

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 707

Introduced by Williams, 36.

Read first time January 05, 2022

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to banking and finance; to amend sections
2 8-148.06, 8-1502, 45-736, and 59-1722, Reissue Revised Statutes of
3 Nebraska, sections 8-108, 8-148.07, and 8-148.08, Revised Statutes
4 Cumulative Supplement, 2020, sections 8-101.03, 8-135, 8-141,
5 8-143.01, 8-157.01, 8-183.04, 8-1,140, 8-318, 8-355, 8-1101,
6 8-1101.01, 8-1704, 8-1707, 8-2724, 8-2903, 8-3005, 8-3007,
7 21-17,115, 69-2103, 69-2104, and 69-2112, Revised Statutes
8 Supplement, 2021, and section 4A-108, Uniform Commercial Code,
9 Revised Statutes Supplement, 2021; to redefine a term; to change
10 provisions relating to banks, financial institutions, bank
11 subsidiaries, and residential mortgage loans; to adopt updates to
12 federal law relating to banks, financial institutions, securities,
13 money transmitters, commodities, financial exploitation of
14 vulnerable adults, digital asset depository institutions, credit
15 unions, transactions involving franchises, consumer rental purchase
16 agreements, and funds transfers; and to repeal the original
17 sections.

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

1 Section 1. Section 8-101.03, Revised Statutes Supplement, 2021, is
2 amended to read:

3 8-101.03 For purposes of the Nebraska Banking Act, unless the
4 context otherwise requires:

5 (1) Access device means a code, a transaction card, or any other
6 means of access to a customer's account, or any combination thereof, that
7 may be used by a customer for the purpose of initiating an electronic
8 funds transfer at an automatic teller machine or a point-of-sale
9 terminal;

10 (2) Acquiring financial institution means any financial institution
11 establishing a point-of-sale terminal;

12 (3) Automatic teller machine means a machine established and located
13 in the State of Nebraska, whether attended or unattended, which utilizes
14 electronic, sound, or mechanical signals or impulses, or any combination
15 thereof, and from which electronic funds transfers may be initiated and
16 at which banking transactions as defined in section 8-157.01 may be
17 conducted. An unattended automatic teller machine shall not be deemed to
18 be a branch operated by a financial institution;

19 (4) Automatic teller machine surcharge means a fee that an operator
20 of an automatic teller machine imposes upon a consumer for an electronic
21 funds transfer, if such operator is not the financial institution that
22 holds an account of such consumer from which the electronic funds
23 transfer is to be made;

24 (5) Bank or banking corporation means any incorporated banking
25 institution which was incorporated under the laws of this state as they
26 existed prior to May 9, 1933, and any corporation duly organized under
27 the laws of this state for the purpose of conducting a bank within this
28 state under the act. Bank means any such banking institution which is, in
29 addition to the exercise of other powers, following the practice of
30 repaying deposits upon check, draft, or order and of making loans. Bank
31 or banking corporation includes a digital asset depository institution as

1 defined in section 8-3003. Notwithstanding the provisions of this
2 subdivision, a digital asset depository institution is subject to the
3 provisions of subdivision (2)(b) of section 8-3005;

4 ~~(6)(a) (6)~~ Bank subsidiary ~~corporation~~ means a corporation or
5 limited liability company that:

6 (i) Has a corporation which has a bank as a shareholder, member, or
7 investor; and

8 (ii) Is which is organized for purposes of engaging in activities
9 which are part of the business of banking or incidental to such business
10 except for the receipt of deposits.

11 (b) A bank subsidiary ~~corporation~~ may include a corporation
12 organized under the Nebraska Financial Innovation Act.

13 (c) A bank subsidiary is not to be considered a branch of its bank
14 shareholder;

15 (7) Capital or capital stock means capital stock;

16 (8) Data processing center means a facility, wherever located, at
17 which electronic impulses or other indicia of a transaction originating
18 at an automatic teller machine are received and either authorized or
19 routed to a switch or other data processing center in order to enable the
20 automatic teller machine to perform any function for which it is
21 designed;

22 (9) Department means the Department of Banking and Finance;

23 (10) Digital asset depository means a financial institution that
24 securely holds liquid assets when such assets are in the form of
25 controllable electronic records, either as a corporation organized,
26 chartered, and operated pursuant to the Nebraska Financial Innovation Act
27 as a digital asset depository institution, or a financial institution
28 operating a digital asset depository business as a digital asset
29 depository department under a grant of authority by the director;

30 (11) Director means the Director of Banking and Finance;

31 (12) Financial institution means a bank, savings bank, building and

1 loan association, savings and loan association, or credit union, whether
2 chartered by the United States, the department, or a foreign state
3 agency; any other similar organization which is covered by federal
4 deposit insurance; a trust company; or a digital asset depository that is
5 not a digital asset depository institution;

6 (13) Financial institution employees includes parent holding company
7 and affiliate employees;

8 (14) Foreign state agency means any duly constituted regulatory or
9 supervisory agency which has authority over financial institutions and
10 which is created under the laws of any other state, any territory of the
11 United States, Puerto Rico, Guam, American Samoa, the Trust Territory of
12 the Pacific Islands, or the Virgin Islands or which is operating under
13 the code of law for the District of Columbia;

14 (15) Impulse means an electronic, sound, or mechanical impulse, or
15 any combination thereof;

16 (16) Insolvent means a condition in which (a) the actual cash market
17 value of the assets of a bank is insufficient to pay its liabilities to
18 its depositors, (b) a bank is unable to meet the demands of its creditors
19 in the usual and customary manner, (c) a bank, after demand in writing by
20 the director, fails to make good any deficiency in its reserves as
21 required by law, or (d) the stockholders of a bank, after written demand
22 by the director, fail to make good an impairment of its capital or
23 surplus;

24 (17) Making loans includes advances or credits that are initiated by
25 means of credit card or other transaction card. Transaction card and
26 other transactions, including transactions made pursuant to prior
27 agreements, may be brought about and transmitted by means of an
28 electronic impulse. Such loan transactions including transactions made
29 pursuant to prior agreements shall be subject to sections 8-815 to 8-829
30 and shall be deemed loans made at the place of business of the financial
31 institution;

1 (18) Order includes orders transmitted by electronic transmission;

2 (19) Point-of-sale terminal means an information processing terminal
3 which utilizes electronic, sound, or mechanical signals or impulses, or
4 any combination thereof, which are transmitted to a financial institution
5 or which are recorded for later transmission to effectuate electronic
6 funds transfer transactions for the purchase or payment of goods and
7 services and which are initiated by an access device. A point-of-sale
8 terminal is not a branch operated by a financial institution. Any
9 terminal owned or operated by a seller of goods and services shall be
10 connected directly or indirectly to an acquiring financial institution;
11 and

12 (20) Switch means any facility where electronic impulses or other
13 indicia of a transaction originating at an automatic teller machine are
14 received and are routed and transmitted to a financial institution or
15 data processing center, wherever located. A switch may also be a data
16 processing center.

17 Sec. 2. Section 8-108, Revised Statutes Cumulative Supplement, 2020,
18 is amended to read:

19 8-108 (1)(a) The director, the director's ~~his or her~~ deputy, or any
20 duly appointed examiner has the authority to make a thorough examination
21 into all the books, papers, and affairs of any bank or other financial
22 institution chartered by the department or a its holding company or bank
23 subsidiary of such bank or financial institution, if any, and in so doing
24 to administer oaths and affirmations, to examine on oath or affirmation
25 the officers, agents, and clerks of such bank, financial institution, or
26 its holding company, or bank subsidiary ~~, if any,~~ touching the matter
27 which they may be authorized and directed to inquire into and examine,
28 and to subpoena the attendance of any person or persons in this state to
29 testify under oath or affirmation in relation to the affairs of such
30 bank, financial institution, or its holding company, or bank subsidiary ~~,~~
31 ~~if any~~. The director, deputy, or examiner has the authority to examine

1 and monitor by electronic means the books, papers, and affairs of any
2 such bank, financial institution, or the holding company, or bank
3 subsidiary of a financial institution. The director may provide any
4 examination or report to the Federal Deposit Insurance Corporation, the
5 Federal Reserve Board, the Comptroller of the Currency, the Consumer
6 Financial Protection Bureau, or a foreign state agency.

7 (b) The director may accept any examination or report from a foreign
8 state agency and may accept any examination or report from the Federal
9 Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller
10 of the Currency, or the Consumer Financial Protection Bureau in lieu of
11 an examination or report required under the Nebraska Banking Act. Any
12 such examination or report accepted by the director remains the property
13 and confidential record of the foreign state agency or federal agency
14 which provided the examination or report to the director. A request or
15 subpoena for any such examination or report shall be directed to the
16 foreign state agency or federal agency which provided the examination or
17 report to the director.

18 (2) The department has the authority to examine the books, papers,
19 and affairs of any electronic data processing center which has contracted
20 with a bank or financial institution to conduct the bank or financial
21 institution's electronic data processing business. The department may
22 charge the electronic data processing center for the time spent by
23 examiners in such examination at the rate set forth in section 8-606 for
24 examiners' time spent in examinations of banks or financial institutions.

25 Sec. 3. Section 8-135, Revised Statutes Supplement, 2021, is amended
26 to read:

27 8-135 (1) All persons, regardless of age, may become depositors in
28 any bank and shall be subject to the same duties and liabilities
29 respecting their deposits. Whenever a deposit is accepted by any bank in
30 the name of any person, regardless of age, the deposit may be withdrawn
31 by the depositor by any of the following methods:

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

5 (b) Electronic means through:

6 (i) Preauthorized direct withdrawal;

7 (ii) An automatic teller machine;

8 (iii) A debit card;

9 (iv) A transfer by telephone;

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

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

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

16 (3) This section shall not be construed to affect the rights,
17 liabilities, or responsibilities of participants in an electronic fund
18 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
19 et seq., as such act existed on January 1, 2022 ~~2021~~, and shall not
20 affect the legal relationships between a minor and any person other than
21 the bank.

22 Sec. 4. Section 8-141, Revised Statutes Supplement, 2021, is amended
23 to read:

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

1 shall be subject to the following exceptions:

2 (a) Obligations of any person, partnership, limited liability
3 company, association, or corporation in the form of notes or drafts
4 secured by shipping documents or instruments transferring or securing
5 title covering livestock or giving a lien on livestock, when the market
6 value of the livestock securing the obligation is not at any time less
7 than one hundred fifteen percent of the face amount of the notes covered
8 by such documents, shall be subject under this section to a limitation of
9 ten percent of such capital, surplus, and capital notes and debentures or
10 ten percent of such unimpaired capital and unimpaired surplus, whichever
11 is greater, in addition to such twenty-five percent of such capital and
12 surplus or such fifteen percent of such unimpaired capital and unimpaired
13 surplus;

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

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

1 addition to such twenty-five percent of such capital and surplus or such
2 fifteen percent of such unimpaired capital and unimpaired surplus; or

3 (d) Obligations of any person, partnership, limited liability
4 company, association, or corporation which are secured by readily
5 marketable collateral having a market value, as determined by reliable
6 and continuously available price quotations, in an amount at least equal
7 to the face amount of the note or notes secured by such collateral, shall
8 be subject under this section to a limitation of ten percent of such
9 capital, surplus, and capital notes and debentures or ten percent of such
10 unimpaired capital and unimpaired surplus, whichever is greater, in
11 addition to such twenty-five percent of such capital and surplus or such
12 fifteen percent of such unimpaired capital and unimpaired surplus.

13 (2)(a) For purposes of this section, the discounting of bills of
14 exchange, drawn in good faith against actually existing values, and the
15 discounting of commercial paper actually owned by the persons negotiating
16 the bills of exchange or commercial paper shall not be considered as the
17 lending of money.

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

1 revenue bonds and sanitary and improvement district warrants which are
2 subject to the limitations set forth in this section.

3 (c) Any bank may subscribe to, invest in, purchase, and own single-
4 family mortgages secured by the Federal Housing Administration or the
5 United States Department of Veterans Affairs and mortgage-backed
6 certificates of the Government National Mortgage Association which are
7 guaranteed as to payment of principal and interest by the Government
8 National Mortgage Association. Such mortgages and certificates shall not
9 be subject under this section to any limitation based upon such capital
10 and surplus or such unimpaired capital and unimpaired surplus.

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

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

23 (f) For the purpose of determining lending limits, partnerships
24 shall not be treated as separate entities. Each individual shall be
25 charged with his or her personal debt plus the debt of every partnership
26 in which he or she is a partner, except that for purposes of this section
27 (a) an individual shall only be charged with the debt of any limited
28 partnership in which he or she is a partner to the extent that the terms
29 of the limited partnership agreement provide that such individual is to
30 be held liable for the debts or actions of such limited partnership and
31 (b) no individual shall be charged with the debt of any general

1 partnership in which he or she is a partner beyond the extent to which
2 (i) his or her liability for such partnership debt is limited by the
3 terms of a contract or other written agreement between the bank and such
4 individual and (ii) any personal debt of such individual is incurred for
5 the use and benefit of such general partnership.

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

13 (4) Any bank may purchase or take an interest in life insurance
14 contracts for any purpose incidental to the business of banking. A bank's
15 purchase of any life insurance contract, as measured by its cash
16 surrender value, from any one life insurance company shall not at any
17 time exceed twenty-five percent of the paid-up capital, surplus, and
18 capital notes and debentures of such bank or fifteen percent of the
19 unimpaired capital and unimpaired surplus of such bank, whichever is
20 greater. A bank's purchase of life insurance contracts, as measured by
21 their cash surrender values, in the aggregate from all life insurance
22 companies shall not at any time exceed thirty-five percent of the paid-up
23 capital, surplus, undivided profits, and capital notes and debentures of
24 such bank. The limitations under this subsection on a bank's purchase of
25 life insurance contracts, in the aggregate from all life insurance
26 companies, shall not apply to any contract purchased prior to April 5,
27 1994.

28 (5) On and after January 21, 2013, the director has the authority to
29 determine the manner and extent to which credit exposure resulting from
30 derivative transactions, repurchase agreements, reverse repurchase
31 agreements, securities lending transactions, and securities borrowing

1 transactions shall be taken into account for purposes of determining
2 compliance with this section. In making such determinations, the director
3 may, but is not required to, act by rule and regulation or order.

4 (6) For purposes of this section:

5 (a) Derivative transaction means any transaction that is a contract,
6 agreement, swap, warrant, note, or option that is based, in whole or in
7 part, on the value of, any interest in, or any quantitative measure or
8 the occurrence of any event relating to, one or more commodities,
9 securities, currencies, interest or other rates, indices, or other
10 assets;

11 (b) Loan includes:

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

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

18 (iii) Any credit exposure to a person arising from a derivative
19 transaction, repurchase agreement, reverse repurchase agreement,
20 securities lending transaction, or securities borrowing transaction
21 between the bank and the person; and

22 (c) Unimpaired capital and unimpaired surplus means:

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

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

28 (B) The bank's allowance for loan and lease losses or allowance for
29 credit losses, as applicable, as reported in the most recent consolidated
30 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
31 existed on January 1, 2022 ~~2021~~; and

1 (ii) For all other banks:

2 (A) The bank's tier 1 and tier 2 capital included in the bank's
3 risk-based capital under the capital guidelines of the appropriate
4 federal banking agency, based on the bank's most recent consolidated
5 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
6 existed on January 1, 2022 ~~2021~~; and

7 (B) The balance of the bank's allowance for loan and lease losses
8 not included in the bank's tier 2 capital for purposes of the calculation
9 of risk-based capital by the appropriate federal banking agency, based on
10 the bank's most recent consolidated report of condition filed under 12
11 U.S.C. 1817(a)(3), as such section existed on January 1, 2022 ~~2021~~.

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

16 Sec. 5. Section 8-143.01, Revised Statutes Supplement, 2021, is
17 amended to read:

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

29 (2) No bank shall extend credit to any of its executive officers,
30 directors, or principal shareholders or to any related interest of such
31 persons in an amount that, when aggregated with the amount of all other

1 extensions of credit by the bank to that person and to all related
2 interests of that person, exceeds five hundred thousand dollars except by
3 complying with the requirements of subdivisions (1)(a) and (b) of this
4 section.

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

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

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

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

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

1 (d) For any other purpose not specified in subdivisions (a), (b),
2 and (c) of this subsection if the aggregate amount of such other
3 extensions of credit to such executive officer does not exceed, at any
4 one time, the greater of two and one-half percent of the bank's
5 unimpaired capital and unimpaired surplus or twenty-five thousand
6 dollars, but in no event greater than one hundred thousand dollars or the
7 amount of the bank's lending limit as prescribed in section 8-141,
8 whichever is less.

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

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

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

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

1 (7)(a) Except as provided in subdivision (b) of this subsection, no
2 bank shall extend credit to any of its executive officers, directors, or
3 principal shareholders or to any related interest of such persons unless
4 the extension of credit (i) is made on substantially the same terms,
5 including interest rates and collateral, as, and following credit-
6 underwriting procedures that are not less stringent than, those
7 prevailing at the time for comparable transactions by the bank with other
8 persons that are not covered by this section and who are not employed by
9 the bank and (ii) does not involve more than the normal risk of repayment
10 or present other unfavorable features.

11 (b) Nothing in subdivision (a) of this subsection shall prohibit any
12 extension of credit made by a bank pursuant to a benefit or compensation
13 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation
14 existed on January 1, 2022 ~~2021~~.

15 (8) For purposes of this section:

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

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

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

3 (ii) Any subordinated notes and debentures approved as an addition
4 to the bank's capital structure by the appropriate federal banking
5 agency; and

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

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

13 (10) The Director of Banking and Finance may adopt and promulgate
14 rules and regulations to carry out this section, including rules and
15 regulations defining or further defining terms used in this section,
16 consistent with the provisions of 12 U.S.C. 84 and implementing
17 Regulation O as such section and regulation existed on January 1, 2022
18 ~~2021~~.

19 Sec. 6. Section 8-148.06, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 8-148.06 Any bank may subscribe to, invest in, buy, own, and sell
22 the common stock, obligations, and other securities of one or more bank
23 subsidiaries ~~subsidiary corporations~~ organized under the laws of the
24 State of Nebraska. A bank shall not obligate more than thirty-five
25 percent of its paid-up capital stock, surplus, undivided profits, capital
26 reserves, and capital notes and debentures for such purposes. An
27 additional percentage of its paid-up capital stock, surplus, undivided
28 profits, capital reserves, and capital notes and debentures may be
29 invested with written approval of the director. The subscription,
30 investment, possession, or ownership is not subject to sections 8-148,
31 8-149, and 8-150.

1 Sec. 7. Section 8-148.07, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 8-148.07 A bank subsidiary ~~corporation~~ shall engage in only those
4 activities:

5 (1) Prescribed ~~prescribed~~ under subdivision (6) of section 8-101.03;
6 or

7 (2) That ~~that~~ its bank shareholder, ~~or~~ ~~shareholders,~~ ~~member,~~
8 ~~members, investor, or investors~~ are authorized to perform under the laws
9 of this state and shall engage in those activities only at locations in
10 this state where the bank shareholder, ~~or~~ ~~shareholders,~~ ~~member,~~ ~~members,~~
11 ~~investor, or investors~~ could be authorized to perform activities.

12 Sec. 8. Section 8-148.08, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 8-148.08 A bank subsidiary ~~corporation~~ is subject to examination and
15 regulation by the department to the same extent as its bank shareholder,
16 ~~or~~ ~~shareholders,~~ ~~member,~~ ~~members,~~ ~~investor, or investors.~~

17 Sec. 9. Section 8-157.01, Revised Statutes Supplement, 2021, is
18 amended to read:

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

1 institution or which will provide a benefit to the financial
2 institution's customers or the general public, may be conducted. Any
3 automatic teller machine owned by a nonfinancial institution third party
4 shall be sponsored by an establishing financial institution. Neither such
5 automatic teller machines nor the transactions conducted thereat shall be
6 construed as the establishment of a branch or as branch banking.

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

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

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

1 operating rules and technical standards established by the switch to
2 which a Nebraska automatic teller machine transaction is directly or
3 indirectly routed.

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

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

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

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

29 (4) Any consumer initiating an electronic funds transfer at an
30 automatic teller machine for which an automatic teller machine surcharge
31 will be imposed shall receive notice in accordance with the provisions of

1 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
2 2022 ~~2021~~. Such notice shall appear on the screen of the automatic teller
3 machine or appear on a paper notice issued from such machine after the
4 transaction is initiated and before the consumer is irrevocably committed
5 to completing the transaction.

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

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

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

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

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

1 thereafter annually by September 1.

2 (9) Nothing in this section prohibits ordinary clearinghouse
3 transactions between financial institutions.

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

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

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

29 (13) Nothing in this section shall prevent a group of two or more
30 credit unions, each of which has a main chartered office or an approved
31 branch located in the State of Nebraska, from participating in a credit

1 union service organization organized on or before January 1, 2015, for
2 the purpose of owning automatic teller machines, provided that all
3 participating credit unions have an ownership interest in the credit
4 union service organization and that the credit union service organization
5 has an ownership interest in each of the participating credit unions'
6 automatic teller machines. Such participation and any automatic teller
7 machine usage fees associated with Nebraska automatic teller machine
8 transactions initiated by customers of participating credit unions at
9 such automatic teller machines shall not be considered for purposes of
10 determining if such automatic teller machines have been made available on
11 a nondiscriminating basis or if Nebraska automatic teller machine
12 transactions initiated at such automatic teller machines have been made
13 on a nondiscriminating basis, provided that all Nebraska automatic teller
14 machine transactions initiated by customers of participating credit
15 unions result in the same automatic teller machine usage fees for
16 essentially the same service routed over the same switch.

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

20 (15) For purposes of this section:

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

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

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

30 (d) Automatic teller machine usage fee means any per transaction fee
31 established by a switch or otherwise established on behalf of an

1 establishing financial institution and collected from the user financial
2 institution and paid to the establishing financial institution for the
3 use of the automatic teller machine. An automatic teller machine usage
4 fee shall not include switch fees;

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

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

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

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

28 (i) Foreign financial institution means a financial institution
29 located outside the United States;

30 (j) Nebraska automatic teller machine transaction means a banking
31 transaction as defined in subsection (1) of this section which is (i)

1 initiated at an automatic teller machine established in whole or in part
2 or sponsored by an establishing financial institution, (ii) for an
3 account of a Nebraska customer of a user financial institution, and (iii)
4 processed through a switch regardless of whether it is routed directly or
5 indirectly from an automatic teller machine;

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

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

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

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

22 Sec. 10. Section 8-183.04, Revised Statutes Supplement, 2021, is
23 amended to read:

24 8-183.04 (1) Notwithstanding any other provision of the Nebraska
25 Banking Act or any other Nebraska law, a state or federal savings
26 association which was formed and in operation as a mutual savings
27 association as of July 15, 1998, may elect to retain its mutual form of
28 corporate organization upon conversion to a state bank.

29 (2) All references to shareholders or stockholders for state banks
30 shall be deemed to be references to members for such a converted savings
31 association.

1 (3) The amount and type of capital required for such a converted
2 savings association shall be as required for federal mutual savings
3 associations in 12 C.F.R. 5.21, as such regulation existed on January 1,
4 2022 ~~2021~~, except that if at any time the department determines that the
5 capital of such a converted savings association is impaired, the director
6 may require the members to make up the capital impairment.

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

12 Sec. 11. Section 8-1,140, Revised Statutes Supplement, 2021, is
13 amended to read:

14 8-1,140 Notwithstanding any of the other provisions of the Nebraska
15 Banking Act or any other Nebraska statute, any bank incorporated under
16 the laws of this state and organized under the provisions of the act, or
17 under the laws of this state as they existed prior to May 9, 1933, shall
18 directly, or indirectly through a department, a subsidiary, or
19 subsidiaries, have all the rights, powers, privileges, benefits, and
20 immunities which may be exercised as of January 1, 2022 ~~2021~~, by a
21 federally chartered bank doing business in Nebraska, including the
22 exercise of all powers and activities that are permitted for a financial
23 subsidiary of a federally chartered bank. Such rights, powers,
24 privileges, benefits, and immunities shall not relieve such bank from
25 payment of state taxes assessed under any applicable laws of this state.

26 Sec. 12. Section 8-318, Revised Statutes Supplement, 2021, is
27 amended to read:

28 8-318 (1)(a) Shares of stock in any association, or in any federal
29 savings and loan association incorporated under the provisions of the
30 federal Home Owners' Loan Act, with its principal office and place of
31 business in this state, may be subscribed for, held, transferred,

1 surrendered, withdrawn, and forfeited and payments thereon received and
2 receipted for by any person, regardless of age, in the same manner and
3 with the same binding effect as though such person were of the age of
4 majority, except that a minor or his or her estate shall not be bound on
5 his or her subscription to stock except to the extent of payments
6 actually made thereon.

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

10 (i) Check or other instrument in writing. The check or other
11 instrument in writing constitutes a receipt or acquittance if the check
12 or other instrument in writing is signed by the shareholder and
13 constitutes a valid release in discharge to the building and loan
14 association for all payments so made; or

15 (ii) Electronic means through:

16 (A) Preauthorized direct withdrawal;

17 (B) An automatic teller machine;

18 (C) A debit card;

19 (D) A transfer by telephone;

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

21 (F) Any electronic terminal, computer, magnetic tape, or other
22 electronic means.

23 (c) This section shall not be construed to affect the rights,
24 liabilities, or responsibilities of participants in an electronic fund
25 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
26 et seq., as it existed on January 1, ~~2021~~ 2022, and shall not affect the
27 legal relationships between a minor and any person other than the
28 building and loan association.

29 (2) All trustees, guardians, personal representatives,
30 administrators, and conservators appointed by the courts of this state
31 may invest and reinvest in, acquire, make withdrawals in whole or in

1 part, hold, transfer, or make new or additional investments in or
2 transfers of shares of stock in any (a) building and loan association
3 organized under the laws of the State of Nebraska or (b) federal savings
4 and loan association incorporated under the provisions of the federal
5 Home Owners' Loan Act, having its principal office and place of business
6 in this state, without an order of approval from any court.

7 (3) Trustees created solely by the terms of a trust instrument may
8 invest in, acquire, hold, and transfer such shares, and make withdrawals,
9 in whole or in part, therefrom, without any order of court, unless
10 expressly limited, restricted, or prohibited therefrom by the terms of
11 such trust instrument.

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

1 under the authority of this section.

2 Sec. 13. Section 8-355, Revised Statutes Supplement, 2021, is
3 amended to read:

4 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
5 or any other Nebraska statute, except as provided in section 8-345.02,
6 any association incorporated under the laws of the State of Nebraska and
7 organized under the provisions of such article shall have all the rights,
8 powers, privileges, benefits, and immunities which may be exercised as of
9 January 1, 2022 ~~2021~~, by a federal savings and loan association doing
10 business in Nebraska. Such rights, powers, privileges, benefits, and
11 immunities shall not relieve such association from payment of state taxes
12 assessed under any applicable laws of this state.

13 Sec. 14. Section 8-1101, Revised Statutes Supplement, 2021, is
14 amended to read:

15 8-1101 For purposes of the Securities Act of Nebraska, unless the
16 context otherwise requires:

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

1 otherwise comes within this definition;

2 (2) Broker-dealer means any person engaged in the business of
3 effecting transactions in securities for the account of others or for his
4 or her own account. Broker-dealer does not include (a) an issuer-dealer,
5 agent, bank, savings institution, or trust company, (b) an issuer
6 effecting a transaction in its own security exempted by subdivision (5)
7 (a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a
8 federal covered security pursuant to section 18(b)(1) of the Securities
9 Act of 1933, (c) a person who has no place of business in this state if
10 he or she effects transactions in this state exclusively with or through
11 the issuers of the securities involved in the transactions, other broker-
12 dealers, or banks, savings institutions, credit unions, trust companies,
13 insurance companies, investment companies as defined in the Investment
14 Company Act of 1940, pension or profit-sharing trusts, or other financial
15 institutions or institutional buyers, whether acting for themselves or as
16 trustees, (d) a person who has no place of business in this state if
17 during any period of twelve consecutive months he or she does not direct
18 more than five offers to sell or to buy into this state in any manner to
19 persons other than those specified in subdivision (2)(c) of this section,
20 or (e) a person who is a resident of Canada and who has no office or
21 other physical presence in Nebraska if the following conditions are
22 satisfied: (i) The person must be registered with, or be a member of, a
23 securities self-regulatory organization in Canada or a stock exchange in
24 Canada; (ii) the person must maintain, in good standing, its provisional
25 or territorial registration or membership in a securities self-regulatory
26 organization in Canada, or stock exchange in Canada; (iii) the person
27 effects, or attempts to effect, (A) a transaction with or for a Canadian
28 client who is temporarily present in this state and with whom the
29 Canadian broker-dealer had a bona fide customer relationship before the
30 client entered this state or (B) a transaction with or for a Canadian
31 client in a self-directed tax advantaged retirement plan in Canada of

1 which that client is the holder or contributor; and (iv) the person
2 complies with all provisions of the Securities Act of Nebraska relating
3 to the disclosure of material information in connection with the
4 transaction;

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

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

10 (5) Federal covered security means any security described as a
11 covered security under section 18(b) of the Securities Act of 1933 or
12 rules and regulations under the act;

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

15 (7) Investment adviser means any person who for compensation engages
16 in the business of advising others, either directly or through
17 publications or writings, as to the value of securities or as to the
18 advisability of investing in, purchasing, or selling securities or who
19 for compensation and as a part of a regular business issues or
20 promulgates analyses or reports concerning securities. Investment adviser
21 also includes financial planners and other persons who, as an integral
22 component of other financially related services, provide the foregoing
23 investment advisory services to others for compensation and as part of a
24 business or who hold themselves out as providing the foregoing investment
25 advisory services to others for compensation. Investment adviser does not
26 include (a) an investment adviser representative, (b) a bank, savings
27 institution, or trust company, (c) a lawyer, accountant, engineer, or
28 teacher whose performance of these services is solely incidental to the
29 practice of his or her profession, (d) a broker-dealer or its agent whose
30 performance of these services is solely incidental to its business as a
31 broker-dealer and who receives no special compensation for them, (e) an

1 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,
2 newsletter, news magazine, or business or financial publication or
3 service, whether communicated in hard copy form, by electronic means, or
4 otherwise which does not consist of the rendering of advice on the basis
5 of the specific investment situation of each client, (g) a person who has
6 no place of business in this state if (i) his or her only clients in this
7 state are other investment advisers, federal covered advisers, broker-
8 dealers, banks, savings institutions, credit unions, trust companies,
9 insurance companies, investment companies as defined in the Investment
10 Company Act of 1940, pension or profit-sharing trusts, or other financial
11 institutions or institutional buyers, whether acting for themselves or as
12 trustees, or (ii) during the preceding twelve-month period, he or she has
13 had five or fewer clients who are residents of this state other than
14 those persons specified in subdivision (g)(i) of this subdivision, (h)
15 any person that is a federal covered adviser or is excluded from the
16 definition of investment adviser under section 202 of the Investment
17 Adviser Act of 1940, or (i) such other persons not within the intent of
18 this subdivision as the director may by rule and regulation or order
19 designate;

20 (8) Investment adviser representative means any partner, limited
21 liability company member, officer, or director or any person occupying a
22 similar status or performing similar functions of a partner, limited
23 liability company member, officer, or director or other individual,
24 except clerical or ministerial personnel, who is employed by or
25 associated with an investment adviser that is registered or required to
26 be registered under the Securities Act of Nebraska or who has a place of
27 business located in this state and is employed by or associated with a
28 federal covered adviser, and who (a) makes any recommendations or
29 otherwise renders advice regarding securities, (b) manages accounts or
30 portfolios of clients, (c) determines which recommendation or advice
31 regarding securities should be given, (d) solicits, offers, or negotiates

1 for the sale of or sells investment advisory services, or (e) supervises
2 employees who perform any of the foregoing;

3 (9) Issuer means any person who issues or proposes to issue any
4 security, except that (a) with respect to certificates of deposit,
5 voting-trust certificates, or collateral-trust certificates or with
6 respect to certificates of interest or shares in an unincorporated
7 investment trust not having a board of directors, or persons performing
8 similar functions, or of the fixed, restricted management, or unit type,
9 the term issuer means the person or persons performing the acts and
10 assuming the duties of depositor or manager pursuant to the provisions of
11 the trust or other agreement or instrument under which the security is
12 issued and (b) with respect to a fractional or pooled interest in a
13 viatical settlement contract, issuer means the person who creates, for
14 the purpose of sale, the fractional or pooled interest. In the case of a
15 viatical settlement contract that is not fractionalized or pooled, issuer
16 means the person effecting a transaction with a purchaser of such
17 contract;

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

24 (11) Nonissuer means not directly or indirectly for the benefit of
25 the issuer;

26 (12) Person means an individual, a corporation, a partnership, a
27 limited liability company, an association, a joint-stock company, a trust
28 in which the interests of the beneficiaries are evidenced by a security,
29 an unincorporated organization, a government, or a political subdivision
30 of a government;

31 (13) Sale or sell includes every contract of sale of, contract to

1 sell, or disposition of a security or interest in a security for value.
2 Offer or offer to sell includes every attempt or offer to dispose of, or
3 solicitation of an offer to buy, a security or interest in a security for
4 value. Any security given or delivered with or as a bonus on account of
5 any purchase of securities or any other thing is considered to constitute
6 part of the subject of the purchase and to have been offered and sold for
7 value. A purported gift of assessable stock shall be considered to
8 involve an offer and sale. Every sale or offer of a warrant or right to
9 purchase or subscribe to another security of the same or another issuer,
10 as well as every sale or offer of a security which gives the holder a
11 present or future right or privilege to convert into another security of
12 the same or another issuer, shall be considered to include an offer of
13 the other security;

14 (14) Securities Act of 1933, Securities Exchange Act of 1934,
15 Investment Advisers Act of 1940, Investment Company Act of 1940,
16 Commodity Exchange Act, and the federal Interstate Land Sales Full
17 Disclosure Act means the acts as they existed on January 1, 2022 ~~2021~~;

18 (15) Security means any note, stock, treasury stock, bond,
19 debenture, units of beneficial interest in a real estate trust, evidence
20 of indebtedness, certificate of interest or participation in any profit-
21 sharing agreement, collateral-trust certificate, preorganization
22 certificate or subscription, transferable share, investment contract,
23 viatical settlement contract or any fractional or pooled interest in such
24 contract, membership interest in any limited liability company organized
25 under Nebraska law or any other jurisdiction unless otherwise excluded
26 from this definition, voting-trust certificate, certificate of deposit
27 for a security, certificate of interest or participation in an oil, gas,
28 or mining title or lease or in payments out of production under such a
29 title or lease, in general any interest or instrument commonly known as a
30 security, or any certificate of interest or participation in, temporary
31 or interim certificate for, guarantee of, or warrant or right to

1 subscribe to or purchase any of the foregoing. Security does not include
2 any insurance or endowment policy or annuity contract issued by an
3 insurance company. Security also does not include a membership interest
4 in a limited liability company when all of the following exist: (a) The
5 member enters into a written commitment to be engaged actively and
6 directly in the management of the limited liability company; and (b) all
7 members of the limited liability company are actively engaged in the
8 management of the limited liability company. For the limited purposes of
9 determining professional malpractice insurance premiums, a security
10 issued through a transaction that is exempted pursuant to subdivision
11 (23) of section 8-1111 shall not be considered a security;

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

14 (17) Viatical settlement contract means an agreement for the
15 purchase, sale, assignment, transfer, devise, or bequest of all or any
16 portion of the death benefit or ownership of a life insurance policy or
17 contract for consideration which is less than the expected death benefit
18 of the life insurance policy or contract. Viatical settlement contract
19 does not include (a) the assignment, transfer, sale, devise, or bequest
20 of a death benefit of a life insurance policy or contract made by the
21 viator to an insurance company or to a viatical settlement provider or
22 broker licensed pursuant to the Viatical Settlements Act, (b) the
23 assignment of a life insurance policy or contract to a bank, savings
24 bank, savings and loan association, credit union, or other licensed
25 lending institution as collateral for a loan, or (c) the exercise of
26 accelerated benefits pursuant to the terms of a life insurance policy or
27 contract and consistent with applicable law.

28 Sec. 15. Section 8-1101.01, Revised Statutes Supplement, 2021, is
29 amended to read:

30 8-1101.01 For purposes of the Securities Act of Nebraska:

31 (1) Federal rules and regulations adopted under the Investment

1 Advisors Act of 1940 or the Securities Act of 1933 means such rules and
2 regulations as they existed on January 1, 2022 ~~2021~~; and

3 (2) Fair practice or ethical rules or standards promulgated by the
4 Securities and Exchange Commission, the Financial Industry Regulatory
5 Authority, or a self-regulatory organization approved by the Securities
6 and Exchange Commission means such practice, rules, or standards as they
7 existed on January 1, 2022 ~~2021~~.

8 Sec. 16. Section 8-1502, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 8-1502 (1) Except as provided in subsection (2) of this section, no
11 person acting personally or as agent shall acquire control of any state-
12 chartered bank or trust company without first giving sixty days' notice
13 to the Department of Banking and Finance on forms provided by the
14 department of such proposed acquisition.

15 The Director of Banking and Finance, upon receipt of such notice,
16 shall act upon it within thirty days, and, unless he or she disapproves
17 the proposed acquisition within that period of time, it may become
18 effective on the sixty-first day after receipt without his or her
19 approval, except that the director may extend the thirty-day period an
20 additional thirty days if in his or her judgment any material information
21 submitted is substantially inaccurate or the acquiring party has not
22 furnished all the information required by sections 8-1501 to 8-1505 or by
23 the director.

24 An acquisition may be made prior to the expiration of the
25 disapproval period if the director issues written notice of his or her
26 intent not to disapprove the action.

27 Within three days after his or her decision to disapprove any
28 proposed acquisition, the director shall notify the acquiring party in
29 writing of the disapproval. The notice shall provide a statement of the
30 basis for the disapproval.

31 (2) The notice requirements of subsection (1) of this section shall

1 not apply when:

2 (a) Shares of a state-chartered bank or trust company are acquired
3 by a person in the regular course of securing or collecting a debt
4 previously contracted in good faith or through inheritance or a bona fide
5 gift if notice of such acquisition is given to the department, on forms
6 provided by the department, within thirty ~~ten~~ days after the acquisition;

7 (b) Shares of a state-chartered bank or trust company are
8 transferred from an individual or individuals to a trust formed by the
9 individual or individuals for estate-planning purposes if (i) there is no
10 change in the proportion of shares held by the trust for such individual
11 or individuals compared to the ownership of such individual or
12 individuals prior to the formation of the trust, (ii) the individual or
13 individuals control the trust, and (iii) notice of the proposed transfer
14 is given to the department, on forms provided by the department, at least
15 thirty days prior to the proposed transfer and the department does not
16 disapprove the transfer for the reason that the transfer is an attempt to
17 subvert the requirements of sections 8-1501 to 8-1505; or

18 (c) The director, the Governor, and the Secretary of State jointly
19 determine that an emergency exists which requires expeditious action or
20 that the department must act immediately to prevent probable failure of
21 the institution to be acquired.

22 Sec. 17. Section 8-1704, Revised Statutes Supplement, 2021, is
23 amended to read:

24 8-1704 CFTC rule shall mean any rule, regulation, or order of the
25 Commodity Futures Trading Commission in effect on January 1, 2022 ~~2021~~.

26 Sec. 18. Section 8-1707, Revised Statutes Supplement, 2021, is
27 amended to read:

28 8-1707 Commodity Exchange Act shall mean the act of Congress known
29 as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2022
30 ~~2021~~.

31 Sec. 19. Section 8-2724, Revised Statutes Supplement, 2021, is

1 amended to read:

2 8-2724 (1) The requirement for a license under the Nebraska Money
3 Transmitters Act does not apply to:

4 (a) The United States or any department, agency, or instrumentality
5 thereof;

6 (b) Any post office of the United States Postal Service;

7 (c) A state or any political subdivision thereof;

8 (d)(i) Banks, credit unions, digital asset depository institutions
9 as defined in section 8-3003, building and loan associations, savings and
10 loan associations, savings banks, or mutual banks organized under the
11 laws of any state or the United States;

12 (ii) Subsidiaries of the institutions listed in subdivision (d)(i)
13 of this subsection;

14 (iii) Bank holding companies which have a banking subsidiary located
15 in Nebraska and whose debt securities have an investment grade rating by
16 a national rating agency; or

17 (iv) Authorized delegates of the institutions and entities listed in
18 subdivision (d)(i), (ii), or (iii) of this subsection, except that
19 authorized delegates that are not banks, credit unions, building and loan
20 associations, savings and loan associations, savings banks, mutual banks,
21 subsidiaries of any of the foregoing, or bank holding companies shall
22 comply with all requirements imposed upon authorized delegates under the
23 act;

24 (e) The provision of electronic transfer of government benefits for
25 any federal, state, or county governmental agency, as defined in Consumer
26 Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such
27 regulation existed on January 1, 2022 ~~2013~~, by a contractor for and on
28 behalf of the United States or any department, agency, or instrumentality
29 thereof or any state or any political subdivision thereof;

30 (f) An operator of a payment system only to the extent that the
31 payment system provides processing, clearing, or settlement services

1 between or among persons who are all exempt under this section in
2 connection with wire transfers, credit card transactions, debit card
3 transactions, automated clearinghouse transfers, or similar fund
4 transfers; or

5 (g) A person, firm, corporation, or association licensed in this
6 state and acting within this state within the scope of a license:

7 (i) As a collection agency pursuant to the Collection Agency Act;

8 (ii) As a credit services organization pursuant to the Credit
9 Services Organization Act; or

10 (iii) To engage in the debt management business pursuant to sections
11 69-1201 to 69-1217.

12 (2) An authorized delegate of a licensee or of an exempt entity,
13 acting within the scope of its authority conferred by a written contract
14 as described in section 8-2739, is not required to obtain a license under
15 the Nebraska Money Transmitters Act, except that such an authorized
16 delegate shall comply with the other provisions of the act which apply to
17 money transmission transactions.

18 Sec. 20. Section 8-2903, Revised Statutes Supplement, 2021, is
19 amended to read:

20 8-2903 (1) When a financial institution, or an employee of a
21 financial institution, reasonably believes, or has received information
22 from the department or a law enforcement agency demonstrating that it is
23 reasonable to believe, that financial exploitation of a vulnerable adult
24 or senior adult may have occurred, may have been attempted, is occurring,
25 or is being attempted, the financial institution may, but is not required
26 to:

27 (a) Delay or refuse a transaction with or involving the vulnerable
28 adult or senior adult;

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

31 (c) Prevent a change in ownership of the vulnerable adult's or

1 senior adult's account;

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

5 (e) Refuse to comply with instructions given to the financial
6 institution by an agent or a person acting for or with an agent under a
7 power of attorney signed or purported to have been signed by the
8 vulnerable adult or senior adult; or

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

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

19 (3)(a)(i) A financial institution may notify any third party
20 reasonably associated with a vulnerable adult or senior adult if the
21 financial institution reasonably believes that the financial exploitation
22 of a vulnerable adult or senior adult may have occurred, may have been
23 attempted, is occurring, or is being attempted.

24 (ii) A third party reasonably associated with a vulnerable adult or
25 senior adult includes, but is not limited to, the following: (A) A
26 parent, spouse, adult child, sibling, or other known family member or
27 close associate of a vulnerable adult or senior adult; (B) an authorized
28 contact provided by a vulnerable adult or senior adult to the financial
29 institution; (C) a co-owner, additional authorized signatory, or
30 beneficiary on a vulnerable adult's or a senior adult's account; (D) an
31 attorney in fact, trustee, conservator, guardian, or other fiduciary who

1 has been selected by a vulnerable adult or senior adult, a court, or a
2 third party to manage some or all of the financial affairs of the
3 vulnerable adult or senior adult; and (E) an attorney known to represent
4 or have represented the vulnerable adult or senior adult.

5 (b) A financial institution may choose not to notify any third party
6 reasonably associated with a vulnerable adult or senior adult of
7 suspected financial exploitation of the vulnerable adult or senior adult
8 if the financial institution reasonably believes the third party is, may
9 be, or may have been engaged in the financial exploitation of the
10 vulnerable adult or senior adult or if requested to refrain from making a
11 notification by a law enforcement agency, if such notification could
12 interfere with a law enforcement investigation.

13 (c) Nothing in this subsection shall prevent a financial institution
14 from notifying the department or a law enforcement agency, 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 (4) The authority granted the financial institution under subsection
19 (1) of this section expires upon the sooner of: (a) Thirty business days
20 after the date on which the financial institution first acted under
21 subsection (1) of this section; (b) when the financial institution is
22 satisfied that the transaction or act will not result in financial
23 exploitation of the vulnerable adult or senior adult; or (c) upon
24 termination by an order of a court of competent jurisdiction.

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

30 (6) A financial institution and its bank holding company, if any,
31 and any employees, agents, officers, and directors of the financial

1 institution and its bank holding company, if any, shall be immune from
2 any civil, criminal, or administrative liability that may otherwise exist
3 (a) for delaying or refusing to execute a transaction, withdrawal, or
4 disbursement, or for not delaying or refusing to execute such
5 transaction, withdrawal, or disbursement under this section and (b) for
6 actions taken in furtherance of determinations made under subsections (1)
7 through (5) of this section.

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

12 (b) Notwithstanding any other law to the contrary, a reasonable
13 belief that payment of a check will facilitate the financial exploitation
14 of a vulnerable adult or senior adult shall constitute reasonable grounds
15 to doubt the collectability of the item for purposes of the federal Check
16 Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal
17 Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R.
18 part 229, as such acts and part existed on January 1, 2022 ~~2021~~.

19 Sec. 21. Section 8-3005, Revised Statutes Supplement, 2021, is
20 amended to read:

21 8-3005 (1)(a) A digital asset depository may:

22 (i) Make contracts as a corporation under Nebraska law;

23 (ii) Sue and be sued;

24 (iii) Receive notes as permitted by federal law;

25 (iv) Carry on a nonlending digital asset banking business for
26 customers, consistent with subdivision (2)(b) of this section;

27 (v) Provide payment services upon the request of a customer; and

28 (vi) Make an application to become a member bank of the federal
29 reserve system.

30 (b) A digital asset depository shall maintain its main office and
31 the primary office of its chief executive officer in Nebraska.

1 (c) As otherwise authorized by this section, a digital asset
2 depository may conduct business with customers outside this state.

3 (2)(a) A digital asset depository institution, consistent with the
4 Nebraska Financial Innovation Act, shall be organized as a corporation
5 under the Nebraska Model Business Corporation Act to exercise the powers
6 set forth in subsection (1) of this section.

7 (b) A digital asset depository institution shall not accept demand
8 deposits of United States currency or United States currency that may be
9 accessed or withdrawn by check or similar means for payment to third
10 parties and except as otherwise provided in this subsection, a digital
11 asset depository institution shall not make any consumer loans for
12 personal, property or household purposes, mortgage loans, or commercial
13 loans of any fiat currency including, but not limited to, United States
14 currency, including the provision of temporary credit relating to
15 overdrafts. Notwithstanding this prohibition against fiat currency
16 lending by a digital asset depository institution, a digital asset
17 depository institution may facilitate the provision of digital asset
18 business services resulting from the interaction of customers with
19 centralized finance or decentralized finance platforms including, but not
20 limited to, controllable electronic record exchange, staking,
21 controllable electronic record lending, and controllable electronic
22 record borrowing. A digital asset depository institution may purchase
23 debt obligations specified by subdivision (2)(c) of section 8-3009.

24 (c) Subject to the laws of the host state, a digital asset
25 depository institution may open a branch in another state in the manner
26 set forth in section 8-157 or 8-2303. A digital asset depository
27 institution, including any branch of the digital asset depository
28 institution, may only accept digital asset deposits or provide other
29 digital asset business services under the Nebraska Financial Innovation
30 Act to individual customers or a customer that is a legal entity other
31 than a natural person engaged in a bona fide business which is lawful

1 under the laws of Nebraska, the laws of the host state if the entity is
2 headquartered in another state, and federal law.

3 (3) The deposit limitations of subdivision (2)(a)(ii) of section
4 8-157 shall not apply to a digital asset depository.

5 (4) Any United States currency coming into an account established by
6 a customer of a digital asset depository institution shall be held in a
7 financial institution, the deposits of which are insured by the Federal
8 Deposit Insurance Corporation, which maintained a main-chartered office
9 in this state, any branch thereof in this state, or any branch of the
10 financial institution which maintained the main-chartered office in this
11 state prior to becoming a branch of such financial institution.

12 (5) A digital asset depository institution shall establish and
13 maintain programs for compliance with the federal Bank Secrecy Act, in
14 accordance with 12 C.F.R. 208.63, as the act and rule existed on January
15 1, 2022 ~~2021~~.

16 (6) A digital asset depository shall help meet the digital financial
17 needs of the communities in which it operates, consistent with safe and
18 sound operations, and shall maintain and update a public file and on any
19 Internet website it maintains containing specific information about its
20 efforts to meet community needs, including:

21 (a) The collection and reporting of data;

22 (b) Its policies and procedures for accepting and responding to
23 consumer complaints; and

24 (c) Its efforts to assist with financial literacy or personal
25 finance programs to increase knowledge and skills of Nebraska students in
26 areas such as budgeting, credit, checking and savings accounts, loans,
27 stocks, and insurance.

28 Sec. 22. Section 8-3007, Revised Statutes Supplement, 2021, is
29 amended to read:

30 8-3007 (1) No customer shall open or maintain an account with a
31 digital asset depository or otherwise receive any services from the

1 digital asset depository unless the customer meets the criteria of this
2 subsection. A customer shall:

3 (a) Make sufficient evidence available to the digital asset
4 depository to enable compliance with anti-money laundering, customer
5 identification, and beneficial ownership requirements, as determined by
6 the federal Bank Secrecy Act guidance and the policies and practices of
7 the institution; and

8 (b) If the customer is a legal entity other than a natural person:

9 (i) Be in good standing with the jurisdiction in the United States
10 in which it is incorporated or organized; and

11 (ii) Be engaged in a business that is lawful and bona fide in
12 Nebraska, in the host state, if applicable, and under federal law
13 consistent with subsection (3) of this section.

14 (2) A customer which meets the criteria of subsection (1) of this
15 section may be issued a digital asset depository account and otherwise
16 receive services from the digital asset depository, contingent on the
17 availability of sufficient insurance under subsection (5) of section
18 8-3023.

19 (3) Consistent with subdivisions (1)(a)(iv) and (v) of section
20 8-3005, and in addition to any requirements specified by federal law, a
21 digital asset depository shall require that any potential customer that
22 is a legal entity other than a natural person provide reasonable evidence
23 that the entity is engaged in a business that is lawful and bona fide in
24 Nebraska, in the host state, and under federal law or is likely to open a
25 lawful, bona fide business within a federal Bank Secrecy Act compliant
26 time frame, as the act existed on January 1, 2022 ~~2021~~. For purposes of
27 this subsection, reasonable evidence includes business entity filings,
28 articles of incorporation or organization, bylaws, operating agreements,
29 business plans, promotional materials, financing agreements, or other
30 evidence.

31 Sec. 23. Section 21-17,115, Revised Statutes Supplement, 2021, is

1 amended to read:

2 21-17,115 Notwithstanding any of the other provisions of the Credit
3 Union Act or any other Nebraska statute, any credit union incorporated
4 under the laws of the State of Nebraska and organized under the
5 provisions of the act shall have all the rights, powers, privileges,
6 benefits, and immunities which may be exercised as of January 1, 2022
7 ~~2021~~, by a federal credit union doing business in Nebraska on the
8 condition that such rights, powers, privileges, benefits, and immunities
9 shall not relieve such credit union from payment of state taxes assessed
10 under any applicable laws of this state.

11 Sec. 24. Section 45-736, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 45-736 The unique identifier of any licensee ~~originating a~~
14 ~~residential mortgage loan~~ shall be clearly shown on all residential
15 mortgage loan application forms, solicitations, or advertisements,
16 including business cards or websites, and any other documents as
17 established by rule, regulation, or order of the director.

18 Sec. 25. Section 59-1722, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 59-1722 (1) Any transaction involving the sale of a franchise as
21 defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1,
22 2022 ~~2021~~, shall be exempt from the Seller-Assisted Marketing Plan Act,
23 except that such transactions shall be subject to subdivision (1)(d) of
24 section 59-1757, those provisions regulating or prescribing the use of
25 the phrase buy-back or secured investment or similar phrases as set forth
26 in sections 59-1726 to 59-1728 and 59-1751, and all sections which
27 provide for their enforcement. The exemption shall only apply if:

28 (a) The franchise is offered and sold in compliance with the
29 requirements of 16 C.F.R. part 436, Disclosure Requirements and
30 Prohibitions Concerning Franchising, as such part existed on January 1,
31 2022 ~~2021~~;

1 (b) Before placing any advertisement in a Nebraska-based
2 publication, offering for sale to any prospective purchaser in Nebraska,
3 or making any representations in connection with such offer or sale to
4 any prospective purchaser in Nebraska, the seller files a notice with the
5 Department of Banking and Finance which contains (i) the name, address,
6 and telephone number of the seller and the name under which the seller
7 intends to do business and (ii) a brief description of the plan offered
8 by the seller; and

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

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

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

18 (4) The Director of Banking and Finance may by order deny or revoke
19 an exemption specified in this section with respect to a particular
20 offering of one or more business opportunities if the director finds that
21 such an order is in the public interest or is necessary for the
22 protection of purchasers. An order shall not be entered without
23 appropriate prior notice to all interested parties, an opportunity for
24 hearing, and written findings of fact and conclusions of law. If the
25 public interest or the protection of purchasers so requires, the director
26 may by order summarily deny or revoke an exemption specified in this
27 section pending final determination of any proceedings under this
28 section. An order under this section shall not operate retroactively.

29 Sec. 26. Section 69-2103, Revised Statutes Supplement, 2021, is
30 amended to read:

31 69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

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

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

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

10 (4) Consumer rental purchase agreement means an agreement which is
11 for the use of property by a consumer primarily for personal, family, or
12 household purposes, which is for an initial period of four months or
13 less, whether or not there is any obligation beyond the initial period,
14 which is automatically renewable with each payment, and which permits the
15 consumer to become the owner of the property. A consumer rental purchase
16 agreement in compliance with the act shall not be construed to be a lease
17 or agreement which constitutes a credit sale as defined in 12 C.F.R.
18 1026.2(a)(16), as such regulation existed on January 1, 2022 ~~2021~~, and 15
19 U.S.C. 1602(h), as such section existed on January 1, 2022 ~~2021~~, or a
20 lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2,
21 as such regulation existed on January 1, 2022 ~~2021~~. Consumer rental
22 purchase agreement does not include:

23 (a) Any lease for agricultural, business, or commercial purposes;

24 (b) Any lease made to an organization;

25 (c) A lease or agreement which constitutes an installment sale or
26 installment contract as defined in section 45-335;

27 (d) A security interest as defined in subdivision (35) of section
28 1-201, Uniform Commercial Code; and

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

30 (5) Consummation means the occurrence of an event which causes a
31 consumer to become contractually obligated on a consumer rental purchase

1 agreement;

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

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

6 (8) Lease period means a week, month, or other specific period of
7 time, during which the consumer has the right to possess and use the
8 property after paying the lease payment and applicable taxes for such
9 period;

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

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

17 (11) Total of payments to acquire ownership means the total of all
18 charges imposed by the lessor and payable by the consumer as a condition
19 of acquiring ownership of the property. Total of payments to acquire
20 ownership includes lease payments and any initial nonrefundable
21 administrative fee or required delivery charge but does not include
22 taxes, late charges, reinstatement fees, or charges for optional products
23 or services.

24 Sec. 27. Section 69-2104, Revised Statutes Supplement, 2021, is
25 amended to read:

26 69-2104 (1) Before entering into any consumer rental purchase
27 agreement, the lessor shall disclose to the consumer the following items
28 as applicable:

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

31 (b) The number, amount, and timing of all payments included in the

1 total of payments to acquire ownership;

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

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

6 (e) A statement that the total of payments to acquire ownership does
7 not include other charges such as taxes, late charges, reinstatement
8 fees, or charges for optional products or services the consumer may have
9 elected to purchase and that the consumer should see the rental purchase
10 agreement for an explanation of these charges;

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

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

18 (h) A statement of the cash price of the property. When the
19 agreement involves a lease for two or more items, a statement of the
20 aggregate cash price of all items shall satisfy the requirement of this
21 subdivision;

22 (i) The total amount of the initial payments required to be paid
23 before consummation of the agreement or delivery of the property,
24 whichever occurs later, and an itemization of the components of the
25 initial payment, including any initial nonrefundable administrative fee
26 or delivery charge, lease payment, taxes, or fee or charge for optional
27 products or services;

28 (j) A statement clearly summarizing the terms of the consumer's
29 options to purchase, including a statement that at any time after the
30 first periodic payment is made the consumer may acquire ownership of the
31 property by tendering an amount which may not exceed fifty-five percent

1 of the difference between the total of payments to acquire ownership and
2 the total of lease payments the consumer has paid on the property at that
3 time;

4 (k) A statement identifying the party responsible for maintaining or
5 servicing the property while it is being leased, together with a
6 description of that responsibility and a statement that if any part of a
7 manufacturer's warranty covers the leased property at the time the
8 consumer acquires ownership of the property, such warranty shall be
9 transferred to the consumer if allowed by the terms of the warranty; and

10 (1) The date of the transaction and the names of the lessor and the
11 consumer.

12 (2) With respect to matters specifically governed by the federal
13 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
14 existed on January 1, 2022 ~~2021~~, compliance with such act shall satisfy
15 the requirements of this section.

16 (3) Subsection (1) of this section shall not apply to a lessor who
17 complies with the disclosure requirements of the federal Consumer Credit
18 Protection Act, 15 U.S.C. 1667a, as such section existed on January 1,
19 2022 ~~2021~~, with respect to a consumer rental purchase agreement entered
20 into with a consumer.

21 Sec. 28. Section 69-2112, Revised Statutes Supplement, 2021, is
22 amended to read:

23 69-2112 (1) Any advertisement for a consumer rental purchase
24 agreement which refers to or states the amount of any payment or the
25 right to acquire ownership for any specific item shall also state clearly
26 and conspicuously the following if applicable:

27 (a) That the transaction advertised is a consumer rental purchase
28 agreement;

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

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

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

4 (3) Subsection (1) of this section shall not apply to an
5 advertisement which does not refer to a specific item of property, which
6 does not refer to or state the amount of any payment, or which is
7 published in the yellow pages of a telephone directory or any similar
8 directory of business.

9 (4) With respect to matters specifically governed by the federal
10 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
11 existed on January 1, 2022 ~~2021~~, compliance with such act shall satisfy
12 the requirements of this section.

13 Sec. 29. Section 4A-108, Uniform Commercial Code, Revised Statutes
14 Supplement, 2021, is amended to read:

15 4A-108 Relationship to federal Electronic Fund Transfer Act.

16 (a) Except as provided in subsection (b), this article does not
17 apply to a funds transfer any part of which is governed by the federal
18 Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed
19 on January 1, 2022 ~~2021~~.

20 (b) This article applies to a funds transfer that is a remittance
21 transfer as defined in the federal Electronic Fund Transfer Act, 15
22 U.S.C. 1693o-1, as such section existed on January 1, 2022 ~~2021~~, unless
23 the remittance transfer is an electronic fund transfer as defined in the
24 federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section
25 existed on January 1, 2022 ~~2021~~.

26 (c) In a funds transfer to which this article applies, in the event
27 of an inconsistency between an applicable provision of this article and
28 an applicable provision of the federal Electronic Fund Transfer Act, the
29 provision of the federal Electronic Fund Transfer Act governs to the
30 extent of the inconsistency.

31 Sec. 30. Original sections 8-148.06, 8-1502, 45-736, and 59-1722,

1 Reissue Revised Statutes of Nebraska, sections 8-108, 8-148.07, and
2 8-148.08, Revised Statutes Cumulative Supplement, 2020, sections
3 8-101.03, 8-135, 8-141, 8-143.01, 8-157.01, 8-183.04, 8-1,140, 8-318,
4 8-355, 8-1101, 8-1101.01, 8-1704, 8-1707, 8-2724, 8-2903, 8-3005, 8-3007,
5 21-17,115, 69-2103, 69-2104, and 69-2112, Revised Statutes Supplement,
6 2021, and section 4A-108, Uniform Commercial Code, Revised Statutes
7 Supplement, 2021, are repealed.