

AMENDMENTS TO LB214

Introduced by Banking, Commerce and Insurance.

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

3 Section 1. Section 8-101.03, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 8-101.03 For purposes of the Nebraska Banking Act, unless the
6 context otherwise requires:

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

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

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

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

26 (5) Bank or banking corporation means any incorporated banking
27 institution which was incorporated under the laws of this state as they

1 existed prior to May 9, 1933, and any corporation duly organized under
2 the laws of this state for the purpose of conducting a bank within this
3 state under the act. Bank means any such banking institution which is, in
4 addition to the exercise of other powers, following the practice of
5 repaying deposits upon check, draft, or order and of making loans. Bank
6 or banking corporation includes a digital asset depository institution as
7 defined in section 8-3003. Notwithstanding the provisions of this
8 subdivision, a digital asset depository institution is subject to the
9 provisions of subdivision (2)(b) of section 8-3005;

10 (6)(a) Bank subsidiary means a corporation or limited liability
11 company that:

12 (i) Has a bank as a shareholder, member, or investor; and

13 (ii) Is organized for purposes of engaging in activities which are
14 part of the business of banking or incidental to such business except for
15 the receipt of deposits.

16 (b) A bank subsidiary may include a corporation organized under the
17 Nebraska Financial Innovation Act.

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

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

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

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

28 (10) Digital asset depository means a financial institution that
29 securely holds liquid assets when such assets are in the form of
30 controllable electronic records, either as a corporation organized,
31 chartered, and operated pursuant to the Nebraska Financial Innovation Act

1 as a digital asset depository institution, or a financial institution
2 operating a digital asset depository business as a digital asset
3 depository department under a charter granted ~~grant of authority~~ by the
4 director;

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

6 (12) Financial institution means a bank, savings bank, building and
7 loan association, savings and loan association, or credit union, whether
8 chartered by the United States, the department, or a foreign state
9 agency; any other similar organization which is covered by federal
10 deposit insurance; a trust company; or a digital asset depository that is
11 not a digital asset depository institution;

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

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

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

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

30 (17) Making loans includes advances or credits that are initiated by
31 means of credit card or other transaction card. Transaction card and

1 other transactions, including transactions made pursuant to prior
2 agreements, may be brought about and transmitted by means of an
3 electronic impulse. Such loan transactions including transactions made
4 pursuant to prior agreements shall be subject to sections 8-815 to 8-829
5 and shall be deemed loans made at the place of business of the financial
6 institution;

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

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

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

23 Sec. 2. Section 8-102, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 8-102 (1) The department shall, under the laws of this state
26 specifically made applicable to each, have general supervision and
27 control over banks, trust companies, credit unions, building and loan
28 associations, savings and loan associations, and digital asset
29 depositories, all of which are hereby declared to be quasi-public in
30 nature and subject to regulation and control by the state.

31 (2) The director may prescribe conditions on banks, trust companies,

1 credit unions, building and loan associations, savings and loan
2 associations, and digital asset depositories, and their holding
3 companies, if any, as part of any written order, decision, or
4 determination required to be made pursuant to the Credit Union Act, the
5 Nebraska Banking Act, the Nebraska Financial Innovation Act, and Chapter
6 8, article 3.

7 Sec. 3. Section 8-115, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 8-115 No corporation shall conduct a bank or digital asset
10 depository in this state without having first obtained a charter ~~or under~~
11 ~~a grant of authority in the case of a digital asset depository in the~~
12 manner provided in the Nebraska Banking Act or the Nebraska Financial
13 Innovation Act, respectively.

14 Sec. 4. Section 8-135, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 8-135 (1) All persons, regardless of age, may become depositors in
17 any bank and shall be subject to the same duties and liabilities
18 respecting their deposits. Whenever a deposit is accepted by any bank in
19 the name of any person, regardless of age, the deposit may be withdrawn
20 by the depositor by any of the following methods:

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

25 (b) Electronic means through:

26 (i) Preauthorized direct withdrawal;

27 (ii) An automatic teller machine;

28 (iii) A debit card;

29 (iv) A transfer by telephone;

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

31 (vi) Any electronic terminal, computer, magnetic tape, or other

1 electronic means.

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

5 (3) This section shall not be construed to affect the rights,
6 liabilities, or responsibilities of participants in an electronic fund
7 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
8 et seq., as such act existed on January 1, 2023 ~~2022~~, and shall not
9 affect the legal relationships between a minor and any person other than
10 the bank.

11 Sec. 5. Section 8-141, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-141 (1) No bank shall directly or indirectly loan to any single
14 corporation, limited liability company, firm, or individual, including in
15 such loans all loans made to the several members or shareholders of such
16 corporation, limited liability company, or firm, for the use and benefit
17 of such corporation, limited liability company, firm, or individual, more
18 than twenty-five percent of the paid-up capital, surplus, and capital
19 notes and debentures or fifteen percent of the unimpaired capital and
20 unimpaired surplus of such bank, whichever is greater. Such limitations
21 shall be subject to the following exceptions:

22 (a) Obligations of any person, partnership, limited liability
23 company, association, or corporation in the form of notes or drafts
24 secured by shipping documents or instruments transferring or securing
25 title covering livestock or giving a lien on livestock, when the market
26 value of the livestock securing the obligation is not at any time less
27 than one hundred fifteen percent of the face amount of the notes covered
28 by such documents, shall be subject under this section to a limitation of
29 ten percent of such capital, surplus, and capital notes and debentures or
30 ten percent of such unimpaired capital and unimpaired surplus, whichever
31 is greater, in addition to such twenty-five percent of such capital and

1 surplus or such fifteen percent of such unimpaired capital and unimpaired
2 surplus;

3 (b) Obligations of any person, partnership, limited liability
4 company, association, or corporation secured by not less than a like
5 amount of bonds or notes of the United States issued since April 24,
6 1917, or certificates of indebtedness of the United States, treasury
7 bills of the United States, or obligations fully guaranteed both as to
8 principal and interest by the United States shall be subject under this
9 section to a limitation of ten percent of such capital, surplus, and
10 capital notes and debentures or ten percent of such unimpaired capital
11 and unimpaired surplus, whichever is greater, in addition to such twenty-
12 five percent of such capital and surplus or such fifteen percent of such
13 unimpaired capital and unimpaired surplus;

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

23 (d) Obligations of any person, partnership, limited liability
24 company, association, or corporation which are secured by readily
25 marketable collateral having a market value, as determined by reliable
26 and continuously available price quotations, in an amount at least equal
27 to the face amount of the note or notes secured by such collateral, shall
28 be subject under this section to a limitation of ten percent of such
29 capital, surplus, and capital notes and debentures or ten percent of such
30 unimpaired capital and unimpaired surplus, whichever is greater, in
31 addition to such twenty-five percent of such capital and surplus or such

1 fifteen percent of such unimpaired capital and unimpaired surplus.

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

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

23 (c) Any bank may subscribe to, invest in, purchase, and own single-
24 family mortgages secured by the Federal Housing Administration or the
25 United States Department of Veterans Affairs and mortgage-backed
26 certificates of the Government National Mortgage Association which are
27 guaranteed as to payment of principal and interest by the Government
28 National Mortgage Association. Such mortgages and certificates shall not
29 be subject under this section to any limitation based upon such capital
30 and surplus or such unimpaired capital and unimpaired surplus.

31 (d) Obligations representing loans to any national banking

1 association or to any banking institution organized under the laws of any
2 state, when such loans are approved by the director by rule and
3 regulation or otherwise, shall not be subject under this section to any
4 limitation based upon such capital and surplus or such unimpaired capital
5 and unimpaired surplus.

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

12 (f) For the purpose of determining lending limits, partnerships
13 shall not be treated as separate entities. Each individual shall be
14 charged with his or her personal debt plus the debt of every partnership
15 in which he or she is a partner, except that for purposes of this section
16 (a) an individual shall only be charged with the debt of any limited
17 partnership in which he or she is a partner to the extent that the terms
18 of the limited partnership agreement provide that such individual is to
19 be held liable for the debts or actions of such limited partnership and
20 (b) no individual shall be charged with the debt of any general
21 partnership in which he or she is a partner beyond the extent to which
22 (i) his or her liability for such partnership debt is limited by the
23 terms of a contract or other written agreement between the bank and such
24 individual and (ii) any personal debt of such individual is incurred for
25 the use and benefit of such general partnership.

26 (3) A loan made within lending limits at the initial time the loan
27 was made may be renewed, extended, or serviced without regard to changes
28 in the lending limit of a bank following the initial extension of the
29 loan if (a) the renewal, extension, or servicing of the loan does not
30 result in the extension of funds beyond the initial amount of the loan or
31 (b) the accrued interest on the loan is not added to the original amount

1 of the loan in the process of renewal, extension, or servicing.

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

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

24 (6) For purposes of this section:

25 (a) Derivative transaction means any transaction that is a contract,
26 agreement, swap, warrant, note, or option that is based, in whole or in
27 part, on the value of, any interest in, or any quantitative measure or
28 the occurrence of any event relating to, one or more commodities,
29 securities, currencies, interest or other rates, indices, or other
30 assets;

31 (b) Loan includes:

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

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

7 (iii) Any credit exposure to a person arising from a derivative
8 transaction, repurchase agreement, reverse repurchase agreement,
9 securities lending transaction, or securities borrowing transaction
10 between the bank and the person; and

11 (c) Unimpaired capital and unimpaired surplus means:

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

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

17 (B) The bank's allowance for loan and lease losses or allowance for
18 credit losses, as applicable, as reported in the most recent consolidated
19 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
20 existed on January 1, 2023 ~~2022~~; and

21 (ii) For all other banks:

22 (A) The bank's tier 1 and tier 2 capital included in the bank's
23 risk-based capital under the capital guidelines of the appropriate
24 federal banking agency, based on the bank's most recent consolidated
25 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
26 existed on January 1, 2023 ~~2022~~; and

27 (B) The balance of the bank's allowance for loan and lease losses
28 not included in the bank's tier 2 capital for purposes of the calculation
29 of risk-based capital by the appropriate federal banking agency, based on
30 the bank's most recent consolidated report of condition filed under 12
31 U.S.C. 1817(a)(3), as such section existed on January 1, 2023 ~~2022~~.

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

5 Sec. 6. Section 8-143.01, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 8-143.01 (1) No bank shall extend credit to any of its executive
8 officers, directors, or principal shareholders or to any related interest
9 of such persons in an amount that, when aggregated with the amount of all
10 other extensions of credit by the bank to that person and to all related
11 interests of that person, exceeds the higher of twenty-five thousand
12 dollars or five percent of the bank's unimpaired capital and unimpaired
13 surplus unless (a) the extension of credit has been approved in advance
14 by a majority vote of the entire board of directors of the bank, a record
15 of which shall be made and kept as a part of the records of such bank,
16 and (b) the interested party has abstained from participating directly or
17 indirectly in such vote.

18 (2) No bank shall extend credit to any of its executive officers,
19 directors, or principal shareholders or to any related interest of such
20 persons in an amount that, when aggregated with the amount of all other
21 extensions of credit by the bank to that person and to all related
22 interests of that person, exceeds five hundred thousand dollars except by
23 complying with the requirements of subdivisions (1)(a) and (b) of this
24 section.

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

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

31 (a) In any amount to finance the education of such executive

1 officer's children;

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

12 (c) In any amount if the extension of credit is (i) secured by a
13 perfected security interest in bonds, notes, certificates of
14 indebtedness, or treasury bills of the United States or in other such
15 obligations fully guaranteed as to principal and interest by the United
16 States, (ii) secured by unconditional takeout commitments or guarantees
17 of any department, agency, bureau, board, commission, or establishment of
18 the United States or any corporation wholly owned directly or indirectly
19 by the United States, or (iii) secured by a perfected security interest
20 in a segregated deposit account in the lending bank; or

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

29 (5)(a) Except as provided in subdivision (b) or (c) of this
30 subsection, any executive officer shall make, on an annual basis, a
31 written report to the board of directors of the bank of which he or she

1 is an executive officer stating the date and amount of all loans or
2 indebtedness on which he or she is a borrower, cosigner, or guarantor,
3 the security therefor, and the purpose for which the proceeds have been
4 or are to be used.

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

10 (c) Subdivisions (a) and (b) of this subsection do not apply to any
11 executive officer if such officer is excluded by a resolution of the
12 board of directors or by the bylaws of the bank from participating in the
13 major policymaking functions of the bank and does not actually
14 participate in the major policymaking functions of the bank.

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

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

31 (b) Nothing in subdivision (a) of this subsection shall prohibit any

1 extension of credit made by a bank pursuant to a benefit or compensation
2 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation
3 existed on January 1, 2023 ~~2022~~.

4 (8) For purposes of this section:

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

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

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

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

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

29 (9) Any executive officer, director, or principal shareholder of a
30 bank or any other person who intentionally violates this section or who
31 aids, abets, or assists in a violation of this section is guilty of a

1 Class IV felony.

2 (10) The Director of Banking and Finance may adopt and promulgate
3 rules and regulations to carry out this section, including rules and
4 regulations defining or further defining terms used in this section,
5 consistent with the provisions of 12 U.S.C. 84 and implementing
6 Regulation O as such section and regulation existed on January 1, 2023
7 2022.

8 Sec. 7. Section 8-157.01, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 8-157.01 (1) Any establishing financial institution may establish
11 and maintain any number of automatic teller machines at which all banking
12 transactions, defined as receiving deposits of every kind and nature and
13 crediting such to customer accounts, cashing checks and cash withdrawals,
14 transferring funds from checking accounts to savings accounts,
15 transferring funds from savings accounts to checking accounts,
16 transferring funds from either checking accounts and savings accounts to
17 accounts of other customers, transferring payments from customer accounts
18 into accounts maintained by other customers of the financial institution
19 or the financial institution, including preauthorized draft authority,
20 preauthorized loans, and credit transactions, receiving payments payable
21 at the financial institution or otherwise, account balance inquiry, and
22 any other transaction incidental to the business of the financial
23 institution or which will provide a benefit to the financial
24 institution's customers or the general public, may be conducted. Any
25 automatic teller machine owned by a nonfinancial institution third party
26 shall be sponsored by an establishing financial institution. Neither such
27 automatic teller machines nor the transactions conducted thereat shall be
28 construed as the establishment of a branch or as branch banking.

29 (2) Any financial institution may become a user financial
30 institution by agreeing to pay the establishing financial institution the
31 automatic teller machine usage fee. Such agreement shall be implied by

1 the use of such automatic teller machines.

2 (3)(a)(i) All automatic teller machines shall be made available on a
3 nondiscriminating basis for use by Nebraska customers of a user financial
4 institution and (ii) all Nebraska automatic teller machine transactions
5 initiated by Nebraska customers of a user financial institution shall be
6 made on a nondiscriminating basis.

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

26 (c) The director, upon notice and after a hearing, may terminate or
27 suspend the use of any automatic teller machine if he or she determines
28 that the automatic teller machine is not made available on a
29 nondiscriminating basis or that Nebraska automatic teller machine
30 transactions initiated at such automatic teller machine are not made on a
31 nondiscriminating basis.

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

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

16 (f) Subject to the requirement for a financial institution to comply
17 with this subsection, no user financial institution or establishing
18 financial institution shall be required to become a member of any
19 particular switch.

20 (4) Any consumer initiating an electronic funds transfer at an
21 automatic teller machine for which an automatic teller machine surcharge
22 will be imposed shall receive notice in accordance with the provisions of
23 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
24 2023 ~~2022~~. Such notice shall appear on the screen of the automatic teller
25 machine or appear on a paper notice issued from such machine after the
26 transaction is initiated and before the consumer is irrevocably committed
27 to completing the transaction.

28 (5) A point-of-sale terminal may be established at any point within
29 this state by a financial institution, a group of two or more financial
30 institutions, or a combination of a financial institution or financial
31 institutions and a third party or parties. Such parties may contract with

1 a seller of goods and services or any other third party for the operation
2 of point-of-sale terminals.

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

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

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

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

24 (9) Nothing in this section prohibits ordinary clearinghouse
25 transactions between financial institutions.

26 (10) Nothing in this section shall prevent any financial institution
27 which has a main chartered office or an approved branch located in the
28 State of Nebraska from participating in a national automatic teller
29 machine program to allow its customers to use automatic teller machines
30 located outside of the State of Nebraska which are established by out-of-
31 state financial institutions or foreign financial institutions or to

1 allow customers of out-of-state financial institutions or foreign
2 financial institutions to use its automatic teller machines. Such
3 participation and any automatic teller machine usage fees charged or
4 received pursuant to the national automatic teller machine program or
5 usage fees charged for the use of its automatic teller machines by
6 customers of out-of-state financial institutions or foreign financial
7 institutions shall not be considered for purposes of determining (a) if
8 an automatic teller machine has been made available or Nebraska automatic
9 teller machine transactions have been made on a nondiscriminating basis
10 for use by Nebraska customers of a user financial institution or (b) if a
11 switch complies with subdivision (3)(d) of this section.

12 (11) An agreement to operate or share an automatic teller machine
13 may not prohibit, limit, or restrict the right of the operator or owner
14 of the automatic teller machine to charge a customer conducting a
15 transaction using an account from a foreign financial institution an
16 access fee or surcharge not otherwise prohibited under state or federal
17 law.

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

20 (13) Nothing in this section shall prevent a group of two or more
21 credit unions, each of which has a main chartered office or an approved
22 branch located in the State of Nebraska, from participating in a credit
23 union service organization organized on or before January 1, 2015, for
24 the purpose of owning automatic teller machines, provided that all
25 participating credit unions have an ownership interest in the credit
26 union service organization and that the credit union service organization
27 has an ownership interest in each of the participating credit unions'
28 automatic teller machines. Such participation and any automatic teller
29 machine usage fees associated with Nebraska automatic teller machine
30 transactions initiated by customers of participating credit unions at
31 such automatic teller machines shall not be considered for purposes of

1 determining if such automatic teller machines have been made available on
2 a nondiscriminating basis or if Nebraska automatic teller machine
3 transactions initiated at such automatic teller machines have been made
4 on a nondiscriminating basis, provided that all Nebraska automatic teller
5 machine transactions initiated by customers of participating credit
6 unions result in the same automatic teller machine usage fees for
7 essentially the same service routed over the same switch.

8 (14) Nebraska automatic teller machine usage fees and any agreements
9 relating to Nebraska automatic teller machine usage fees shall comply
10 with subsection (3) of this section.

11 (15) For purposes of this section:

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

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

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

21 (d) Automatic teller machine usage fee means any per transaction fee
22 established by a switch or otherwise established on behalf of an
23 establishing financial institution and collected from the user financial
24 institution and paid to the establishing financial institution for the
25 use of the automatic teller machine. An automatic teller machine usage
26 fee shall not include switch fees;

27 (e) Electronic funds transfer means any transfer of funds, other
28 than a transaction originated by check, draft, or similar paper
29 instrument, that is initiated through a point-of-sale terminal, an
30 automatic teller machine, or a personal terminal for the purpose of
31 ordering, instructing, or authorizing a financial institution to debit or

1 credit an account;

2 (f) Essentially the same service means the same Nebraska automatic
3 teller machine transaction offered by an establishing financial
4 institution irrespective of the user financial institution, the Nebraska
5 customer of which initiates the Nebraska automatic teller machine
6 transaction. A Nebraska automatic teller machine transaction that is
7 subject to a surcharge is not essentially the same service as the same
8 banking transaction for which a surcharge is not imposed;

9 (g) Establishing financial institution means any financial
10 institution which has a main chartered office or approved branch located
11 in the State of Nebraska that establishes or sponsors an automatic teller
12 machine or any out-of-state financial institution that establishes or
13 sponsors an automatic teller machine;

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

19 (i) Foreign financial institution means a financial institution
20 located outside the United States;

21 (j) Nebraska automatic teller machine transaction means a banking
22 transaction as defined in subsection (1) of this section which is (i)
23 initiated at an automatic teller machine established in whole or in part
24 or sponsored by an establishing financial institution, (ii) for an
25 account of a Nebraska customer of a user financial institution, and (iii)
26 processed through a switch regardless of whether it is routed directly or
27 indirectly from an automatic teller machine;

28 (k) Personal terminal means a personal computer and telephone,
29 wherever located, operated by a customer of a financial institution for
30 the purpose of initiating a transaction affecting an account of the
31 customer;

1 (1) Sponsoring an automatic teller machine means the acceptance of
2 responsibility by an establishing financial institution for compliance
3 with all provisions of law governing automatic teller machines and
4 Nebraska automatic teller machine transactions in connection with an
5 automatic teller machine owned by a nonfinancial institution third party;

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

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

13 Sec. 8. Section 8-183.04, Reissue Revised Statutes of Nebraska, is
14 amended to read:

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

20 (2) All references to shareholders or stockholders for state banks
21 shall be deemed to be references to members for such a converted savings
22 association.

23 (3) The amount and type of capital required for such a converted
24 savings association shall be as required for federal mutual savings
25 associations in 12 C.F.R. 5.21, as such regulation existed on January 1,
26 2023 ~~2022~~, except that if at any time the department determines that the
27 capital of such a converted savings association is impaired, the director
28 may require the members to make up the capital impairment.

29 (4) The director may adopt and promulgate rules and regulations
30 governing such converted mutual savings associations. In adopting and
31 promulgating such rules and regulations, the director may consider the

1 provisions of sections 8-301 to 8-384 governing savings associations in
2 mutual form of corporate organization.

3 Sec. 9. Section 8-1,140, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 8-1,140 Notwithstanding any of the other provisions of the Nebraska
6 Banking Act or any other Nebraska statute, any bank incorporated under
7 the laws of this state and organized under the provisions of the act, or
8 under the laws of this state as they existed prior to May 9, 1933, shall
9 directly, or indirectly through a department, a subsidiary, or
10 subsidiaries, have all the rights, powers, privileges, benefits, and
11 immunities which may be exercised as of January 1, 2023 ~~2022~~, by a
12 federally chartered bank doing business in Nebraska, including the
13 exercise of all powers and activities that are permitted for a financial
14 subsidiary of a federally chartered bank. Such rights, powers,
15 privileges, benefits, and immunities shall not relieve such bank from
16 payment of state taxes assessed under any applicable laws of this state.

17 Sec. 10. Section 8-318, Reissue Revised Statutes of Nebraska, is
18 amended to read:

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

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

1 (i) 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 shareholder and
4 constitutes a valid release in discharge to the building and loan
5 association for all payments so made; or

6 (ii) Electronic means through:

7 (A) Preauthorized direct withdrawal;

8 (B) An automatic teller machine;

9 (C) A debit card;

10 (D) A transfer by telephone;

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

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

14 (c) This section shall not be construed to affect the rights,
15 liabilities, or responsibilities of participants in an electronic fund
16 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
17 et seq., as it existed on January 1, ~~2023~~ 2022, and shall not affect the
18 legal relationships between a minor and any person other than the
19 building and loan association.

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

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

1 expressly limited, restricted, or prohibited therefrom by the terms of
2 such trust instrument.

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

24 Sec. 11. Section 8-355, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
27 or any other Nebraska statute, except as provided in section 8-345.02,
28 any association incorporated under the laws of the State of Nebraska and
29 organized under the provisions of such article shall have all the rights,
30 powers, privileges, benefits, and immunities which may be exercised as of
31 January 1, 2023 ~~2022~~, by a federal savings and loan association doing

1 business in Nebraska. Such rights, powers, privileges, benefits, and
2 immunities shall not relieve such association from payment of state taxes
3 assessed under any applicable laws of this state.

4 Sec. 12. Section 8-602, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 8-602 The Director of Banking and Finance shall charge and collect
7 fees for certain services rendered by the Department of Banking and
8 Finance according to the following schedule:

9 (1) For filing and examining articles of incorporation, articles of
10 association, and bylaws, except credit unions, one hundred dollars, and
11 for credit unions, fifty dollars;

12 (2) For filing and examining an amendment to articles of
13 incorporation, articles of association, and bylaws, except credit unions,
14 fifty dollars, and for credit unions, fifteen dollars;

15 (3) For issuing to banks, credit card banks, trust companies, and
16 building and loan associations a charter, authority, or license to do
17 business in this state, a sum which shall be determined on the basis of
18 one dollar and fifty cents for each one thousand dollars of authorized
19 capital, except that the minimum fee in each case shall be two hundred
20 twenty-five dollars;

21 (4) For issuing to digital asset depositories under the Nebraska
22 Financial Innovation Act a charter, ~~an authority, or a license~~ to do
23 business in this state, the sum of fifty thousand dollars;

24 (5) For issuing an executive officer's or loan officer's license,
25 fifty dollars at the time of the initial license, except credit unions
26 for which the fee shall be twenty-five dollars at the time of the initial
27 license;

28 (6) For affixing certificate and seal, five dollars;

29 (7) For making substitution of securities held by it and issuing a
30 receipt, fifteen dollars;

31 (8) For issuing a certificate of approval to a credit union, ten

1 dollars;

2 (9) For investigating the applications required by sections 8-117,
3 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the
4 cost of such examination, investigation, and inspection, including all
5 legal expenses and the cost of any hearing transcript, with a minimum fee
6 under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred
7 dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201
8 of one thousand dollars. The department may require the applicant to
9 procure and give a surety bond in such principal amount as the department
10 may determine and conditioned for the payment of the fees provided in
11 this subdivision;

12 (10) For the handling of pledged securities as provided in sections
13 8-210, ~~and 8-2727,~~ and 8-3022 at the time of the initial deposit of such
14 securities, one dollar and fifty cents for each thousand dollars of
15 securities deposited and a like amount on or before January 15 each year
16 thereafter. The fees shall be paid by the entity pledging the securities;

17 (11) For investigating an application to move its location within
18 the city or village limits of its original license or charter for banks,
19 trust companies, and building and loan associations, two hundred fifty
20 dollars;

21 (12) For investigating an application under subdivision (6) of
22 section 8-115.01, five hundred dollars;

23 (13) For investigating an application for approval to establish or
24 acquire a branch pursuant to section 8-157 or 8-2103 or to establish a
25 mobile branch pursuant to section 8-157, two hundred fifty dollars;

26 (14) For investigating a notice of acquisition of control under
27 subsection (1) of section 8-1502, five hundred dollars;

28 (15) For investigating an application for a cross-industry merger
29 under section 8-1510, five hundred dollars;

30 (16) For investigating an application for a merger of two state
31 banks, a merger of a state bank and a national bank in which the state

1 bank is the surviving entity, or an interstate merger application in
2 which the Nebraska state chartered bank is the resulting bank, five
3 hundred dollars;

4 (17) For investigating an application or a notice to establish a
5 branch trust office, five hundred dollars;

6 (18) For investigating an application or a notice to establish a
7 representative trust office, five hundred dollars;

8 (19) For investigating an application to establish a credit union
9 branch under section 21-1725.01, two hundred fifty dollars;

10 (20) For investigating an applicant under section 8-1513, five
11 thousand dollars;

12 (21) For investigating a request to extend a conditional bank
13 charter under section 8-117, one thousand dollars; and

14 (22) For investigating an application to establish a branch office,
15 for a merger or an acquisition of control, or for a request to extend a
16 conditional charter for a digital asset depository, five hundred dollars.

17 Sec. 13. Section 8-1101, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 8-1101 For purposes of the Securities Act of Nebraska, unless the
20 context otherwise requires:

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

1 for soliciting any person in this state or (b) a broker-dealer in
2 effecting transactions described in section 15(h)(2) of the Securities
3 Exchange Act of 1934. A partner, limited liability company member,
4 officer, or director of a broker-dealer is an agent only if he or she
5 otherwise comes within this definition;

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

1 client who is temporarily present in this state and with whom the
2 Canadian broker-dealer had a bona fide customer relationship before the
3 client entered this state or (B) a transaction with or for a Canadian
4 client in a self-directed tax advantaged retirement plan in Canada of
5 which that client is the holder or contributor; and (iv) the person
6 complies with all provisions of the Securities Act of Nebraska relating
7 to the disclosure of material information in connection with the
8 transaction;

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

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

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

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

19 (7) Investment adviser means any person who for compensation engages
20 in the business of advising others, either directly or through
21 publications or writings, as to the value of securities or as to the
22 advisability of investing in, purchasing, or selling securities or who
23 for compensation and as a part of a regular business issues or
24 promulgates analyses or reports concerning securities. Investment adviser
25 also includes financial planners and other persons who, as an integral
26 component of other financially related services, provide the foregoing
27 investment advisory services to others for compensation and as part of a
28 business or who hold themselves out as providing the foregoing investment
29 advisory services to others for compensation. Investment adviser does not
30 include (a) an investment adviser representative, (b) a bank, savings
31 institution, or trust company, (c) a lawyer, accountant, engineer, or

1 teacher whose performance of these services is solely incidental to the
2 practice of his or her profession, (d) a broker-dealer or its agent whose
3 performance of these services is solely incidental to its business as a
4 broker-dealer and who receives no special compensation for them, (e) an
5 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,
6 newsletter, news magazine, or business or financial publication or
7 service, whether communicated in hard copy form, by electronic means, or
8 otherwise which does not consist of the rendering of advice on the basis
9 of the specific investment situation of each client, (g) a person who has
10 no place of business in this state if (i) his or her only clients in this
11 state are other investment advisers, federal covered advisers, broker-
12 dealers, 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, or (ii) during the preceding twelve-month period, he or she has
17 had five or fewer clients who are residents of this state other than
18 those persons specified in subdivision (g)(i) of this subdivision, (h)
19 any person that is a federal covered adviser or is excluded from the
20 definition of investment adviser under section 202 of the Investment
21 Adviser Act of 1940, or (i) such other persons not within the intent of
22 this subdivision as the director may by rule and regulation or order
23 designate;

24 (8) Investment adviser representative means any partner, limited
25 liability company member, officer, or director or any person occupying a
26 similar status or performing similar functions of a partner, limited
27 liability company member, officer, or director or other individual,
28 except clerical or ministerial personnel, who is employed by or
29 associated with an investment adviser that is registered or required to
30 be registered under the Securities Act of Nebraska or who has a place of
31 business located in this state and is employed by or associated with a

1 federal covered adviser, and who (a) makes any recommendations or
2 otherwise renders advice regarding securities, (b) manages accounts or
3 portfolios of clients, (c) determines which recommendation or advice
4 regarding securities should be given, (d) solicits, offers, or negotiates
5 for the sale of or sells investment advisory services, or (e) supervises
6 employees who perform any of the foregoing;

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

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

28 (11) Nonissuer means not directly or indirectly for the benefit of
29 the issuer;

30 (12) Person means an individual, a corporation, a partnership, a
31 limited liability company, an association, a joint-stock company, a trust

1 in which the interests of the beneficiaries are evidenced by a security,
2 an unincorporated organization, a government, or a political subdivision
3 of a government;

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

18 (14) Securities Act of 1933, Securities Exchange Act of 1934,
19 Investment Advisers Act of 1940, Investment Company Act of 1940,
20 Commodity Exchange Act, and the federal Interstate Land Sales Full
21 Disclosure Act means the acts as they existed on January 1, 2023 ~~2022~~;

22 (15) Security means any note, stock, treasury stock, bond,
23 debenture, units of beneficial interest in a real estate trust, evidence
24 of indebtedness, certificate of interest or participation in any profit-
25 sharing agreement, collateral-trust certificate, preorganization
26 certificate or subscription, transferable share, investment contract,
27 viatical settlement contract or any fractional or pooled interest in such
28 contract, membership interest in any limited liability company organized
29 under Nebraska law or any other jurisdiction unless otherwise excluded
30 from this definition, voting-trust certificate, certificate of deposit
31 for a security, certificate of interest or participation in an oil, gas,

1 or mining title or lease or in payments out of production under such a
2 title or lease, in general any interest or instrument commonly known as a
3 security, or any certificate of interest or participation in, temporary
4 or interim certificate for, guarantee of, or warrant or right to
5 subscribe to or purchase any of the foregoing. Security does not include
6 any insurance or endowment policy or annuity contract issued by an
7 insurance company. Security also does not include a membership interest
8 in a limited liability company when all of the following exist: (a) The
9 member enters into a written commitment to be engaged actively and
10 directly in the management of the limited liability company; and (b) all
11 members of the limited liability company are actively engaged in the
12 management of the limited liability company. For the limited purposes of
13 determining professional malpractice insurance premiums, a security
14 issued through a transaction that is exempted pursuant to subdivision
15 (23) of section 8-1111 shall not be considered a security;

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

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

1 Sec. 14. Section 8-1101.01, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-1101.01 For purposes of the Securities Act of Nebraska:

4 (1) Federal rules and regulations adopted under the Investment
5 Advisors Act of 1940 or the Securities Act of 1933 means such rules and
6 regulations as they existed on January 1, 2023 ~~2022~~; and

7 (2) Fair practice or ethical rules or standards promulgated by the
8 Securities and Exchange Commission, the Financial Industry Regulatory
9 Authority, or a self-regulatory organization approved by the Securities
10 and Exchange Commission means such practice, rules, or standards as they
11 existed on January 1, 2023 ~~2022~~.

12 Sec. 15. Section 8-1704, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 8-1704 CFTC rule shall mean any rule, regulation, or order of the
15 Commodity Futures Trading Commission in effect on January 1, 2023 ~~2022~~.

16 Sec. 16. Section 8-1707, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 8-1707 Commodity Exchange Act shall mean the act of Congress known
19 as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2023
20 ~~2022~~.

21 Sec. 17. Section 8-2724, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 8-2724 (1) The requirement for a license under the Nebraska Money
24 Transmitters Act does not apply to:

25 (a) The United States or any department, agency, or instrumentality
26 thereof;

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

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

29 (d)(i) Banks, credit unions, digital asset depository institutions
30 as defined in section 8-3003, building and loan associations, savings and
31 loan associations, savings banks, or mutual banks organized under the

1 laws of any state or the United States;

2 (ii) Subsidiaries of the institutions listed in subdivision (d)(i)
3 of this subsection;

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

7 (iv) Authorized delegates of the institutions and entities listed in
8 subdivision (d)(i), (ii), or (iii) of this subsection, except that
9 authorized delegates that are not banks, credit unions, building and loan
10 associations, savings and loan associations, savings banks, mutual banks,
11 subsidiaries of any of the foregoing, or bank holding companies shall
12 comply with all requirements imposed upon authorized delegates under the
13 act;

14 (e) The provision of electronic transfer of government benefits for
15 any federal, state, or county governmental agency, as defined in Consumer
16 Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such
17 regulation existed on January 1, 2023 ~~2022~~, by a contractor for and on
18 behalf of the United States or any department, agency, or instrumentality
19 thereof or any state or any political subdivision thereof;

20 (f) An operator of a payment system only to the extent that the
21 payment system provides processing, clearing, or settlement services
22 between or among persons who are all exempt under this section in
23 connection with wire transfers, credit card transactions, debit card
24 transactions, automated clearinghouse transfers, or similar fund
25 transfers; or

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

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

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

31 (iii) To engage in the debt management business pursuant to sections

1 69-1201 to 69-1217.

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

8 Sec. 18. Section 8-2903, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 8-2903 (1) When a financial institution, or an employee of a
11 financial institution, reasonably believes, or has received information
12 from the department or a law enforcement agency demonstrating that it is
13 reasonable to believe, that financial exploitation of a vulnerable adult
14 or senior adult may have occurred, may have been attempted, is occurring,
15 or is being attempted, the financial institution may, but is not required
16 to:

17 (a) Delay or refuse a transaction with or involving the vulnerable
18 adult or senior adult;

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

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

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

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

30 (f) Prevent the designation or change the designation of
31 beneficiaries to receive any property, benefit, or contract rights for a

1 vulnerable adult or senior adult at death.

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

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

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

26 (b) A financial institution may choose not to notify any third party
27 reasonably associated with a vulnerable adult or senior adult of
28 suspected financial exploitation of the vulnerable adult or senior adult
29 if the financial institution reasonably believes the third party is, may
30 be, or may have been engaged in the financial exploitation of the
31 vulnerable adult or senior adult or if requested to refrain from making a

1 notification by a law enforcement agency, if such notification could
2 interfere with a law enforcement investigation.

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

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

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

20 (6) A financial institution and its bank holding company, if any,
21 and any employees, agents, officers, and directors of the financial
22 institution and its bank holding company, if any, shall be immune from
23 any civil, criminal, or administrative liability that may otherwise exist
24 (a) for delaying or refusing to execute a transaction, withdrawal, or
25 disbursement, or for not delaying or refusing to execute such
26 transaction, withdrawal, or disbursement under this section and (b) for
27 actions taken in furtherance of determinations made under subsections (1)
28 through (5) of this section.

29 (7)(a) Notwithstanding any other law to the contrary, the refusal by
30 a financial institution to engage in a transaction as authorized under
31 subsection (1) of this section shall not constitute the wrongful dishonor

1 of an item under section 4-402, Uniform Commercial Code.

2 (b) Notwithstanding any other law to the contrary, a reasonable
3 belief that payment of a check will facilitate the financial exploitation
4 of a vulnerable adult or senior adult shall constitute reasonable grounds
5 to doubt the collectability of the item for purposes of the federal Check
6 Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal
7 Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R.
8 part 229, as such acts and part existed on January 1, 2023 ~~2022~~.

9 Sec. 19. Section 8-3002, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-3002 The Legislature finds and declares that:

12 (1) Economic development initiatives demand buy-in and input from
13 community stakeholders across multiple industries. The Legislature should
14 send a strong message that Nebraska wants to bring high-tech jobs and
15 digital asset operations to our state. Nebraska has an incredible
16 opportunity to be a leader in this emerging technology;

17 (2) Nebraska desires to create an entrepreneurial ecosystem where
18 young talent can be paired with private investors in order to create
19 jobs, enhance our quality of life, and prevent the brain drain that is
20 particularly acute in rural Nebraska. If Nebraska does not make
21 intentional and meaningful changes to how it recruits and retains young
22 people, Nebraska will be left behind;

23 (3) The rapid innovation of blockchain and digital ledger
24 technology, including the growing use of virtual currency, digital
25 assets, and other controllable electronic records has complicated the
26 development of blockchain services and products in the marketplace;

27 (4) Blockchain innovators are able and willing to address banking
28 compliance challenges such as federal customer identification, anti-money
29 laundering, and beneficial ownership requirements to comply with
30 regulators' concerns;

31 (5) Compliance with federal and state laws, including, but not

1 limited to, know-your-customer and anti-money-laundering rules and the
2 federal Bank Secrecy Act, is critical to ensuring the future growth and
3 reputation of the blockchain and technology industries as a whole; and

4 (6) Authorizing digital asset depositories in Nebraska will provide
5 a necessary and valuable service to blockchain innovators and customers,
6 emphasize Nebraska's partnership with the technology and financial
7 industries industry, safely grow this state's ever-evolving financial
8 sector, and afford more opportunities for Nebraska residents.

9 Sec. 20. Section 8-3003, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-3003 For purposes of the Nebraska Financial Innovation Act:

12 (1) Blockchain means a distributed digital record of controllable
13 electronic record transactions;

14 (2) Centralized finance means centralized digital asset exchanges,
15 businesses, or organizations with a valid physical address;

16 (3) Control has the following meaning:

17 (a) A person has control of a controllable electronic record if:

18 (i) The following conditions are met:

19 (A) The controllable electronic record or the system in which it is
20 recorded, if any, gives the person:

21 (I) The power to derive substantially all the benefit from the
22 controllable electronic record;

23 (II) Subject to subdivision (b) of this subdivision, the exclusive
24 power to prevent others from deriving substantially all the benefit from
25 the controllable electronic record; and

26 (III) Subject to subdivision (b) of this subdivision, the exclusive
27 power to transfer control of the controllable electronic record to
28 another person or cause another person to obtain control of a
29 controllable electronic record that derives from the controllable
30 electronic record; and

31 (B) The controllable electronic record, a record attached to or

1 logically associated with the controllable electronic record, or the
2 system in which the controllable electronic record is recorded, if any,
3 enables the person to readily identify itself as having the powers
4 specified in subdivision (a)(i) of this subdivision; or

5 (ii) Another person obtains control of the controllable electronic
6 record on behalf of the person, or having previously obtained control of
7 the controllable electronic record, acknowledges that it has control on
8 behalf of the person.

9 (b) A power specified in subdivisions (3)(a)(i)(A)(II) or (III) of
10 this section can be exclusive, even if:

11 (i) The controllable electronic record or the system in which it is
12 recorded, if any, limits the use to which the controllable electronic
13 record may be put or has protocols that are programmed to result in a
14 transfer of control; and

15 (ii) The person has agreed to share the power with another person.

16 (c) For the purposes of subdivision (3)(a)(i)(B) of this section, a
17 person may be identified in any way, including by name, identifying
18 number, cryptographic key, office, or account number;

19 (4) Controllable electronic borrowing means the act of receiving
20 digital assets or the use of digital assets from a lender in exchange for
21 the payment to the lender of digital assets, interest, fees, or rewards;

22 (5) Controllable electronic record means an electronic record that
23 can be subjected to control. The term has the same meaning as digital
24 asset and does not include electronic chattel paper, electronic
25 documents, investment property, and transferable records under the
26 Uniform Electronic Transactions Act;

27 (6) Controllable electronic record exchange means a business that
28 allows customers to purchase, sell, convert, send, receive, or trade
29 digital assets for other digital assets;

30 (7) Controllable electronic record lending means the act of
31 providing digital assets to a borrower in exchange for digital assets,

1 interest, fees, or rewards;

2 (8) Controllable electronic records staking means the act of
3 pledging a digital asset or token with an expectation of gaining digital
4 assets, interest, fees, or other rewards on such act;

5 (9) Customer means a digital asset depositor or digital asset
6 account holder;

7 (10) Decentralized finance means digital asset exchanges,
8 businesses, or organizations operating independently on blockchains;

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

10 (12) Digital asset depository means a financial institution that
11 securely holds liquid assets when such assets are in the form of
12 controllable electronic records, either as a corporation organized,
13 chartered, and operated pursuant to the Nebraska Financial Innovation Act
14 as a digital asset depository institution or a financial institution
15 operating a digital asset depository business as a digital asset
16 depository department under a charter granted ~~grant of authority~~ by the
17 director;

18 (13) Digital asset depository department means a financial
19 institution operating a digital asset depository business as a digital
20 asset depository department under a charter granted ~~grant of authority~~ by
21 the director;

22 (14) Digital asset depository institution means a corporation
23 operating a digital asset depository business organized and chartered
24 pursuant to the Nebraska Financial Innovation Act;

25 (15) Director means the Director of Banking and Finance;

26 (16) Financial institution means a bank, savings bank, building and
27 loan association, or savings and loan association, ~~whether~~ chartered by
28 the United States, the department, or a foreign state agency; or a trust
29 company;

30 (17) Fork means a change to the protocol of a blockchain network;

31 (18) Independent node verification network means a shared electronic

1 database where copies of the same information are stored on multiple
2 computers; and

3 (19) Stablecoin means a controllable electronic record
4 cryptocurrency designed to have a stable value that is backed by a
5 reserve asset.

6 Sec. 21. Section 8-3004, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 8-3004 The director shall have the power to issue to corporations
9 desiring to transact business as a digital asset depository institution
10 ~~charters of authority~~ to transact digital asset depository business as
11 defined in the Nebraska Financial Innovation Act. The director shall have
12 general supervision and control over such digital asset depositories.

13 Sec. 22. Section 8-3005, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 8-3005 (1)(a) A digital asset depository may:

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

17 (ii) Sue and be sued;

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

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

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

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

24 (b) A digital asset depository shall maintain its main office and
25 the primary office of at least one executive officer with direct control
26 and oversight of all business activities of the digital asset depository
27 ~~its chief executive officer~~ in Nebraska.

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

30 (2)(a) A digital asset depository institution, consistent with the
31 Nebraska Financial Innovation Act, shall be organized as a corporation

1 under the Nebraska Model Business Corporation Act to exercise the powers
2 set forth in subsection (1) of this section.

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

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

31 (3) The deposit limitations of subdivision (2)(a)(ii) of section

1 8-157 shall not apply to a digital asset depository.

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

9 (5) A digital asset depository institution shall establish and
10 maintain programs for compliance with the federal Bank Secrecy Act, in
11 accordance with 12 C.F.R. 208.63, as the act and rule existed on January
12 1, 2023 ~~2022~~.

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

19 (a) The collection and reporting of data;

20 (b) Its policies and procedures for accepting and responding to
21 consumer complaints; and

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

26 Sec. 23. Section 8-3007, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 8-3007 (1) No customer shall open or maintain an account with a
29 digital asset depository or otherwise receive any services from the
30 digital asset depository unless the customer meets the criteria of this
31 subsection. A customer shall:

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

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

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

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

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

17 (3) Consistent with subdivisions (1)(a)(iv) and (v) of section
18 8-3005, and in addition to any requirements specified by federal law, a
19 digital asset depository shall require that any potential customer that
20 is a legal entity other than a natural person provide reasonable evidence
21 that the entity is engaged in a business that is lawful and bona fide in
22 Nebraska, in the host state, if applicable, and under federal law or is
23 likely to open a lawful, bona fide business within a federal Bank Secrecy
24 Act compliant timeframe, as the act existed on January 1, 2023 ~~2022~~. For
25 purposes of this subsection, reasonable evidence includes business entity
26 filings, articles of incorporation or organization, bylaws, operating
27 agreements, business plans, promotional materials, financing agreements,
28 or other evidence.

29 Sec. 24. Section 8-3008, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-3008 The terms and conditions of a customer's digital asset

1 depository account at a digital asset depository shall be disclosed at
2 the time the customer contracts for a digital asset business service.
3 Such disclosure shall be full and complete, contain no material
4 misrepresentations, be in readily understandable language, and shall
5 include, as appropriate and to the extent applicable:

6 (1) A schedule of fees and charges the digital asset depository may
7 assess, the manner by which fees and charges will be calculated if they
8 are not set in advance and disclosed, and the timing of the fees and
9 charges;

10 (2) A statement that the customer's digital asset depository account
11 is not protected by the Federal Deposit Insurance Corporation;

12 (3) A statement whether there is support for forked networks of each
13 digital asset;

14 (4) A statement that investment in digital assets is volatile and
15 subject to market loss;

16 (5) A statement that investment in digital assets may result in
17 total loss of value;

18 (6) A statement that legal, legislative, and regulatory changes may
19 impact ~~impair~~ the value of digital assets;

20 (7) A statement that customers should perform research before
21 investing in digital assets;

22 (8) A statement that transfers of digital assets are irrevocable, if
23 applicable;

24 (9) A statement as to how liability for an unauthorized, mistaken,
25 or accidental transfer shall be apportioned;

26 (10) A statement that digital assets are not legal tender in any
27 jurisdiction;

28 (11) A statement that digital assets may be subject to cyber theft
29 or theft and become unrecoverable;

30 (12) A statement about who maintains control, ownership, and access
31 to any private key related to a digital assets customer's digital asset

1 account; and

2 (13) A statement that losing private key information may result in
3 permanent total loss of access to digital assets.

4 Sec. 25. Section 8-3011, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 8-3011 (1) With respect to all digital asset business activities, a
7 digital asset depository shall display and include in all advertising, in
8 all marketing materials, on any Internet website or mobile application it
9 maintains, and at each window or place where it accepts digital asset
10 deposits, (a) a notice conspicuously stating that digital asset deposits
11 and digital asset accounts are not insured by the Federal Deposit
12 Insurance Corporation, if applicable, and (b) the following conspicuous
13 statement: Holdings of digital assets are speculative and involve a
14 substantial degree of risk, including the risk of complete loss. There is
15 no assurance that any digital asset will be viable, liquid, or solvent.
16 Nothing in this communication is intended to imply that any digital asset
17 held in custody by a digital asset depository is low-risk or risk-free.
18 Digital assets held in custody are not guaranteed by a digital asset
19 depository and are not ~~FDIC~~ insured by the Federal Deposit Insurance
20 Corporation.

21 (2) Upon opening a digital asset depository account, ~~and—if~~
22 ~~applicable,~~ a digital asset depository shall require each customer to
23 execute a statement acknowledging that all digital asset deposits at the
24 digital asset depository are not insured by the Federal Deposit Insurance
25 Corporation. The digital asset depository shall permanently retain this
26 acknowledgment, whether in electronic form or as a signature card.

27 Sec. 26. Section 8-3012, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 8-3012 (1) Except as otherwise provided by subsection (5) of this
30 section, five or more adult persons, including at least one Nebraska
31 resident, may form a digital asset depository institution. The

1 incorporators shall subscribe the articles of incorporation and transmit
2 them and the bylaws of the digital asset depository institution to the
3 director as part of an application for a charter under section 8-3015.

4 (2) The articles of incorporation shall include the following
5 information:

6 (a) The corporate name;

7 (b) The object for which the corporation is organized;

8 (c) The term of its existence, which may be perpetual;

9 (d) The place in Nebraska where its main office shall be physically
10 located and its operations conducted;

11 (e) The amount of capital stock and the number of shares;

12 (f) The name and residence of each shareholder subscribing to more
13 than ten percent of the stock and the number of shares owned by that
14 shareholder;

15 (g) The number of directors and the names of those who shall manage
16 the affairs of the corporation for the first year; and

17 (h) A statement that the articles of incorporation are made to
18 enable the incorporators to avail themselves of the advantages of the
19 laws of the state.

20 (3) Copies of all amended articles of incorporation and bylaws shall
21 be filed in the same manner as the original articles of incorporation and
22 bylaws.

23 (4) The incorporators shall solicit capital prior to filing an
24 application for a charter with the director, consistent with section
25 8-3013. In the event an application for a charter is not filed or is
26 denied by the director, all capital shall be promptly returned without
27 loss.

28 (5) Subject to federal and state law, a bank holding company may
29 apply to hold a digital asset depository institution.

30 Sec. 27. Section 8-3013, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 8-3013 (1) The capital stock of each digital asset depository
2 institution chartered under the Nebraska Financial Innovation Act shall
3 be subscribed for as paid-up stock. No digital asset depository
4 institution shall be chartered with capital stock of less than ten
5 million dollars.

6 (2) No digital asset depository institution shall commence business
7 until the full amount of its authorized capital is subscribed and all
8 capital stock is fully paid in. No digital asset depository institution
9 may be chartered without a paid-up surplus fund of at least three years
10 of estimated operating expenses in the amount disclosed pursuant to
11 subsection (2) of section 8-3015 or in another amount required by the
12 director.

13 (3) A digital asset depository institution may acquire additional
14 capital prior to the granting of a charter and shall report this capital
15 as an amendment to ~~in~~ its charter application.

16 Sec. 28. Section 8-3014, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 8-3014 (1) Any financial institution, having adopted or amended its
19 articles of incorporation to authorize the conduct of a digital asset
20 depository business may be further chartered by the director to transact
21 a digital asset depository business in a digital asset depository
22 department in connection with such financial institution.

23 (2) The director has the authority to issue to financial
24 institutions amendments to their charters ~~of authority~~ to transact a
25 digital asset depository business, ~~and~~ has general supervision and
26 control over such digital asset depository departments of financial
27 institutions, and may require the injection of additional capital.

28 (3) The director, before granting to any financial institution the
29 right to operate a digital asset depository department, shall require
30 such financial institution to make an application for amendment of its
31 charter, setting forth such information as the director may require.

1 (4) A digital asset depository department of a financial institution
2 when chartered under subsection (1) of this section shall be separate and
3 apart from every other department of the financial institution and shall
4 have all of the powers, duties, and obligations of a digital asset
5 depository institution as set forth in the Nebraska Financial Innovation
6 Act.

7 (5) Any financial institution authorized to transact a digital asset
8 depository business in a digital asset depository department pursuant to
9 subsection (1) of this section may conduct such digital asset depository
10 business at the office of any financial institution which is a subsidiary
11 of the same bank holding company as the authorized financial institution.

12 (6) A financial institution may deposit or have on deposit funds of
13 an account controlled by the financial institution's digital asset
14 depository department unless prohibited by applicable law.

15 Sec. 29. Section 8-3015, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 8-3015 (1) No corporation shall act as a digital asset depository
18 without first obtaining ~~authority~~ or a charter to operate from the
19 director under the Nebraska Financial Innovation Act.

20 (2) The incorporators under section 8-3012 shall apply to the
21 director for a charter. The application shall contain the digital asset
22 depository institution's articles of incorporation, bylaws, a detailed
23 business plan, a comprehensive estimate of operating expenses for the
24 first three years of operation, a complete proposal for compliance with
25 the provisions of the Nebraska Financial Innovation Act, evidence of the
26 capital and surplus required under section 8-3013, and any investors or
27 owners holding ten percent or more equity in the digital asset depository
28 institution. The director may prescribe the form of application.

29 (3) A financial institution may apply to the director for a charter
30 ~~authority~~ to operate a digital asset depository business as a department.
31 The application shall contain a detailed business plan, a comprehensive

1 estimate of operating expenses for the first three years of operation,
2 and a complete proposal for compliance with the provisions of the
3 Nebraska Financial Innovation Act. The director may prescribe the form of
4 application.

5 (4) Each application for a charter ~~or authority~~ shall be accompanied
6 by an application fee of fifty thousand dollars.

7 Sec. 30. Section 8-3016, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 8-3016 (1) After a substantially complete application for a digital
10 asset depository ~~institution charter~~ authority or a digital asset
11 depository ~~department institution~~ charter has been submitted, the
12 director shall notify the applicants in writing within thirty calendar
13 days of any deficiency in the required information or that the
14 application has been accepted for filing. When the director is satisfied
15 that all required information has been furnished, the director shall
16 establish a time and place for a public hearing which shall be conducted
17 not less than sixty days, nor more than one hundred twenty days, after
18 notice from the director to the applicants that the application is in
19 order.

20 (2) Within thirty days after receipt of notice of the time and place
21 of the public hearing, the department shall cause notice of filing of the
22 application and the hearing to be published at the applicant's
23 ~~applicants'~~ expense in a newspaper of general circulation within the
24 county where the proposed digital asset depository is to be located.
25 Publication shall be made at least once a week for three consecutive
26 weeks before the hearing, stating the proposed location of the digital
27 asset depository, the names of the applicants for a charter, the nature
28 of the activities to be conducted by the proposed digital asset
29 depository, and other information required by rule and regulation. The
30 director shall electronically send notice of the hearing to state and
31 national banks, federal savings and loan associations, state and federal

1 credit unions, and other financial institutions in the state, federal
2 agencies, and financial industry trade groups.

3 Sec. 31. Section 8-3017, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 8-3017 The hearing required by section 8-3016 ~~for a charter~~
6 ~~application or for authority to operate a digital asset depository~~ shall
7 be conducted under the Administrative Procedure Act and shall comply with
8 the requirements of the act.

9 Sec. 32. Section 8-3018, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-3018 Upon receiving an ~~the~~ application for a charter to become a
12 digital asset depository institution, ~~or for a charter authority~~ to
13 operate a digital asset depository department, the applicable fee, and
14 other information required by the director, the director shall make a
15 careful investigation and examination of the following:

16 (1) The character, reputation, criminal record, financial standing,
17 and ability of the shareholders owning ten percent or more equity in the
18 applicant;

19 (2) The character, financial responsibility, criminal background,
20 banking or other financial experience, and business qualifications of
21 those proposed as officers and directors;

22 (3) Whether the applicant or any of its officers, directors, or
23 shareholders owning ten percent or more equity in the applicant have ever
24 been convicted of any (i) misdemeanor involving any aspect of a digital
25 asset depository business or any business of a similar nature or (ii)
26 felony;

27 (4) Whether the applicant or any of its officers, directors, or
28 shareholders owning ten percent or more equity in the applicant have ever
29 been permanently or temporarily enjoined by a court of competent
30 jurisdiction from engaging in or continuing any conduct or practice
31 involving any aspect of a digital asset depository business or any

1 business of a similar nature;

2 (5) A criminal history record information check of the applicant,
3 its officers, directors, and shareholders owning ten percent or more
4 equity in the applicant. The direct cost of the criminal history record
5 information check shall be paid by the applicant; and

6 (6) The application for a charter, ~~or for authority to operate a~~
7 ~~digital asset depository~~, including the adequacy and plausibility of the
8 business plan of the digital asset depository, the benefits to the
9 customers, and whether the applicant has offered a complete proposal for
10 compliance with the Nebraska Financial Innovation Act.

11 Sec. 33. Section 8-3019, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-3019 (1) Within ninety days after receipt of the transcript of the
14 public hearing, the director shall render a decision on the application
15 based on the following criteria and requirements:

16 (a) Whether the character, reputation, criminal record, financial
17 standing, and ability of the shareholders owning ten percent or more
18 equity in the applicant are sufficient to afford reasonable promise of a
19 successful operation;

20 (b) That the digital asset depository will be operated by officers
21 of integrity and responsibility;

22 (c) Whether the character, financial responsibility, criminal
23 background, and banking or other financial experience and business
24 qualifications of those proposed as officers and directors are sufficient
25 to afford reasonable promise of a successful operation;

26 (d) The adequacy and plausibility of the business plan of the
27 digital asset depository ~~institution~~, including the ongoing customer
28 expectations of the digital asset depository ~~institution~~ as determined by
29 the director;

30 (e) Compliance by the digital asset depository institution with the
31 capital and surplus requirements of section 8-3013;

1 (f) Whether the digital asset depository institution is being formed
2 for no other purpose than legitimate objectives authorized by law;

3 (g) That the name of the proposed digital asset depository
4 institution includes the words "digital asset bank" so that it does not
5 resemble the name of any other financial institution transacting business
6 in the state so as to cause confusion;

7 (h) That the digital asset depository will be operated in a safe and
8 sound manner ~~to benefit its customers~~;

9 (i) That the digital asset depository shall help meet the digital
10 financial needs of the communities in which it operates, consistent with
11 safe and sound operations, and shall maintain and update a public file
12 and on any Internet website or mobile application it maintains containing
13 specific information about its efforts to meet community needs,
14 including:

15 (i) The collection and reporting of data;

16 (ii) Its policies and procedures for accepting and responding to
17 consumer complaints; and

18 (iii) Its efforts to assist with financial literacy or personal
19 finance programs to increase knowledge and skills of Nebraska students in
20 areas such as digital assets, budgeting, credit, checking and savings
21 accounts, loans, stocks, and insurance;

22 (j) Whether the applicants have complied with all provisions of
23 state law and are eligible to apply for membership in the federal reserve
24 system; and

25 (k) Any other considerations in addition to statutory requirements
26 submitted by the applicant pursuant to operational order, rules and
27 regulations, or request of the department.

28 (2) The director shall approve an application upon making favorable
29 findings on the criteria set forth in subsection (1) of this section. The
30 ~~If necessary,~~ the director may ~~either~~ conditionally approve an
31 application by specifying conditions relating to the criteria or may deny

1 ~~disapprove~~ the application. The director shall state findings of fact and
2 conclusions of law as part of such decision and ~~.(3) If the director~~
3 ~~approves the application, the director~~ shall issue an order approving,
4 conditionally approving, or denying the application.

5 Sec. 34. Section 8-3020, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 8-3020 (1) If an application is approved, ~~and~~ a charter shall not be
8 issued and ~~or authority is granted by the director under section 8-3019,~~
9 the digital asset depository shall not commence business before
10 satisfaction of all conditions precedent contained in the director's
11 order or conditional order.

12 (2) If an approved digital asset depository fails to commence
13 business in good faith within twelve months after the issuance of a
14 ~~charter or an order of authority to operate by the director,~~ the charter
15 ~~or authority~~ shall expire. The director, for good cause and upon an
16 application filed prior to the expiration of the twelve-month ~~six-month~~
17 period, may extend the time within which the digital asset depository may
18 open for business.

19 Sec. 35. Section 8-3021, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 8-3021 Any decision of the department or director in approving,
22 conditionally approving, or denying ~~disapproving~~ a charter ~~or authority~~
23 for a digital asset depository is appealable in accordance with the
24 Administrative Procedure Act.

25 Sec. 36. Section 8-3022, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 8-3022 (1) Except as otherwise provided by subsection (2) of this
28 section, a digital asset depository shall, before transacting any
29 business, pledge or furnish a surety bond to the director to cover costs
30 likely to be incurred by the director in a liquidation or conservatorship
31 of the digital asset depository. The amount of the surety bond or pledge

1 of assets under subsection (2) of this section shall be determined by the
2 director in an amount sufficient to defray the costs of a liquidation or
3 conservatorship.

4 (2) In lieu of a bond, a digital asset depository may irrevocably
5 pledge specified assets equivalent to a bond under subsection (1) of this
6 section. Any assets pledged to the director under this subsection shall
7 be held in a state or nationally chartered bank, trust company, federal
8 reserve bank, or savings and loan association having a principal or
9 branch office in this state, excluding affiliated institutions. All costs
10 associated with pledging and holding such assets are the responsibility
11 of the digital asset depository.

12 (3) Assets pledged to the director shall not include money and shall
13 be of the same nature and quality as those required under section 8-210.

14 (4) The digital asset depository shall have the right, with the
15 approval of the director, to substitute other securities for those
16 deposited and shall be required to do so on written order of the director
17 made for good cause shown. The digital asset depository shall pay the
18 fees prescribed in section 8-602 for pledging and substitution of
19 securities. So long as the digital asset depository so depositing
20 continues to be solvent and is not in violation of the Nebraska Financial
21 Innovation Act, such digital asset depository shall be permitted to
22 receive the interest or dividends on such deposit.

23 (5) (4) Surety bonds shall run to the State of Nebraska, and shall
24 be approved under the terms and conditions required under section 8-110.

25 (6) (5) The director may by order or rules and regulations establish
26 additional investment guidelines or investment options for purposes of
27 the pledge or surety bond required by this section.

28 (7) (6) In the event of a liquidation or conservatorship of a
29 digital asset depository pursuant to section 8-3027, the director may,
30 without regard to priorities, preferences, or adverse claims, reduce the
31 surety bond or assets pledged under this section to cash as soon as

1 practicable and utilize the cash to defray the costs associated with the
2 liquidation or conservatorship.

3 ~~(8)~~ (7) Income from assets pledged under subsection (2) of this
4 section shall be paid to the digital asset depository no less than
5 annually, unless a liquidation or conservatorship takes place.

6 ~~(9)~~ (8) Upon evidence that the amount of the current surety bond ~~is~~
7 or pledged assets is ~~are~~ insufficient, the director may require a digital
8 asset depository to increase its surety bond or pledged assets by
9 providing not less than thirty days' written notice to the digital asset
10 depository.

11 Sec. 37. Section 8-3023, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-3023 (1) The director may call for reports verified under oath
14 from a digital asset depository at any time as necessary to inform the
15 director of the condition of the digital asset depository. Such reports
16 shall be available to the public.

17 (2) All reports required of a digital asset depository by the
18 director and all materials relating to examinations of a digital asset
19 depository shall be subject to the provisions of sections 8-103 and
20 8-108.

21 (3) Every digital asset depository is subject to examination by the
22 department to determine the condition and resources of a digital asset
23 depository, the mode of managing digital asset depository affairs and
24 conducting business, the actions of officers and directors in the
25 investment and disposition of funds, the safety and prudence of digital
26 asset depository management, compliance with the requirements of the
27 Nebraska Financial Innovation Act, and such other matters as the director
28 may require.

29 (4) A digital asset depository shall pay an assessment in a sum to
30 be determined by the director in accordance with section 8-601 and
31 approved by the Governor and the costs of any examination or

1 investigation as provided in sections 8-108 and 8-606.

2 (5) A digital asset depository shall maintain appropriate insurance
3 or a bond covering the operational risks of the digital asset depository,
4 which shall include coverage for directors' and officers' liability,
5 errors and omissions liability, ~~and~~ information technology infrastructure
6 and activities liability, and business operations, as determined by the
7 director.

8 Sec. 38. Section 8-3024, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 8-3024 A digital asset depository is authorized to carry on one or
11 more of the following digital asset business activities:

12 (1) Provide digital asset ~~and cryptocurrency~~ custody services. Such
13 custody services shall not be provided for a digital asset ~~or~~
14 ~~cryptocurrency~~ unless the digital asset ~~or cryptocurrency~~ was:

15 (a) Initially offered for public trade more than six months prior to
16 the date of the custody services; or

17 (b) Created or issued by any bank, savings bank, savings and loan
18 association, or building and loan association organized under the laws of
19 this state or organized under the laws of the United States to do
20 business in this state;

21 (2) Issue stablecoins and hold deposits at a Federal Deposit
22 Insurance Corporation-insured financial institution which has a main-
23 chartered office in this state, any branch thereof in this state, or any
24 branch of the financial institution which maintained a main-chartered
25 office in this state prior to becoming a branch of such financial
26 institution that serves as reserves for stablecoins; and

27 (3) Use independent node verification networks and stablecoins for
28 payment activities.

29 Sec. 39. Section 8-3025, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-3025 The director may suspend or revoke the charter ~~or authority~~

1 of a digital asset depository if, after notice and opportunity for a
2 hearing, the director determines that:

3 (1) The digital asset depository has failed or refused to comply
4 with an order issued under section 8-1,136, 8-2504, or 8-2743;

5 (2) The application for a charter ~~or authority~~ contained a
6 materially false statement, misrepresentation, or omission; or

7 (3) An officer, a director, or an agent of the digital asset
8 depository, in connection with an application for a charter ~~or authority~~,
9 an examination, a report, or other document filed with the director,
10 knowingly made a materially false statement, misrepresentation, or
11 omission to the department, the director, or the duly authorized agent of
12 the department or director.

13 Sec. 40. Section 8-3026, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 8-3026 If the charter ~~or authority~~ of a digital asset depository is
16 surrendered, suspended, or revoked, the digital asset depository shall
17 continue to be subject to the provisions of the Nebraska Financial
18 Innovation Act during any liquidation or conservatorship.

19 Sec. 41. Section 8-3028, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 8-3028 (1) A digital asset depository institution may voluntarily
22 dissolve in accordance with this section. Voluntary dissolution shall be
23 accomplished by either liquidating the digital asset depository
24 institution or reorganizing the digital asset depository institution into
25 an appropriate business entity that does not engage in any activity
26 authorized only for a digital asset depository institution. Upon complete
27 liquidation or completion of the reorganization, the director shall
28 revoke the charter ~~or authority~~ of the digital asset depository
29 institution. Thereafter, the corporation or business entity shall not use
30 the words digital asset depository or digital asset bank in its business
31 name or in connection with its ongoing business.

1 (2) A digital asset depository institution may dissolve its charter
2 either by liquidation or reorganization. The board of directors shall
3 file an application for dissolution with the director, accompanied by a
4 filing fee established by an order or the rules and regulations of the
5 director. The application shall include a comprehensive plan for
6 dissolution setting forth the proposed disposition of all assets and
7 liabilities in reasonable detail to effect a liquidation or
8 reorganization, and any other plans required by the director. The plan of
9 dissolution shall provide for the discharge or assumption of all of the
10 known and unknown claims and liabilities of the digital asset depository
11 institution. Additionally, the application for dissolution shall include
12 other evidence, certifications, affidavits, documents, or information as
13 the director may require, including demonstration of how assets and
14 liabilities will be disposed, the timetable for effecting disposition of
15 the assets and liabilities, and a proposal of the digital asset
16 depository institution for addressing any claims that are asserted after
17 dissolution has been completed. The director shall examine the
18 application for compliance with this section, the business entity laws
19 applicable to the required type of dissolution, and applicable orders and
20 rules and regulations. The director may conduct a special examination of
21 the digital asset depository institution, consistent with subsection (3)
22 of section 8-3023, for purposes of evaluating the application.

23 (3) If the director finds that the application is incomplete, the
24 director shall return it for completion not later than sixty days after
25 it is filed. If the application is found to be complete by the director,
26 the director shall approve or deny ~~disapprove~~ the application not later
27 than thirty days after it is filed. If the director approves the
28 application, the digital asset depository institution may proceed with
29 the dissolution pursuant to the plan outlined in the application, subject
30 to any further conditions the director may prescribe. If the digital
31 asset depository institution subsequently determines that the plan of

1 dissolution needs to be amended to complete the dissolution, it shall
2 file an amended plan with the director and obtain approval to proceed
3 under the amended plan. If the director does not approve the application
4 or amended plan, the digital asset depository institution may appeal the
5 decision to the director pursuant to the Administrative Procedure Act.

6 (4) Upon completion of all actions required under the plan of
7 dissolution and satisfaction of all conditions prescribed by the
8 director, the digital asset depository institution shall submit a written
9 report of its actions to the director. The report shall contain a
10 certification made under oath that the report is true and correct.
11 Following receipt of the report, the director, no later than sixty days
12 after the filing of the report, shall examine the digital asset
13 depository institution to determine whether the director is satisfied
14 that all required actions have been taken in accordance with the plan of
15 dissolution and any conditions prescribed by the director. If all
16 requirements and conditions have been met, the director shall, within
17 thirty days of the examination, notify the digital asset depository
18 institution in writing that the dissolution has been completed and issue
19 an order of dissolution.

20 (5) Upon receiving an order of dissolution, the digital asset
21 depository institution shall surrender its charter to the director. The
22 digital asset depository institution shall then file articles of
23 dissolution and other documents required by sections 21-2,184 to 21-2,201
24 for a corporation with the Secretary of State. In the case of
25 reorganization, the digital asset depository institution shall file the
26 documents required by the Secretary of State to finalize the
27 reorganization.

28 (6) If the director determines that all required actions under the
29 plan for dissolution, or as otherwise required by the director, have not
30 been completed, the director shall notify the digital asset depository
31 institution, not later than thirty days after this determination, in

1 writing, of what additional actions shall be taken in order for the
2 institution to be eligible for a certificate of dissolution. The director
3 shall establish a reasonable deadline of up to thirty days for the
4 submission of evidence that additional actions have been taken and the
5 director may extend any deadline upon good cause. If the digital asset
6 depository institution fails to file a supplemental report showing that
7 the additional actions have been taken before the deadline, or submits a
8 report that is found not to be satisfactory by the director, the director
9 shall notify the digital asset depository institution in writing that its
10 voluntary dissolution is not approved, and the institution may appeal the
11 decision to the director pursuant to the Administrative Procedure Act.

12 (7) A financial institution operating a digital asset depository
13 department may, upon adoption of a resolution by its board of directors,
14 and upon compliance with this section, insofar as determined by the
15 director by order or rule and regulation, surrender its charter for a
16 digital asset depository department for cancellation to the department.

17 Sec. 42. Section 8-3030, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 8-3030 Each officer, director, employee, or agent of a digital asset
20 depository, following written notice from the director, is subject to
21 removal upon order of the director if such officer, director, employee,
22 or agent knowingly, willfully, or negligently:

23 (1) Fails to perform any duty required by the Nebraska Financial
24 Innovation Act or other applicable law;

25 (2) Fails to conform to any order or rules and regulations of the
26 director; or

27 (3) Endangers the interest of a customer or the safety and soundness
28 of the digital asset depository.

29 Sec. 43. Section 21-17,115, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 21-17,115 Notwithstanding any of the other provisions of the Credit

1 Union Act or any other Nebraska statute, any credit union incorporated
2 under the laws of the State of Nebraska and organized under the
3 provisions of the act shall have all the rights, powers, privileges,
4 benefits, and immunities which may be exercised as of January 1, 2023
5 ~~2022~~, by a federal credit union doing business in Nebraska on the
6 condition that such rights, powers, privileges, benefits, and immunities
7 shall not relieve such credit union from payment of state taxes assessed
8 under any applicable laws of this state.

9 Sec. 44. Section 45-191.01, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 45-191.01 (1) Prior to a borrower signing a loan brokerage
12 agreement, the loan broker shall give the borrower a written disclosure
13 statement. The cover sheet of the disclosure statement shall have
14 printed, in at least ten-point boldface capital letters, the title
15 DISCLOSURES REQUIRED BY NEBRASKA LAW. The following statement, printed in
16 at least ten-point type, shall appear under the title:

17 THE STATE OF NEBRASKA HAS NOT REVIEWED AND DOES NOT APPROVE,
18 RECOMMEND, ENDORSE, OR SPONSOR ANY LOAN BROKERAGE AGREEMENT. THE
19 INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT HAS NOT BEEN VERIFIED
20 BY THE STATE. IF YOU HAVE QUESTIONS, SEEK LEGAL ADVICE BEFORE YOU SIGN A
21 LOAN BROKERAGE AGREEMENT.

22 Only the title and the statement shall appear on the cover sheet.

23 (2) The body of the disclosure statement shall contain the following
24 information:

25 (a) The name, street address, and telephone number of the loan
26 broker, the names under which the loan broker does, has done, or intends
27 to do business, the name and street address of any parent or affiliated
28 company, and the electronic mail and Internet address of the loan broker,
29 ~~if any~~;

30 (b) A statement as to whether the loan broker does business as an
31 individual, a partnership, a corporation, or another organizational form,

1 including identification of the state of incorporation or formation;

2 (c) How long the loan broker has done business;

3 (d) The number of loan brokerage agreements the loan broker has
4 entered into in the previous twelve months;

5 (e) The number of loans the loan broker has obtained for borrowers
6 in the previous twelve months;

7 (f) A description of the services the loan broker agrees to perform
8 for the borrower;

9 (g) The conditions under which the borrower is obligated to pay the
10 loan broker. This disclosure shall be in boldface type;

11 (h) The names, titles, and principal occupations for the past five
12 years of all officers, directors, or persons occupying similar positions
13 responsible for the loan broker's business activities;

14 (i) A statement whether the loan broker or any person identified in
15 subdivision (h) of this subsection:

16 (i) Has been convicted of a felony or misdemeanor or pleaded nolo
17 contendere to a felony or misdemeanor charge if such felony or
18 misdemeanor involved fraud, embezzlement, fraudulent conversion, or
19 misappropriation of property;

20 (ii) Has been held liable in a civil action by final judgment or
21 consented to the entry of a stipulated judgment if the civil action
22 alleged fraud, embezzlement, fraudulent conversion, or misappropriation
23 of property or the use of untrue or misleading representations in an
24 attempt to sell or dispose of real or personal property or the use of
25 unfair, unlawful, or deceptive business practices; or

26 (iii) Is subject to any currently effective injunction or
27 restrictive order relating to business activity as the result of an
28 action brought by a public agency or department including, but not
29 limited to, action affecting any vocational license; and

30 (j) Any other information the director requires.

31 Sec. 45. Section 45-191.04, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 45-191.04 (1) A loan brokerage agreement shall be in writing and
3 shall be signed by the loan broker and the borrower. The loan broker
4 shall furnish the borrower a copy of such signed loan brokerage agreement
5 at the time the borrower signs it.

6 (2) The borrower has the right to cancel a loan brokerage agreement
7 for any reason at any time within five business days after the date the
8 parties sign the agreement. The loan brokerage agreement shall set forth
9 the borrower's right to cancel and the procedures to be followed when an
10 agreement is canceled.

11 (3) A loan brokerage agreement shall set forth in at least ten-point
12 type, or handwriting of at least equivalent size, the following:

13 (a) The terms and conditions of payment;

14 (b) A full and detailed description of the acts or services the loan
15 broker will undertake to perform for the borrower;

16 (c) The loan broker's principal business address, telephone number,
17 and electronic mail and Internet address, ~~if any,~~ and the name, address,
18 telephone number, and electronic mail and Internet address, if any, of
19 its agent in the State of Nebraska authorized to receive service of
20 process;

21 (d) The business form of the loan broker, whether a corporation,
22 partnership, limited liability company, or otherwise; and

23 (e) The following notice of the borrower's right to cancel the loan
24 brokerage agreement pursuant to this section:

25 "You have five business days in which you may cancel this agreement
26 for any reason by mailing or delivering written notice to the loan
27 broker. The five business days shall expire on (last
28 date to mail or deliver notice), and notice of cancellation should be
29 mailed to (loan broker's name
30 and business street address). If you choose to mail your notice, it must
31 be placed in the United States mail properly addressed, first-class

1 postage prepaid, and postmarked before midnight of the above date. If you
2 choose to deliver your notice to the loan broker directly, it must be
3 delivered to the loan broker by the end of the normal business day on the
4 above date. Within five business days after receipt of the notice of
5 cancellation, the loan broker shall return to you all sums paid by you to
6 the loan broker pursuant to this agreement."

7 The notice shall be set forth immediately above the place at which
8 the borrower signs the loan brokerage agreement.

9 Sec. 46. Section 45-735, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 45-735 (1) A mortgage loan originator shall be an employee or
12 independent agent of a single licensed mortgage banker, registrant, or
13 installment loan company that shall directly supervise, control, and
14 maintain responsibility for the acts and omissions of the mortgage loan
15 originator.

16 (2)(a) {2} A mortgage loan originator shall not engage in mortgage
17 loan origination activities at any location that is not a main office
18 location of a licensed mortgage banker, registrant, or installment loan
19 company or a branch office of a licensed mortgage banker or registrant.
20 The licensed mortgage banker, registrant, or installment loan company
21 shall designate the location or locations at which each mortgage loan
22 originator is originating residential mortgage loans.

23 (b) The department may adopt and promulgate rules, regulations, and
24 orders to authorize and regulate the use of remote work arrangements
25 conducted outside of a main office location or branch office by employees
26 or agents, including mortgage loan originators, of licensed mortgage
27 bankers, registrants, or installment loan companies.

28 (3) Any licensed mortgage banker, registrant, or installment loan
29 company who engages an independent agent as a mortgage loan originator
30 shall maintain a written agency contract with such mortgage loan
31 originator. Such written agency contract shall provide that the mortgage

1 loan originator is originating loans exclusively for the licensed
2 mortgage banker, registrant, or installment loan company.

3 (4) A licensed mortgage banker, registrant, or installment loan
4 company that has hired a licensed mortgage loan originator as an employee
5 or entered into an independent agent agreement with such licensed
6 mortgage loan originator shall provide notification to the department as
7 soon as reasonably possible after entering into such relationship, along
8 with a fee of fifty dollars. The employing entity shall not allow the
9 mortgage loan originator to conduct such activity in this state prior to
10 such notification to the department and confirmation that the department
11 has received notice of the termination of the mortgage loan originator's
12 prior employment.

13 (5) A licensed mortgage banker, registrant, or installment loan
14 company shall notify the department no later than ten days after the
15 termination, whether voluntary or involuntary, of a mortgage loan
16 originator unless the mortgage loan originator has previously notified
17 the department of the termination.

18 Sec. 47. Section 45-1002, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 45-1002 (1) For purposes of the Nebraska Installment Loan Act:

21 (a) Applicant means a person applying for a license under the act;

22 (b) Breach of security of the system means unauthorized acquisition
23 of data that compromises the security, confidentiality, or integrity of
24 the information maintained by the Nationwide Mortgage Licensing System
25 and Registry, its affiliates, or its subsidiaries;

26 (c) Consumer means an individual who is a resident of Nebraska and
27 who seeks to obtain, obtains, or has obtained a loan that is to be used
28 primarily for personal, family, or household purposes;

29 (d) ~~(e)~~ Department means the Department of Banking and Finance;

30 (e) ~~(d)~~ Debt cancellation contract means a loan term or contractual
31 arrangement modifying loan terms under which a financial institution or

1 licensee agrees to cancel all or part of a borrower's obligation to repay
2 an extension of credit from the financial institution or licensee upon
3 the occurrence of a specified event. The debt cancellation contract may
4 be separate from or a part of other loan documents. The term debt
5 cancellation contract does not include loan payment deferral arrangements
6 in which the triggering event is the borrower's unilateral election to
7 defer repayment or the financial institution's or licensee's unilateral
8 decision to allow a deferral of repayment;

9 (f) ~~(e)~~ Debt suspension contract means a loan term or contractual
10 arrangement modifying loan terms under which a financial institution or
11 licensee agrees to suspend all or part of a borrower's obligation to
12 repay an extension of credit from the financial institution or licensee
13 upon the occurrence of a specified event. The debt suspension contract
14 may be separate from or a part of other loan documents. The term debt
15 suspension contract does not include loan payment deferral arrangements
16 in which the triggering event is the borrower's unilateral election to
17 defer repayment or the financial institution's or licensee's unilateral
18 decision to allow a deferral of repayment;

19 (g) ~~(f)~~ Director means the Director of Banking and Finance;

20 (h) ~~(g)~~ Financial institution has the same meaning as in section
21 8-101.03;

22 (i) ~~(h)~~ Guaranteed asset protection waiver means a waiver that is
23 offered, sold, or provided in accordance with the Guaranteed Asset
24 Protection Waiver Act;

25 (j) ~~(i)~~ Licensee means any person who obtains a license under the
26 Nebraska Installment Loan Act;

27 (k) Loan means a loan or any extension of credit to a consumer
28 originated or made with an interest rate greater than the maximum
29 interest rate allowed under section 45-101.03 and a principal balance of
30 less than twenty-five thousand dollars;

31 (l)(i) ~~(j)(i)~~ Mortgage loan originator means an individual who for

1 compensation or gain (A) takes a residential mortgage loan application or
2 (B) offers or negotiates terms of a residential mortgage loan.

3 (ii) Mortgage loan originator does not include (A) any individual
4 who is not otherwise described in subdivision (i)(A) of this subdivision
5 and who performs purely administrative or clerical tasks on behalf of a
6 person who is described in subdivision (i) of this subdivision, (B) a
7 person or entity that only performs real estate brokerage activities and
8 is licensed or registered in accordance with applicable state law, unless
9 the person or entity is compensated by a lender, a mortgage broker, or
10 other mortgage loan originator or by any agent of such lender, mortgage
11 broker, or other mortgage loan originator, or (C) a person or entity
12 solely involved in extensions of credit relating to time-share programs
13 as defined in section 76-1702;

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

20 (n) ~~(l)~~ Person means individual, partnership, limited liability
21 company, association, financial institution, trust, corporation, and any
22 other legal entity; and

23 (o) ~~(m)~~ Real property means an owner-occupied single-family, two-
24 family, three-family, or four-family dwelling which is located in this
25 state, which is occupied, used, or intended to be occupied or used for
26 residential purposes, and which is, or is intended to be, permanently
27 affixed to the land.

28 (2) Except as provided in subsection (3) of section 45-1017 and
29 subsection (4) of section 45-1019, no revenue arising under the Nebraska
30 Installment Loan Act shall inure to any school fund of the State of
31 Nebraska or any of its governmental subdivisions.

1 ~~(3) Loan, when used in the Nebraska Installment Loan Act, does not~~
2 ~~include any loan made by a person who is not a licensee on which the~~
3 ~~interest does not exceed the maximum rate permitted by section 45-101.03.~~

4 (3) (4) Nothing in the Nebraska Installment Loan Act applies to any
5 loan made by a person who is not a licensee if the interest on the loan
6 does not exceed the maximum rate permitted by section 45-101.03.

7 Sec. 48. Section 45-1003, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 45-1003 No financial institution is eligible for a license or to
10 make loans under the Nebraska Installment Loan Act.

11 A license shall be required for any person that is not a financial
12 institution who, at or after the time a loan is made by a financial
13 institution, markets, owns in whole or in part, holds, acquires,
14 services, or otherwise participates in such loan.

15 Sec. 49. Section 45-1006, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 45-1006 (1) When an application for an original installment loan
18 license has been accepted by the director as substantially complete,
19 notice of the filing of the application shall be published by the
20 department three successive weeks in a legal newspaper published in or of
21 general circulation in the county where the applicant proposes to operate
22 the business of lending money. A public hearing shall be held on each
23 application except as provided in subsection (2) of this section. The
24 date for hearing shall not be less than thirty days after the last
25 publication. Written protest against the issuance of the license may be
26 filed with the department by any person not less than five days before
27 the date set for hearing. The director, in his or her discretion, may
28 grant a continuance. The costs of the hearing shall be paid by the
29 applicant. The director may deny any application for license after
30 hearing. The director shall, in his or her discretion, make examination
31 and inspection concerning the propriety of the issuance of a license to

1 any applicant. The cost of such examination and inspection shall be paid
2 by the applicant.

3 (2) The director may waive the hearing requirements of subsection
4 (1) of this section if (a) the applicant (i) does not originate loans
5 under the Nebraska Installment Loan Act or (ii) has held, and operated
6 under, a license to engage in the business of lending money in Nebraska
7 pursuant to the Nebraska Installment Loan Act for at least one calendar
8 year immediately prior to the filing of the application, (b) no written
9 protest against the issuance of the license has been filed with the
10 department within fifteen days after publication of a notice of the
11 filing of the application one time in a newspaper of general circulation
12 in the county where the applicant proposes to operate the business of
13 lending money, and (c) in the judgment of the director, the experience,
14 character, and general fitness of the applicant warrant the belief that
15 the applicant will comply with the Nebraska Installment Loan Act.

16 (3) The expense of any publication made pursuant to this section
17 shall be paid by the applicant.

18 Sec. 50. Section 59-1722, Revised Statutes Cumulative Supplement,
19 2022, is 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 2023 ~~2022~~, 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 2023 ~~2022~~;

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. 51. Section 69-2103, Revised Statutes Cumulative Supplement,
30 2022, is 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, 2023 ~~2022~~, and 15
19 U.S.C. 1602(h), as such section existed on January 1, 2023 ~~2022~~, 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, 2023 ~~2022~~. 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. 52. Section 69-2104, Revised Statutes Cumulative Supplement,
25 2022, is 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, 2023 ~~2022~~, 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 2023 ~~2022~~, with respect to a consumer rental purchase agreement entered
20 into with a consumer.

21 Sec. 53. Section 69-2112, Revised Statutes Cumulative Supplement,
22 2022, is 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, 2023 ~~2022~~, compliance with such act shall satisfy
12 the requirements of this section.

13 Sec. 54. Section 4A-108, Uniform Commercial Code, Revised Statutes
14 Cumulative Supplement, 2022, 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, 2023 ~~2022~~.

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, 2023 ~~2022~~, 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, 2023 ~~2022~~.

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. 55. Original sections 8-101.03, 8-102, 8-115, 8-135, 8-141,

1 8-143.01, 8-157.01, 8-183.04, 8-1,140, 8-318, 8-355, 8-602, 8-1101,
2 8-1101.01, 8-1704, 8-1707, 8-2724, 8-2903, 8-3002, 8-3003, 8-3004,
3 8-3005, 8-3007, 8-3008, 8-3011, 8-3012, 8-3013, 8-3014, 8-3015, 8-3016,
4 8-3017, 8-3018, 8-3019, 8-3020, 8-3021, 8-3022, 8-3023, 8-3024, 8-3025,
5 8-3026, 8-3028, 8-3030, 21-17,115, 45-191.01, 45-191.04, 45-735, 45-1002,
6 45-1003, and 45-1006, Reissue Revised Statutes of Nebraska, sections
7 59-1722, 69-2103, 69-2104, and 69-2112, Revised Statutes Cumulative
8 Supplement, 2022, and section 4A-108, Uniform Commercial Code, Revised
9 Statutes Cumulative Supplement, 2022, are repealed.

10 Sec. 56. Since an emergency exists, this act takes effect when
11 passed and approved according to law.