearly notify the ~~governmental unit~~  
17 ~~custodial official~~ if the value of the deposit guaranty bond provided or  
18 the securities deposited, pledged, or in which a security interest has  
19 been granted, or any combination thereof, do ~~does~~ not meet the statutory  
20 requirement. The report required by this subsection shall be deemed to  
21 have been provided to a governmental unit upon posting of the report by  
22 the administrator on its web site for access by governmental units  
23 participating under the single bank pooled method if the governmental  
24 unit has agreed in advance to receive such report by accessing the  
25 administrator's web site.

26 Sec. 54. Section 4A-108, Uniform Commercial Code, Revised Statutes  
27 Supplement, 2019, is amended to read:

28 4A-108 Relationship to Electronic Fund Transfer Act.

29 (a) Except as provided in subsection (b), this article does not  
30 apply to a funds transfer any part of which is governed by the federal  
31 Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed

1 on January 1, ~~2020~~ 2019.

2 (b) This article applies to a funds transfer that is a remittance  
3 transfer as defined in the federal Electronic Fund Transfer Act, 15  
4 U.S.C. 1693o-1, as such section existed on January 1, ~~2020~~ 2019, unless  
5 the remittance transfer is an electronic fund transfer as defined in the  
6 federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section  
7 existed on January 1, ~~2020~~ 2019.

8 (c) In a funds transfer to which this article applies, in the event  
9 of an inconsistency between an applicable provision of this article and  
10 an applicable provision of the federal Electronic Fund Transfer Act, the  
11 provision of the federal Electronic Fund Transfer Act governs to the  
12 extent of the inconsistency.

13 Sec. 55. Section 9-513A, Uniform Commercial Code, Revised Statutes  
14 Cumulative Supplement, 2018, is amended to read:

15 9-513A Unauthorized financing statement filings; procedures;  
16 remedies.

17 (a) An individual personally, or as a representative of an  
18 organization, may file in the filing office a notarized affidavit, signed  
19 under penalty of perjury, that identifies a filed financing statement and  
20 states that:

21 (1) the individual or organization is identified as a debtor in the  
22 financing statement;

23 (2) the financing statement was not filed by a financial institution  
24 or a representative of a financial institution or by an agricultural  
25 input supplier or a representative of an agricultural input supplier; and

26 (3) the financing statement was filed by a person not entitled to do  
27 so under section 9-509, 9-708, or 9-808.

28 (b) An affidavit filed under subsection (a) shall include any  
29 pertinent information that the office of the Secretary of State may  
30 reasonably require.

31 (c) An affidavit may not be filed under subsection (a) with respect

1 to a financing statement filed by a financial institution or a  
2 representative of a financial institution or by an agricultural input  
3 supplier or a representative of an agricultural input supplier.

4 (d) If an affidavit is filed under subsection (a), the filing office  
5 may file a termination statement with respect to the financing statement  
6 identified in the affidavit. The termination statement must indicate that  
7 it was filed pursuant to this section. Except as provided in subsections  
8 (g) and (h), a termination statement filed under this subsection shall  
9 take effect thirty days after it is filed.

10 (e) On the same day that the filing office files a termination  
11 statement under subsection (d), it shall send to each secured party of  
12 record identified in the financing statement a notice advising the  
13 secured party of record that the termination statement has been filed.  
14 The notice shall be sent by certified mail, return receipt requested, to  
15 the mailing address provided for the secured party of record.

16 (f) A secured party of record identified in a financing statement as  
17 to which a termination statement has been filed under subsection (d) may  
18 bring an action within twenty business days after the termination  
19 statement is filed against the individual who filed the affidavit under  
20 subsection (a) seeking a determination as to whether the financing  
21 statement was filed by a person entitled to do so under section 9-509,  
22 9-708, or 9-808. An action under this subsection shall have priority on  
23 the court's calendar and shall proceed by expedited hearing. The action  
24 shall be brought in the district court of the county where the filing  
25 office in which the financing statement was filed is located. If the  
26 secured party of record identified in a financing statement as to which a  
27 termination statement has been filed under subsection (d) timely files an  
28 action pursuant to this subsection, the secured party of record shall  
29 send written notification to the Secretary of State of the action at the  
30 time of filing the action. If the secured party of record identified in a  
31 financing statement as to which a termination statement has been filed

1 under subsection (d) does not timely file an action pursuant to this  
2 subsection, the Secretary of State may remove the filed financing  
3 statement from the searchable index of filed financing statements.

4 (g) In an action brought pursuant to subsection (f), a court may, in  
5 appropriate circumstances, order preliminary relief, including, but not  
6 limited to, an order precluding the termination statement from taking  
7 effect or directing a party to take action to prevent the termination  
8 statement from taking effect. If the court issues such an order and the  
9 filing office receives a certified copy of the order before the  
10 termination statement takes effect, the termination statement shall not  
11 take effect and the filing office shall promptly file an amendment to the  
12 financing statement that indicates that an order has prevented the  
13 termination statement from taking effect. If such an order ceases to be  
14 effective by reason of a subsequent order or a final judgment of the  
15 court or by an order issued by another court and the filing office  
16 receives a certified copy of the subsequent judgment or order, the  
17 termination statement shall become immediately effective upon receipt of  
18 the certified copy and the filing office shall promptly file an amendment  
19 to the financing statement indicating that the termination statement is  
20 effective.

21 (h) If a court determines in an action brought pursuant to  
22 subsection (f) that the financing statement was filed by a person  
23 entitled to do so under section 9-509, 9-708, or 9-808 and the filing  
24 office receives a certified copy of the court's final judgment or order  
25 before the termination statement takes effect, the termination statement  
26 shall not take effect and the filing office shall remove the termination  
27 statement and any amendments filed under subsection (g) from the files.  
28 If the filing office receives the certified copy after the termination  
29 statement takes effect and within thirty days after the final judgment or  
30 order was entered, the filing office shall promptly file an amendment to  
31 the financing statement that indicates that the financing statement has

1 been reinstated.

2 (i) Except as provided in subsection (j), upon the filing of an  
3 amendment reinstating a financing statement under subsection (h) the  
4 effectiveness of the financing statement is retroactively reinstated and  
5 the financing statement shall be considered never to have been  
6 ineffective against all persons and for all purposes.

7 (j) A financing statement whose effectiveness was terminated under  
8 subsection (d) and has been reinstated under subsection (h) shall not be  
9 effective as against a person that purchased the collateral in good faith  
10 between the time the termination statement was filed and the time of the  
11 filing of the amendment reinstating the financing statement, to the  
12 extent that the person gave new value in reliance on the termination  
13 statement.

14 (k) The filing office shall not charge a fee for the filing of an  
15 affidavit or a termination statement under this section. The filing  
16 office shall not return any fee paid for filing the financing statement  
17 identified in the affidavit, whether or not the financing statement is  
18 subsequently reinstated.

19 (l) Neither the filing office nor any of its employees shall be  
20 subject to liability for the termination or amendment of a financing  
21 statement in the lawful performance of the duties of the filing office  
22 under this section.

23 (m) The Secretary of State shall adopt and make available a form of  
24 affidavit for use under this section.

25 (n) For purposes of this section:

26 (1) Agricultural input supplier means a person regularly in the  
27 business of extending credit to agricultural producers; and

28 (2) Financial institution means a person that is in the business of  
29 extending credit or servicing loans, including acquiring, purchasing,  
30 selling, brokering, or other extensions of credit and where applicable,  
31 holds whatever license, charter, or registration that is required to



1 engage in such business. The term includes banks, savings associations,  
2 building and loan associations, consumer and commercial finance  
3 companies, industrial banks, industrial loan companies, insurance  
4 companies, investment companies, installment sellers, mortgage servicers,  
5 sales finance companies, and leasing companies.

6 Sec. 56. Sections 9, 18, 19, 20, 22, 25, 26, 27, 28, 29, 30, 31,  
7 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 46, 55, and 57 of this  
8 act become operative three calendar months after the adjournment of this  
9 legislative session. The other sections of this act become operative on  
10 their effective date.

11 Sec. 57. Original sections 8-224.01, 30-3205, 45-601, 45-602,  
12 45-605, 45-606, 45-609, 45-610, 45-611, 45-620, 45-623, 45-905, 45-906,  
13 45-912, and 45-915, Reissue Revised Statutes of Nebraska, sections  
14 45-901, 45-902, 45-910, 45-911, and 52-1308, Revised Statutes Cumulative  
15 Supplement, 2018, and section 9-513A, Uniform Commercial Code, Revised  
16 Statutes Cumulative Supplement, 2018, are repealed.

17 Sec. 58. Original sections 45-191.02, 45-191.09, 45-1017, 45-1033,  
18 and 59-1725.01, Reissue Revised Statutes of Nebraska, sections 8-103,  
19 8-141, 8-167, and 59-1722, Revised Statutes Cumulative Supplement, 2018,  
20 sections 8-135, 8-143.01, 8-157.01, 8-183.04, 8-1,140, 8-318, 8-355,  
21 8-1101, 8-1101.01, 8-1103, 8-1111, 8-1704, 8-1707, 21-17,115, 69-2103,  
22 69-2104, 69-2112, 77-2398, and 77-23,100, Revised Statutes Supplement,  
23 2019, and section 4A-108, Uniform Commercial Code, Revised Statutes  
24 Supplement, 2019, are repealed.

25 Sec. 59. The following section is outright repealed: Section  
26 8-167.01, Revised Statutes Supplement, 2019.

27 Sec. 60. Since an emergency exists, this act takes effect when  
28 passed and approved according to law.