

LEGISLATIVE BILL 721

Approved by the Governor March 27, 1974

Introduced by Wiltse, 1

AN ACT to amend sections 8-115.01, 8-124, 8-140, and 8-115, Revised Statutes Supplement, 1973, relating to banks and banking; to provide for hearings on charter applications without notice; to reduce the frequency of required examinations; to change the maximum loan that may be made to an active officer or employee; to permit personal loans by cooperative credit associations; to provide for orders and hearings under the Securities Act of Nebraska; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 8-115.01, Revised Statutes Supplement, 1973, be amended to read as follows:

8-115.01. When an application required by the provisions of section 8-120 is made by a corporation for a new bank charter or for transfer of a bank charter to any location other than within the corporate limits of the city or village of its original charter, notice of the filing of the application shall be published by the Department of Banking three weeks in a legal newspaper published in or of general circulation in the county where the applicant proposes to operate the bank or where the transfer is contemplated. The expense of the publication shall be paid by the applicant. A public hearing shall be held on each application. The date for hearing the application shall not be more than ninety days after filing the application and not less than thirty days after the last publication of notice, except that the Director of Banking shall take immediate action on any charter application or applications concerned without the benefit of a hearing in the case of an emergency so declared by the Governor, the Secretary of State and the Director of Banking. A move of any state bank's main office within the city or village of its original charter shall not be considered a transfer of charter within the meaning of this section, but an application for such a move must be made to the Department of Banking and be approved by the director. Upon receiving such application, the director shall give notice of such intended move by certified mail to all banks, and such other interested parties as the director shall determine, located within the corporate limits of

such city or village. Should the director receive any objection to such move within ten days of mailing such notice, he shall publish a notice and hold a hearing as provided in this section for the transfer of a bank outside the corporate limits of the city or village of its original charter.

Sec. 2. That section 8-124, Revised Statutes Supplement, 1973, be amended to read as follows:

8-124. The affairs and business of any bank chartered after September 2, 1973, or which has had transfer of twenty-five per cent or more of voting shares after September 2, 1973, shall be managed or controlled by a board of directors of not less than five and not more than fifteen members, who shall be selected from the stockholders at such time and in such manner as may be provided by the articles of incorporation of the corporation and in conformity with the provisions of sections 8-101 to 8-112. Any bank chartered before September 2, 1973 may have a minimum of three directors and not more than fifteen directors so long as it does not have transfer of twenty-five per cent or more voting shares, with such directors selected as provided in this section. Any vacancy on the board shall be filled within ninety days by appointment by the remaining directors, and any director so appointed shall serve until the next election of directors, except that if the vacancy created leaves a minimum of five directors, appointment shall be optional. The board shall select from among its number the president and secretary, and shall select a cashier. Such officers shall hold their office at the pleasure of the board of directors. The board of directors shall hold at least one regular meeting in each calendar quarter, and at ~~two~~ one of such meetings in each year a thorough examination of the books, records, funds, and securities held by the bank shall be made and recorded in detail upon its record book. In lieu of the ~~two~~ one annual ~~examinations~~ examination required, the board of directors may accept one annual audit by an accountant or accounting firm approved by the Director of Banking.

Sec. 3. That section 8-140, Revised Statutes Supplement, 1973, be amended to read as follows:

8-140. No director, officer, or employee of any bank, no corporation in which an officer of the bank is the owner of a controlling interest, and no partnership in which an officer of the bank is a member, shall be permitted to borrow any of the funds of the bank, directly or indirectly, without first having secured the approval of the board of directors at a meeting thereof, the record of which shall be made and kept as part of the

records of such bank. An active officer or employee may, with such approval, borrow from the funds of the bank an amount not to exceed five thousand dollars, except that subject to the provisions of sections 8-141 and 8-152 and with the specific prior approval of the board of directors, a bank may make a an additional loan not exceeding twenty-five thousand dollars to any officer or employee of the bank, if at the time the loan is made it is secured by a first lien on a dwelling which is expected, after making of the loan, to be owned by the officer or employee and used by him as a residence. A director who is not an officer and any honorary or inactive officer may borrow from the funds of the bank such amount as the board of directors shall approve. If any officer of any bank borrows from or if he be or becomes indebted to any other bank, he shall make a written report to the board of directors of the bank of which he is an officer, stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used. Loans made prior to November 18, 1965 may be renewed or extended for a period expiring not more than five years from November 18, 1965. No person connected with the department shall be permitted to borrow money from any state bank. Any officer, director, or employee of a bank, or any examiner, or other person who shall violate the provisions of this section, or who shall aid, abet, or assist in a violation thereof, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the Nebraska Penal and Correctional Complex not more than five years, or by both such fine and imprisonment.

Sec. 4. That section 8-815, Revised Statutes Supplement, 1973, be amended to read as follows:

8-815. As used in sections 8-815 to 8-829, unless the context otherwise requires:

(1) Department shall mean the Department of Banking of the State of Nebraska;

(2) Bank shall mean the banks, and trust companies and cooperative credit associations, organized under the laws of this state and national banks doing business in this state;

(3) Registered bank shall mean any bank which has in effect a registration under sections 8-816 and 8-817;

(4) Unregistered bank shall mean any bank which has not registered under sections 8-816 and 8-817, or the

registration of which is not in effect because of action taken under section 8-827; and

(5) Personal loan shall mean a loan, and the contract evidencing the same, which is repayable, pursuant to a contract or understanding, in two or more installments, and within one hundred twenty-one months, but shall not include any loan on which the interest does not exceed nine per cent per annum.

Sec. 5. (1) Whenever it shall appear to the Director of Banking that the sale of any security is subject to registration under sections 8-1101 to 8-1124 and is being offered or has been offered for sale without such registration, he may order the issuer or offeror of such security to cease and desist from the further offer or sale of such security unless and until it has been registered under sections 8-1101 to 8-1124.

(2) Whenever it shall appear to the Director of Banking that any person is acting as a broker-dealer, investment advisor or agent without registration as such, he may order such person to cease and desist from such activity unless and until he has been registered as such under sections 8-1101 to 8-1124.

(3) If, after such an order has been made under subsection (1) or (2) of this section, a request for a hearing is filed in writing by the person to whom such order was directed, a hearing shall be held by the director within fifteen days after receipt of the request. Upon conclusion of such hearing, the director may affirm, modify or vacate the order.

Sec. 6. That original sections 8-115.C1, 8-124, 8-140, and 8-815, Revised Statutes Supplement, 1973, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.