

CORRECTED COPY
LEGISLATIVE BILL 81

Approved by the Governor February 20, 1993

Introduced by Landis, 46

AN ACT relating to banking and finance; to amend sections 8-101, 8-126, 8-141, 8-148, 8-148.01, 8-159 to 8-162, 8-201 to 8-207, 8-208 to 8-233, 8-345.01, and 28-618, Reissue Revised Statutes of Nebraska, 1943, and sections 8-157, 8-157.01, and 8-602, Revised Statutes Supplement, 1992; to define and redefine terms; to provide for revocation by the Department of Banking and Finance of director approval as prescribed; to change the term copartnership to partnership; to change provisions relating to lending limits for an individual in a limited partnership as prescribed; to allow banks to own stock or have other interests in community development corporations; to change provisions relating to electronic terminals; to provide for loan closings at other locations as prescribed by the department; to provide for point-of-sale terminals; to change provisions relating to trust companies; to provide powers and duties; to provide for certain investments; to provide for inactive trust companies; to prohibit certain loans; to provide penalties; to provide for merger or consolidation; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to provide severability; 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 8-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-101. As used in sections 8-101 to 8-1,129 and sections 6 and 13 of this act, unless the context otherwise requires:

- (1) Capital or capital stock shall mean capital stock;
- (2) Department shall mean the Department of Banking and Finance;
- (3) Director shall mean the Director of Banking and Finance;
- (4) Bank or banking corporation shall be construed to mean any incorporated banking institution which shall have been incorporated under the laws of this state as they existed prior to May 9, 1933, and any corporation duly organized under the laws of this state for the purpose of conducting a bank within this state under sections 8-101 to

8-1,129. Bank shall be construed to mean any such banking institution as shall be, in addition to the exercise of other powers, following the practice of repaying deposits upon check, draft, or order and of making loans;

(5) Order shall include orders transmitted by electronic transmission;

(6) Automatic teller machine ~~Electronic terminal shall mean an off premises unmanned facility or terminal through which banking transactions are transmitted to a financial institution by means of an electronic impulse. Electronic terminals shall be capable of operation initiated by transaction cards or credit cards compatible with other participants in the electronic funds transfer system~~ a machine established and located off the premises of a financial institution which has a main chartered office or approved branch office located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated. An unattended automatic teller machine shall not be deemed to be an office operated by a financial institution;

(7) ~~Manned electronic terminal shall mean an off premises facility, terminal, or place at which banking transactions are brought about with the assistance of one or more persons and transmitted to a financial institution by means of an electronic impulse. Such person or persons shall not be employees of the financial institution involved with such transmissions. Manned electronic terminals shall be capable of operation initiated by transaction cards or credit cards compatible with other participants in the electronic funds transfer system~~ Data processing center shall mean a facility, wherever located, at which electronic impulses or other indicia of a transaction originating at an automatic teller machine or point-of-sale terminal are received and either authorized or routed to a switch or other data processing center in order to enable the automatic teller machine or point-of-sale terminal to perform any function for which it is designed;

(8) Point-of-sale terminal shall mean an information processing terminal which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, which are transmitted to a financial institution or which are recorded for later transmission to effectuate electronic funds transfer transactions for the purchase or payment of goods and services and which are initiated by an access device in conjunction with a personal identification number. A point-of-sale terminal shall not be deemed to be an office operated by a financial institution. Any terminal owned or operated by a seller of goods and services shall be connected directly or indirectly to an acquiring financial institution;

(9) Making loans shall include advances or credits that are initiated by means of credit card or other transaction card. Transaction card and other transactions, including transactions made pursuant to prior agreements, may be brought about and transmitted by means of an electronic impulse. Such loan transactions including transactions made

pursuant to prior agreements shall be subject to sections 8-815 to 8-829 and shall be deemed loans made at the place of business of the financial institution;

~~(9) Establishing financial institution shall mean any financial institution establishing an electronic terminal or a manned electronic terminal;~~

~~(10) User financial institution shall mean any financial institution which desires to avail itself and its customers of an electronic terminal or manned electronic terminal services;~~

~~(11) (10) Financial institution shall mean a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, or other institution offering electronic terminal transactions automatic teller machines;~~

~~(12) (11) Financial institution employees shall include parent holding company and affiliate employees;~~

~~(13) (12) Switch shall mean an installation where a transaction impulse is received and the transaction message is immediately routed and electronically transmitted to a processing center. A switch may be a processing center any facility where electronic impulses or other indicia of a transaction originating at an automatic teller machine or point-of-sale terminal are received and are routed and transmitted to a financial institution, data processing center, or other switch, wherever located. A switch may also be a data processing center;~~

~~(14) (13) Impulse shall mean an electronic, impulse sound, or mechanical impulse, or any combination thereof;~~

~~(15) A processing center shall mean a place, designated by a user financial institution, capable of receiving and processing electronic impulse transactions;~~

~~(16) (14) Insolvent shall mean a condition in which (a) the actual cash market value of the assets of a bank is insufficient to pay its liabilities to its depositors, (b) a bank is unable to meet the demands of its creditors in the usual and customary manner, (c) a bank, after demand in writing by the director, fails to make good any deficiency in its reserves as required by law, or (d) the stockholders of a bank, after written demand by the director, fail to make good an impairment of its capital or surplus; and~~

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

Sec. 2. That section 8-126, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-126. A majority of the members of the board of directors of any bank transacting business under sections 8-101 to 8-1,121 shall have their residences in this state or within twenty-five miles of the main office of the bank. Reasonable efforts shall be made to acquire

members of such board of directors from the county in which such bank is located. Each director shall be the owner in his or her own name and right of at least one share of the paid-up capital stock of the bank of which he or she is a director or of its holding company, if any. Directors of banks shall be persons of good moral character, known integrity, business experience, and responsibility. No person shall act as a member of the board of directors of any bank until such bank applies for and obtains approval from the Department of Banking and Finance.

If the department, upon investigation, determines that any director of a bank is conducting the business of the bank in an unsafe or unauthorized manner or is endangering the interests of the stockholders or depositors, the department shall have authority, following notice and opportunity for hearing, to revoke such approval to act as a member of the board of directors. The department may adopt and promulgate rules and regulations and prescribe forms to carry out this section.

Sec. 3. That section 8-141, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-141. (1) No bank shall directly or indirectly loan to any single corporation, firm, or individual, including in such loans all loans made to the several members or shareholders of such firm or corporation, for the use and benefit of such corporation, firm, or individual, more than twenty-five percent of the paid-up capital, surplus, and capital notes and debentures of such bank. Such limitation of twenty-five percent shall be subject to the following exceptions:

(a) Obligations of any person, ~~copartnership~~ partnership, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock, when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent of the face amount of the notes covered by such documents, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures, in addition to such twenty-five percent of such capital and surplus;

(b) Obligations of any person, ~~copartnership~~ partnership, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures, in addition to such twenty-five percent of such capital and surplus; or

(c) Obligations of any person, ~~copartnership~~ partnership, association, or corporation; which are secured by negotiable warehouse receipts in an amount not less than one hundred fifteen percent of the face amount of the note or notes secured by such documents; shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures, in addition to such twenty-five percent of such capital and surplus.

(2) For purposes of this section, the discounting of bills of exchange, drawn in good faith against actually existing values, and the discounting of commercial paper actually owned by the persons negotiating the same shall not be considered as the lending of money. Loans or obligations shall not be subject to any limitation under this section, based upon such capital stock and surplus, to the extent that they are secured or covered by guaranties, or by commitments or agreements to take over or to purchase the same, made by any federal reserve bank or by the United States Government or any authorized agency thereof, including any corporation wholly owned directly or indirectly by the United States, or general obligations of any state of the United States or any political subdivision thereof. The phrase general obligation of any state or any political subdivision thereof shall mean an obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation, but shall not include municipal revenue bonds and sanitary and improvement district warrants which shall be subject to the limitations set forth in this section. Any bank may subscribe to, invest in, purchase, and own single-family mortgages secured by the Federal Housing Administration or the United States Department of Veterans Affairs and mortgage-backed certificates of the Government National Mortgage Association which are guaranteed as to payment of principal and interest by the Government National Mortgage Association. Such mortgages and certificates shall not be subject under this section to any limitation based upon such capital and surplus. Obligations representing loans to any national banking association or to any banking institution organized under the laws of any state, when such loans are approved by the Director of Banking and Finance by regulation or otherwise, shall not be subject under this section to any limitation based upon such capital and surplus. Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject under this section to any limitation based on such capital and surplus. The department may adopt and promulgate rules and regulations governing the terms and conditions of such security interest and segregated deposit account. For the purpose of determining lending limits, ~~copartnerships~~ partnerships shall not be treated as separate entities. Each individual shall be charged with his or her personal debt plus the debt of every ~~copartnership~~ partnership in which he or she is a partner, except that for purposes of this section, no individual shall be charged with the debt of any limited partnership in which he or she is a partner if the terms of the limited partnership agreement provide that such individual is not to be held liable for the debts or actions of such limited partnership.

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

Sec. 4. That section 8-148, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-148. (1) Except as provided in subsection (2) or (3) of this section, a bank shall not make any loan or discount on the security of the shares of its own capital stock or, after August 30, 1987, the capital stock of its holding company, if any, be the purchaser or holder of any such shares, or purchase any securities convertible into stock or, except as provided in ~~section~~ this section, sections 8-148.01, 8-148.02, and 8-149, and section 6 of this act, the shares of any corporation, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith. Such stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, or in default thereof, a receiver may be appointed to close up the business of the bank, except that such stock, if shares of another bank or a bank holding company, shall be so sold or disposed of as the Director of Banking and Finance shall require. In no case shall the amount of stock so held at any one time exceed ten percent of the paid-up capital of such bank.

(2) Any bank may subscribe to, invest, purchase, and own shares of investment companies registered under the Investment Company Act of 1940 when the investment companies' assets consist of and are limited to obligations that are eligible for investment by the bank. The department may adopt and promulgate rules and regulations governing the amounts, terms, and conditions of such subscriptions, investments, purchases, and ownership.

(3) Any bank may subscribe to, invest, purchase, and own Student Loan Marketing Association stock, Government National Mortgage Association stock, Federal National Mortgage Association stock, ~~or~~ Federal Agricultural Mortgage Corporation stock, Federal Home Loan Mortgage Corporation stock, or stock issued by any authorized agency of the United States Government, including any corporation or enterprise wholly owned directly or indirectly by the United States, or with the authority to borrow directly from the United States treasury, which the department has approved by rule and regulation. The department may further adopt and promulgate rules and regulations governing the amounts, terms, and conditions of such subscriptions, investments, purchases, and ownerships except that a ~~Such~~ bank shall not obligate more than five percent of its capital, surplus, undivided profits, and unencumbered reserves for such stock.

Sec. 5. That section 8-148.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-148.01. Any bank may invest not more than ten percent of its capital and surplus either in stock of a corporation operating a computer center or directly, alone or with others, in a computer center. With written approval of the Director of Banking and Finance, such additional percentage of its capital and surplus may be so invested as the director shall approve. Such investment shall not be subject to the provisions of sections 8-148, 8-149, and ~~to~~ 8-150.

Sec. 6. (1) Any bank may subscribe to, invest, buy, and own stock in any community development corporation wherein the bank will receive an equity interest in or evidence of indebtedness of the community development corporation and carry the investment as an asset if:

(a) The community development corporation shall be of a predominantly civic, community, or public nature and not merely private and entrepreneurial;

(b) The bank's investment in any one community development corporation does not exceed two percent of its capital and surplus and its aggregate investment in all such community development corporations does not exceed five percent of its capital and surplus; and

(c) Such investments are accounted for on the bank's books under "Other Assets".

(2) Nothing in this section shall prevent a bank from charging off as a contribution an investment in a community development corporation made pursuant to subsection (1) of this section.

(3) Such subscription, investment, possession, or ownership shall not be subject to the provisions of sections 8-148, 8-149, and 8-150.

Sec. 7. That section 8-157, Revised Statutes Supplement, 1992, be amended to read as follows:

8-157. (1) Except as provided in subsections (2) through ~~(8)~~ (9) of this section and section 8-122.01, the general business of every bank shall be transacted at the place of business specified in its charter.

(2)(a) With the approval of the director, any bank may maintain an attached branch bank if such branch bank is physically connected by a pneumatic tube or tubes or a walkway, a tunnel, or any other electronic, mechanical, or structural connection or attachment for the public use of the bank and is within two hundred feet of the building containing the premises specified as its place of business in its charter or any adjacent connected building housing a continuation of the operations of the bank's main office.

(b) With the approval of the director, any bank located in a Class I or Class III county may establish and maintain in Class I and Class III counties an unlimited number of detached branch banks at which all banking transactions allowed by law may be made.

(c) With the approval of the director, any bank located in a Class II county may establish and maintain not more than nine detached branch banks at which all banking transactions allowed by law may be made. Such detached branch banks shall be within the corporate limits of the city in which such bank is located, or if the bank is located within the zoning jurisdiction of a city of the primary class or is located within an unincorporated city or unincorporated area in a county which contains a city of the primary class, such detached branch banks may also be within the corporate limits of such city.

(d) With the approval of the director, any bank located in a Class IV county may establish and maintain not more than six detached branch banks at which all banking transactions allowed by law may be

made. Such detached branch banks shall be within the corporate limits of the city in which such bank is located.

(e) Any detached branch bank established and maintained by a bank pursuant to an acquisition or merger under sections 8-1506 to 8-1510 or an acquisition under section 8-1515 shall not count against the number of locations of detached branch banks permitted under this subsection.

(f) For purposes of this section:

(i) Class I county shall mean a county in this state with a population of three hundred thousand or more as determined by the most recent federal decennial census;

(ii) Class II county shall mean a county in this state with a population of at least two hundred thousand and less than three hundred thousand as determined by the most recent federal decennial census;

(iii) Class III county shall mean a county in this state with a population of at least one hundred thousand and less than two hundred thousand as determined by the most recent federal decennial census; and

(iv) Class IV county shall mean a county in this state with a population of less than one hundred thousand as determined by the most recent federal decennial census.

(3) With the approval of the director, a bank may acquire another bank in Nebraska as the result of a purchase or merger so long as the acquired bank has been chartered for more than eighteen months and the acquired institution and its detached branch banks are converted to detached branch banks of the acquiring bank. Such branch banks shall not count against the number of locations of detached branch banks permitted under subdivisions (2)(c) and (2)(d) of this section. If the acquired institution is in a Class I county or in a Class III county, following a purchase or merger pursuant to this subsection the acquiring bank may establish and maintain detached branch banks to the same extent that the acquired institution could have established and maintained detached branch banks as provided in subdivision (2)(b) of this section if the purchase or merger had not occurred. If the acquired institution is in a Class II county and it has not established nine detached branch banks as permitted by subdivision (2)(c) of this section, following a purchase or merger pursuant to this subsection the acquiring bank may establish and maintain detached branch banks to the same extent that the acquired institution could have established and maintained detached branch banks as provided in subdivision (2)(c) of this section if the purchase or merger had not occurred. If the acquired institution is in a Class IV county and it has not established six detached branch banks as permitted by subdivision (2)(d) of this section, following a purchase or merger pursuant to this subsection the acquiring bank may establish and maintain detached branch banks to the same extent that the acquired institution could have established and maintained detached branch banks as provided in subdivision (2)(d) of this section if the purchase or merger had not occurred.

(4) With the approval of the director, a bank may acquire

the assets and assume the deposits of a detached branch bank of another bank in Nebraska if:

(a) The acquired detached branch bank has been approved for more than eighteen months;

(b) The acquired detached branch bank is converted to a detached branch bank of the acquiring bank; and

(c) The bank from which the detached branch bank is acquired and the acquiring bank are subsidiaries of the same bank holding company or the detached branch bank to be acquired was chartered as a bank prior to becoming a detached branch bank.

All banking transactions allowed by law may be made at a detached branch bank acquired pursuant to this subsection. Such detached branch banks shall not count against the number of locations of detached branch banks permitted under subdivisions (2)(c) and (2)(d) of this section. The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the detached branch banks of the acquired bank as detached branch banks of the acquiring bank.

(5) With the approval of the director, a bank may acquire the assets and assume the deposits of a detached branch bank of another bank in Nebraska or acquire the assets and assume the deposits of an eligible savings association acquired by another bank in Nebraska pursuant to section 8-1515 if:

(a) The acquired detached branch bank or eligible savings association is converted to a detached branch bank of the acquiring bank; and

(b) The detached branch bank or the eligible savings association to be acquired was operated, established, and maintained as an eligible savings association at its existing location prior to August 9, 1989, and was maintained at such location on such date.

All banking transactions allowed by law may be made at a detached branch bank acquired pursuant to this subsection. Such detached branch banks shall not count against the number of locations of detached branch banks permitted under subdivisions (2)(c) and (2)(d) of this section. The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the detached branch banks of the acquired bank as detached branch banks of the acquiring bank.

(6) With the approval of the director, a bank may acquire a branch of a savings association which is a successor to an eligible savings association if such acquisition occurs within ninety days of the date the successor savings association acquired the eligible savings association and the branch is converted to a detached branch bank of the acquiring bank.

(7) With the approval of the director and subject to the limitations specified in this subsection, a single bank may establish one detached branch bank within the corporate limits of any municipality in which a financial institution has closed and ceased doing business within the preceding two years if no other financial institution operates an office

within such municipality. If thirty days or less have elapsed since the financial institution ceased operation, the director shall only approve the establishment of a detached branch bank by a bank which has its place of business, as specified in its charter, in the same county as or in a contiguous county to the county in which such municipality is located. If more than thirty days have elapsed since the financial institution ceased operation, the director may approve the establishment of a detached branch bank by any bank located within Nebraska.

For purposes of this subsection:

(a) An ~~unmanned electronic terminal~~ unattended automatic teller machine shall not be deemed to be an office operated by a financial institution; and

(b) Financial institution shall mean a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, or other institution offering ~~electronic terminal~~ automatic teller machine transactions.

(8) The name given to any detached branch bank established and maintained pursuant to this section shall not be substantially similar to the name of any existing bank or branch bank which is unaffiliated with the newly created detached branch bank and is located in the same municipality. The name of such newly created detached branch bank shall be approved by the director.

(9) A bank which has a main chartered office or approved branch bank located in the State of Nebraska may, through any of its executive officers, including executive officers licensed as such pursuant to section 8-139, or designated agents, conduct a loan closing at a location other than the place of business specified in the bank's charter or any detached branch thereof. The director may adopt and promulgate rules and regulations to implement the provisions of this section.

Sec. 8. That section 8-157.01, Revised Statutes Supplement, 1992, be amended to read as follows:

8-157.01. (1) With the approval of the director, any financial institution which has a main chartered office or approved branch office located in the State of Nebraska may establish and maintain any number of ~~electronic terminals or manned electronic terminals~~ automatic teller machines at which all banking transactions, defined as receiving deposits of every kind and nature and crediting such to customer accounts, cashing checks and cash withdrawals, transfer of funds from checking accounts to savings accounts, transfer of funds from savings accounts to checking accounts, transfer of funds from either checking accounts and savings accounts to accounts of other customers, payment transfers from customer accounts into accounts maintained by other customers of the financial institution or the financial institution, including preauthorized draft authority, preauthorized loans, and credit transactions, receiving payments payable at the financial institution or otherwise, account balance inquiry, and such other transactions that the director upon application, notice, and hearing may approve, may be conducted. ~~Such electronic terminals or manned electronic terminals may be~~

~~established only by a financial institution or by a national financial institution association the main chartered office of which is located in the State of Nebraska. Neither such electronic terminals, the manned electronic terminals, automatic teller machines~~ nor the transactions conducted thereat shall be construed as the establishment of a branch bank or as branch banking. Such ~~terminals~~ automatic teller machines shall be made available on a nondiscriminating basis for use by customers of any ~~other~~ financial institution ~~becoming which has a main chartered office or approved branch office located in the State of Nebraska which becomes~~ a user financial institution. It shall not be deemed discrimination if ~~a terminal~~ an automatic teller machine does not offer the same transaction services as other ~~terminals~~ automatic teller machines or if there are no fees charged between affiliate financial institutions for the use of automatic teller machines.

(2) Any financial institution may become a user financial institution by agreeing to pay the establishing financial institution its ~~transaction fees~~ automatic teller machine usage fee. Such agreement ~~may~~ shall be implied by the use of such ~~terminals~~ automatic teller machines. Nothing in this subsection shall prohibit a user financial institution from agreeing to responsibilities and benefits which might be contained in a standardized agreement. The establishing financial institution shall file with the director the information necessary to originate a transaction at any ~~terminal~~ automatic teller machine. Such information shall contain a means of designating the financial institution or ~~processor~~ data processing center to which such transactions shall be switched and shall also contain information adequate to perform authorization of cash withdrawal and other transactions authorized by this section. The director shall make such information available to any other financial institution desiring to become a user financial institution. The establishing financial institution ~~or its designated data processing center~~ shall be responsible for transmitting transactions originating from its ~~terminal~~ automatic teller machine to a switch, but nothing contained in this section ~~may~~ shall be construed to ~~provide that any inhouse or branch bank premises transactions shall be required to go through~~ require routing of all transactions to a switch. The director shall refuse to approve the establishment of any ~~electronic terminals or manned electronic terminals~~ automatic teller machines unless such ~~terminals~~ automatic teller machines will be made available on a nondiscriminating basis, ~~for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution~~, through methods, fees, and processes that the establishing financial institution has provided for switching transactions. Once approval is given for the ~~terminal~~ automatic teller machine of an establishing financial institution, the director, upon notice and after a hearing, may revoke the approval for the ~~terminal~~ automatic teller machine or may suspend the use of such ~~terminal~~ automatic teller machine if he or she determines that it is not available on a nondiscriminating basis ~~for use by customers of any~~

financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution, that the necessary information is not on file with the director, or that transactions originated by customers of user financial institutions are not being switched routed to a switch or other data processing centers centers. Nothing in this section may be construed to prohibit nonbank employees from assisting in transactions originated at the terminals automatic teller machines, and such assistance shall not be deemed to be engaging in the business of banking. Such nonbank employees may be trained in the use of the terminals automatic teller machines by financial institution employees.

(3) An establishing financial institution shall not be deemed to make a terminal an automatic teller machine available on a nondiscriminating basis if, through personnel services offered, advertising on or off the terminal automatic teller machines premises, or otherwise, it discriminates in the use of the terminal automatic teller machine against any user financial institution which has a main chartered office or approved branch office located in the State of Nebraska.

(4) A point-of-sale terminal may be established at any point within this state. A financial institution may contract with a seller of goods and services or any other third party for the operation of point-of-sale terminals. A point-of-sale terminal shall be made available on a nondiscriminating basis for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution. Nothing in this subsection shall prohibit payment of fees to a financial institution which issues an access device used to initiate electronic funds transfer transactions at a point-of-sale terminal.

(5) A seller of goods and services or any other third party on whose premises one or more point-of-sale terminals are established shall not be, solely by virtue of such establishment, a financial institution and shall not be subject to the laws governing, or other requirements imposed on, financial institutions, except for the requirement that it faithfully perform its obligations in connection with any transaction originated at any point-of-sale terminal on its premises. The acquiring financial institution shall be responsible for compliance with all applicable standards, rules, and regulations governing point-of-sale transactions.

(6) Any financial institution, upon a request of the director, shall file with the director a current listing of all point-of-sale terminals established by the financial institution within this state. For purposes of this subsection, point-of-sale terminal shall include a group of one or more of such terminals established at a single business location. Such listing shall contain any reasonable descriptive information pertaining to the point-of-sale terminal as required by the director. Neither the establishment of such point-of-sale terminal nor any transactions conducted thereat shall be construed as the establishment of a branch bank or as branch banking. Following establishment of a point-of-sale terminal, the director, upon notice and after a hearing, may terminate or

suspend the use of such point-of-sale terminal if he or she determines that it is not made available on a nondiscriminating basis for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution, that the necessary information is not on file with the director, or that transactions originated by customers of user financial institutions are not being routed to a switch or other data processing center. Nothing in this section shall be construed to prohibit nonbank employees from assisting in transactions originated at the point-of-sale terminals, and such assistance shall not be deemed to be engaging in the business of banking.

(7) Transactions at point-of-sale terminals may include:

(a) Check guarantees;

(b) Account balance inquiries;

(c) Transfers of funds from a customer's account for payment to a seller's account for goods and services on whose premises the point-of-sale terminal is located in payment for the goods and services;

(d) Cash withdrawals by a customer from the customer's account or accounts;

(e) Transfers between accounts of the same customers at the same financial institution; and

(f) Such other transactions as the director, upon application, notice, and hearing, may approve.

(8) Automatic teller machines ~~Off premises electronic terminals and manned electronic terminals~~ may be established and maintained by a financial institution which has a main chartered office or approved branch office located in the State of Nebraska, or by a group of two or more of such financial institutions, or by a combination of a such financial institution or financial institutions and a third party. Point-of-sale terminals may be established and maintained by a financial institution, by a group of two or more financial institutions, or by a combination of a financial institution or financial institutions and a third party. No one, through personnel services offered, advertising on or off the point-of-sale terminal premises, or otherwise, may discriminate in the use of the point-of-sale terminal against any other user financial institution, ~~desiring to use the services of the terminal.~~

~~(5) It is the intent that this section shall apply to financial institutions chartered by the State of Nebraska and all national financial institution associations the main chartered offices of which are located in the State of Nebraska, that there shall be an equal opportunity to all Nebraska~~

(9) All financial institutions shall be given an equal opportunity for the use of and access to a switch, and ~~that~~ no discrimination shall exist or preferential treatment be given in either the operation of such switch or the charges for use thereof. The operation of such switch shall be with the approval of the director. Approval of such switch shall be given by the director when he or she determines that its design and operation are such as to provide access thereto and use thereof

by any Nebraska financial institution without discrimination as to access or cost of its use. Any switch established in Nebraska and approved by the director prior to January 1, 1993, shall be deemed to be approved for purposes of this section.

(10) Use of an automatic teller machine or a point-of-sale terminal through access to a switch and use of any switch shall be made available on a nondiscriminating basis to any financial institution. A financial institution shall only be permitted use of the switch if the financial institution conforms to reasonable technical operating standards which have been established by the switch.

(11) To assure maximum safety and security against malfunction, fraud, theft, and other accidents or abuses and to assure that all such access devices will have the capability of activating all automatic teller machines and point-of-sale terminals established in this state, no automatic teller machine or point-of-sale terminal shall accept an access device which does not conform to such specifications as are generally accepted. No automatic teller machine or point-of-sale terminal shall be established or operated which does not accept an access device which conforms with such specifications.

An automatic teller machine shall bear a logo type or other identification symbol designed to advise customers that the automatic teller machine may be activated by any access device which complies with the generally accepted specifications. A point-of-sale terminal shall either bear on the premises on which the point-of-sale terminal is established shall contain a visible logo type or other identification symbol designed to advise customers that the point-of-sale terminal may be activated by any access device which complies with the generally accepted specifications. An automatic teller machine or point-of-sale terminal may also bear, at the option of the establishing or acquiring financial institution, any of the following:

(a) The names of all individual financial institutions using such automatic teller machines or point-of-sale terminals in alphabetical order, except that the establishing or acquiring financial institution may be listed first, and in a uniform typeface, size, and color; or

(b) The logo type or symbol of any association, corporation, or other entity or organization formed by one or more of the financial institutions using such automatic teller machines or point-of-sale terminals.

(6) (12) If the director, upon notice and hearing, determines at any time that the design or operation of a switch or provision for use thereof does discriminate against any financial institution in providing access thereto and use thereof either through access thereto or by virtue of the cost of its use, he or she may revoke his or her approval of such switch operation and immediately order the discontinuance of the operation of such switch.

(7) (13) If it is determined by the director, after notice and hearing, that discrimination against any financial institution has taken place, that one financial institution has been preferred over another, or

that any financial institution or person has not complied with any of the provisions of this section, he or she shall immediately issue a cease and desist order or an order for compliance within ten days from the date of the order, and upon noncompliance with such order, the offending financial institution shall be subject to sections 8-1,135 to 8-1,138 and to having the privileges granted in this section revoked.

~~(8)~~ (14) For purposes of this section:

~~(a) An unmanned electronic terminal shall not be deemed to be an office operated by a financial institution; and~~ Access shall mean the ability to utilize an automatic teller machine or a point-of-sale terminal to conduct permitted banking transactions or purchase goods and services electronically;

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

~~(c) Account shall mean a checking account, a savings account, a share account, or any other customer asset account held by a financial institution. Such an account may also include a line of credit which a financial institution has agreed to extend to its customer;~~

~~(d) Acquiring financial institution shall mean any financial institution establishing a point-of-sale terminal;~~

~~(e) Affiliate financial institution shall mean any financial institution which is a subsidiary of the same bank holding company;~~

~~(f) Electronic funds transfer shall mean any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through a point-of-sale terminal, an automatic teller machine, or a personal terminal for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account;~~

~~(g) Establishing financial institution shall mean any financial institution establishing an automatic teller machine which has a main chartered office or approved branch office located in the State of Nebraska;~~

~~(b) (h) Financial institution shall mean a state-chartered or federally chartered bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, or credit union; , or other institution offering electronic terminal transactions;~~

~~(i) Personal identification number shall mean a combination of numerals or letters selected for a customer of a financial institution, a merchant, or any other third party which is used in conjunction with an access device to initiate an electronic funds transfer transaction;~~

~~(j) Personal terminal shall mean a personal computer and telephone, wherever located, operated by a customer of a financial institution for the purpose of initiating a transaction affecting an account~~

of the customer; and

(k) User financial institution shall mean any financial institution which desires to avail itself of and provide its customers with automatic teller machine or point-of-sale terminal services.

(9) (15) Nothing in this section shall prohibit ordinary clearinghouse transactions between banks financial institutions.

(16) Nothing in this section shall require any federally chartered establishing financial institution to obtain the approval of the director for the establishment of any automatic teller machine.

Sec. 9. That section 8-159, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-159. Any bank, having adopted or amended its articles of incorporation to authorize the conduct of a trust business as defined in sections 8-201 to ~~8-226~~ 8-233, may be further chartered by the director to transact a trust company business in a trust department in connection with such bank.

Sec. 10. That section 8-160, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-160. The director shall have the power to issue to banks amendments to their charters of authority to transact trust business as defined in sections 8-201 to ~~8-226~~; 8-233 and shall have general supervision and control over such trust department of banks.

Sec. 11. That section 8-161, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-161. The director, before granting to any bank the right to operate a trust department, shall require such bank to make an application for amendment of its charter, setting forth such information as the director may require. If, upon investigation, the department shall be satisfied that the bank requesting such charter is operated by stockholders, directors, and officers of integrity and responsibility, the department shall, with such additional capital as the director shall require, issue to such bank an amendment to its charter, entitling it to operate a trust department and entitling it to transact the business provided for in sections 8-201 to ~~8-226~~ 8-233.

Sec. 12. That section 8-162, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-162. The trust department of a bank when chartered under sections 8-159 to 8-161 shall be separate and apart from every other department of the bank and shall have all of the powers, duties, and obligations of a trust company provided in sections 8-201 to ~~8-226~~ 8-233.

Sec. 13. Any bank authorized to transact a trust company business in a trust department pursuant to sections 8-159 to 8-162 may conduct such trust company business at the office of any bank which is a subsidiary of the same bank holding company as the authorized bank.

Sec. 14. That section 8-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-201. The Director of Banking and Finance shall have

the power to issue to corporations desiring to transact business as trust companies; charters of authority to transact trust company business as defined in sections 8-201 to ~~8-226~~ 8-233. ~~It~~ He or she shall have general supervision and control over such trust companies. Any three or more persons may adopt articles of incorporation and become a body corporate for the purpose of engaging in and conducting the business of a trust company, upon complying with the requirements of such sections ~~8-201 to 8-226~~ and the general laws of this state relating to the organization of corporations and upon obtaining a charter to transact business as a trust company from the ~~Department of Banking and Finance~~ director.

Every corporation organized for and desiring to transact a trust company business shall, before commencing such business, make under oath and transmit to the Department of Banking and Finance a complete statement including:

- (1) ~~the~~ The name of the proposed trust company;
- (2) ~~a~~ A certified copy of the articles of incorporation;
- (3) ~~the~~ The names of the stockholders;
- (4) ~~the~~ The name of the county, city, or village in which ~~said~~ the trust company is located;
- (5) ~~the~~ The amount of paid-up capital stock; and
- (6) ~~a~~ A statement, ~~under the oath of~~ sworn to by the president and secretary; that the capital stock has been paid in as provided for, ~~and it~~

The corporation shall also pay the fee prescribed by section 8-602 for investigation of such statement.

If, upon investigation, the department ~~shall be~~ is satisfied that the parties requesting ~~said~~ the charter are parties of integrity and responsibility, that the corporation will apply safe and sound methods for the purpose of carrying out trust company duties, and that the public necessity, convenience, and advantage will be promoted by permitting ~~such proposed trust company to engage in business~~ the corporation to transact business as a trust company, the department shall issue to ~~said~~ the corporation a charter entitling it to transact the business provided for in ~~said~~ sections 8-201 to 8-233. Upon payment of the required fees, the pledging of assets required by section 8-209, and ~~upon~~ the receipt of the charter, the ~~proposed trust company~~ corporation may begin to transact business as a trust company, ~~business~~. It shall be unlawful for any corporation, except a foreign corporate trustee to the extent authorized under section 30-2805, to engage in business as a trust company or to act in ~~a~~ any other fiduciary capacity unless it ~~shall have~~ has first obtained from the Department of Banking and Finance a charter of authority to do business.

The Department of Banking and Finance may adopt and promulgate rules and regulations to carry out the governance of trust companies under its supervision.

Sec. 15. That section 8-202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-202. ~~Said~~ The articles of incorporation shall be filed in the office of the Secretary of State, and a certified copy thereof shall be filed and recorded in the office of the county clerk of the county in which ~~said corporation shall have~~ the corporation has its principal office. Articles of incorporation and other records relating to the corporate existence of the trust company shall be maintained as a permanent record of the trust company.

Sec. 16. That section 8-203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-203. The ~~corporation~~ trust company shall have ~~in addition to the powers hereinafter named, the following powers~~ power:

- (1) To have a corporate name;
- (2) To have a corporate seal;
- (3) To sue and be sued and complain and defend in all courts of law and equity;
- (4) To receive ~~proper~~ reasonable compensation for all services performed by it under the provisions of sections 8-201 to ~~8-226~~ 8-233;

(5) To make bylaws not inconsistent with ~~said~~ such sections; or its articles of incorporation; for the management of its affairs; and

(6) To appoint or elect such officers and agents as the business of the corporation may require.

Sec. 17. That section 8-204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-204. The control of the business affairs of ~~such corporation~~ a trust company shall be vested in a board of directors of not less than five ~~in-number~~ persons, all of whom shall be elected by and from its stockholders. 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 leaves a minimum of five directors, appointment shall be optional. The board shall select from among its number a president and secretary and shall appoint trust officers and committees as it deems necessary. The officers and committee members shall hold their positions at the discretion of the board of directors. The board of directors shall hold at least one regular meeting in each calendar quarter and shall prepare and maintain complete and accurate minutes of the proceedings at such meetings.

The board of directors shall make or cause to be made each year a thorough examination of the books, records, funds, and securities held for the trust company and customer accounts. The examination may be conducted by the members of the board of directors or the board may accept an annual audit by an accountant or accounting firm approved by the Department of Banking and Finance. Any such examination or audit must comply in scope with minimum standards established by the department.

Unless the department otherwise approves, a majority of

the members of the board of directors of any trust company shall be residents of this state. Reasonable efforts shall be made to acquire members of the board of directors from the county in which the trust company is located. Every director shall own at least one share of paid-up capital stock of the trust company or its holding company, if any, in his or her name and right. Directors of trust companies shall be persons of good moral character and known integrity, business experience, and responsibility. No person shall act as such member of the board of directors of any trust company until the corporation applies for and obtains approval from the Department of Banking and Finance.

Sec. 18. That section 8-205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-205. (1) No corporation, except a bank authorized by the Director of Banking and Finance; to operate a trust department, shall be authorized to transact a business as a trust company under sections 8-201 to 8-226 8-233 on or after the operative date of this section unless it shall have a has capital stock of at least two three hundred thousand dollars, in cities of one hundred thousand inhabitants or more; one hundred thousand dollars in cities of fifty thousand and less than one hundred thousand inhabitants; fifty thousand dollars in cities of more than ten thousand and less than fifty thousand inhabitants; and twenty five thousand dollars in cities and villages having ten thousand inhabitants or less; all of which shall be fully paid up in cash before the corporation is authorized to commence business.

(2)(a) Corporations, except a bank authorized to operate a trust department, authorized to transact business as a trust company under sections 8-201 to 8-233 before the operative date of this section shall, on or after such date, maintain a capital stock of at least two hundred thousand dollars in cities of one hundred thousand inhabitants or more, one hundred thousand dollars in cities of fifty thousand and less than one hundred thousand inhabitants, fifty thousand dollars in cities of more than ten thousand and less than fifty thousand inhabitants, and twenty-five thousand dollars in cities and villages having ten thousand inhabitants or less. The population of a city for purposes of this subsection shall be the population as determined by the most recent federal decennial census.

(b) A corporation, except a bank authorized to operate a trust department, authorized to transact business as a trust company under sections 8-201 to 8-233 before the operative date of this section, subject to the capital stock requirement of subsection (2) of this section, which complies with the capital stock requirement of subsection (1) of this section, shall be subject to the capital stock requirement of subsection (1) of this section and shall maintain a capital stock of at least the minimum amount required by subsection (1) of this section.

(c) A corporation, except a bank authorized to operate a trust department, authorized to transact business as a trust company under sections 8-201 to 8-233 before the operative date of this section, subject to the capital stock requirement of subsection (2) of this section,

which complies with the capital stock requirement of a corporation located in a larger city pursuant to subsection (2) of this section, shall be subject to the capital stock requirement of such a corporation located in a larger city pursuant to subsection (2) of this section and shall maintain a capital stock of at least the minimum amount required for such a corporation located in a larger city pursuant to subsection (2) of this section.

(d) A capital stock requirement once attained by a corporation pursuant to either subsection (1) or (2) of this section shall not be reduced.

(3) If at any time the department determines that the capital stock of a trust company is impaired, it may require the shareholders of the trust company to make up the capital stock impairment.

Sec. 19. That section 8-205.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-205.01. ~~The Department of Banking and Finance shall require each~~ Each trust company doing business under sections 8-201 to ~~8-226 to 8-233 shall~~ obtain a fidelity bond, naming the trust company as obligee, in an amount to be fixed by the department. The bond shall be issued by an authorized insurer and shall be conditioned to protect and indemnify the trust company from loss ~~which it may sustain~~ of money or other personal property, including that for which the trust company is responsible, which it may sustain through or by reason of ~~the~~ fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction, misapplication, misappropriation, or other dishonest or criminal act of or by any of its officers or employees. ~~Such~~ The bond may contain a deductible clause in an amount to be approved by the Director of Banking and Finance. An executed copy of the bond shall be filed with and approved by the director and shall remain a part of the records of the department. If the premium of the bond is not paid, the bond shall not be canceled or subject to cancellation unless at least ten days' advance notice, in writing, is filed with the department. No bond which is current with respect to premium payments shall be canceled or subject to cancellation unless at least forty-five days' advance notice, in writing, is filed with the department. The bond shall always be open to public inspection during the office hours of the department. In the event a bond is canceled, the department may take whatever action it deems appropriate in connection with the continued operation of the trust company involved.

Sec. 20. That section 8-206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-206. A ~~corporation~~ trust company created under sections 8-201 to ~~8-226 8-233~~ shall have power:

(1) To receive trust funds for investment or in trust upon such terms and conditions as may be agreed upon and to purchase, hold, and lease ~~fire~~ fire-proof and burglar-proof and other vaults and safes from which ~~a~~ revenue may be derived;

(2) To accept and execute all such trusts as may be committed to it by any corporation, person, or persons, act as assignee, receiver, trustee, and depositor, and accept and execute all such trusts as

may be committed or referred to it by order, judgment, or decree of any court of record;

(3) To take, accept, and hold by the order, judgment, or decree of any such court or by gift, grant, assignment, transfer, devise, or bequest; any real or personal property in trust, ; to care for, manage, and convey the same in accordance with such trusts, ; and to execute and perform any and all such trusts;

(4) To act as ~~agent or~~ attorney in fact for any person or corporation, public or private;

(5) To act either by itself or jointly with any natural person or persons or with any other trust company or state or national bank doing business in this state as administrator of the estate of any deceased person, ~~or as personal representative, or as conservator or guardian of the property estate of any infant, incapacitated person, with mental retardation, person with a mental disorder, habitual drunkard, or person under any other disability, or as conservator, or as trustee for any person or of the estate of any deceased person under the appointment of any court of record having jurisdiction of the estate of such person.~~ A corporation so appointed as administrator, personal representative, or guardian shall give a bond the same as is required by law for natural persons acting in the same capacity. No charge shall be allowed against such estate for legal services performed by an attorney who is a salaried employee of such corporation or when a portion of the charge for legal service is retained by such corporation. Any officer or employee of such corporation causing or consenting to such division of fee for legal service shall be guilty of contempt of court. No investments of such estate or property shall be made in the capital stock or securities of such corporation or securities sold by such corporation. Such corporation shall not substitute any of the assets of such estate under its control for securities of such corporation or securities sold by such corporation. Any officer or employee of such corporation causing such substitution or consenting to such substitution shall be guilty of embezzlement;

(6) To act as trustee for any person or of the estate of any deceased person under the appointment of any court of record having jurisdiction of the estate of such person;

(7) To act as agent or in an agency capacity for any person or entity, public or private;

~~(6) (8) To loan money upon real estate and upon collateral security when the collateral would of itself be a legal investment for such corporation; and to borrow money, to execute and issue its notes payable at a future date, and to pledge its real estate, mortgages, or other securities therefor. No loan shall be made to any officer or director of such corporation;~~

(7) (9) To buy, hold, own, and sell government securities issued or guaranteed by the United States Government or any authorized agency thereof, including any corporation or enterprise wholly owned directly or indirectly by the United States, or with the authority to borrow directly from the United States treasury, or securities secured by

obligations of any of the foregoing, securities of any state, county, and municipal bonds, bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration or political subdivision thereof which possesses general powers of taxation, stock, warrants, bills of exchange, notes, mortgages, banker's acceptances, certificates of deposit in institutions whose accounts are insured by the Federal Deposit Insurance Corporation, and other investment securities, negotiable and nonnegotiable, except bonds the interest on which has been in default for a period of two years next preceding the date of purchase, stock of any corporation that has not earned annual dividends of at least four percent per annum for at least three years just prior to the date of such purchase, and stock or other securities of any corporation organized under sections 8-201 to 8-226 8-233;

(8) (10) To purchase, own, or rent real estate needed in the conduct of the business and to erect thereon buildings deemed expedient and necessary, the cost of such real estate and buildings not to exceed forty one hundred percent of the paid-up capital stock, ; and to purchase, own, and improve such other real estate as it may be required to bid in under foreclosure or in payment of other debts;

(11) To borrow money, to execute and issue its notes payable at a future date, and to pledge its real estate, mortgages, or other securities therefor. With the approval of the Director of Banking and Finance, any trust company may at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate and subject to the claims of trustors and beneficiaries of estates and trusts and may be subordinated and subject to the claims of other creditors. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of the trust company and shall not be held liable for assessments to restore impairments in the capital of the trust company as may be from time to time determined by the director; and

(9) (12) To perform all acts and exercise all powers connected with, belonging to or incident to, or necessary for the full and complete exercise and discharge of the rights, powers, and responsibilities hereinbefore granted in sections 8-201 to 8-233, and all provisions of such sections 8-201 to 8-226 shall be liberally construed. None of the powers hereby granted shall extend to or be construed to authorize any such corporation to accept deposits or conduct the business of banking; as defined in sections 8-101 to 8-1,121.

Sec. 21. That section 8-207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-207. Courts of this state may appoint such corporation a trust company receiver, assignee, trustee, guardian, conservator, personal representative, custodian, or administrator. When such corporation a trust company is so appointed and an oath is required to

be made, whether in order to qualify or for any other purpose, the president, vice president, secretary, or trust officer may, on behalf of ~~such corporation~~ the trust company, make and subscribe the required oath.

Sec. 22. That section 8-208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-208. All conveyance of; or other instruments affecting; real estate owned or held in trust by ~~the corporation;~~ a trust company shall be authorized by a resolution of the board of directors; ~~or a committee appointed by the board of directors~~ and signed in the name of ~~said corporation~~ the trust company by its president or vice president, ~~under the seal of the corporation:~~

Sec. 23. That section 8-209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-209. Any ~~company~~ corporation organized to do business ~~as a trust company~~ under sections 8-201 to 8-226 ~~8-233~~ shall; ~~before it commences to transact business;~~ make a deposit pledge with the Department of Banking and Finance of ~~cash or~~ approved securities in the ~~amounts following:~~ Corporations having a capital stock of two hundred thousand dollars or more, not less than forty thousand dollars; corporations having one hundred thousand dollars but less than two hundred thousand dollars of capital stock, not less than twenty five thousand dollars; corporations having fifty thousand dollars, but less than amount of one hundred thousand dollars of capital stock, not less than fifteen thousand dollars; corporations having twenty five thousand dollars and less than fifty thousand dollars of capital stock, not less than ten thousand dollars in par value. If at any time the market value of pledged assets is determined to have depreciated to less than ninety percent of par value or the trust company has trust funds deposited with itself or its supporting commercial bank in excess of those deposits referred to by section 8-212, the Director of Banking and Finance may require additional pledges in amounts deemed necessary to fully secure pledging requirements or excessive trust fund depository balances.

Any national bank authorized by the Office of the Comptroller of the Currency or the Board of Governors of the Federal Reserve System to act in a fiduciary capacity in this state; ~~may and any federal savings association authorized by the Director of the Office of Thrift Supervision to act in a fiduciary capacity in this state shall~~ make similar deposits pledges with ~~said~~ the department, and all such deposits of national banks ~~now held by said~~ the department shall be considered as having been lawfully so deposited pledged and subject to the provisions of sections 8-201 to 8-226 ~~8-233~~.

Sec. 24. That section 8-210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-210. Such securities shall consist of ~~government, state, municipal, or other bonds, bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration; bonds or notes secured by~~

first mortgages on improved real estate in the State of Nebraska, or other any securities which constitute a legal investment for said corporation the trust company except for bills of exchange, notes, mortgages, banker's acceptances, or certificates of deposit. State, county, municipal, and corporate bond issues must be of investment quality and be rated in the three top categories of investment by at least one nationally recognized rating service, except that all issues of counties and municipalities of Nebraska shall be acceptable, which may be approved by the Department of Banking and Finance.

Such securities shall not be accepted for purpose of deposit pledge at a rate above par value and if their market value is less than par value they shall not be accepted for such purpose above their actual market value. The safekeeping of such securities and all other expenses incidental to the pledging of such securities shall be at the expense of the depositor trust company.

Sec. 25. That section 8-211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-211. The required deposits pledges having been made, the Department of Banking and Finance shall issue a receipt and a certificate showing that such corporation the trust company has complied with the provisions of sections 8-201 to ~~8-226~~ 8-233. Having thus qualified, ~~such corporation~~ the trust company may be permitted to act as assignee, receiver, trustee, either by appointment of court or under will, or depository of money in court without bond. Upon presentation of the certificate that the corporation trust company has complied with the provisions of ~~said such~~ sections and has made a deposit as herein pledge as provided in section 8-209, the court or other officer charged with the duty of making such appointment or of approving bonds may, in his or her discretion, make the appointment and permit the corporation trust company to qualify without bond or require such bond as is required from natural persons.

Sec. 26. That section 8-212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-212. ~~Cash and securities deposited~~ Securities pledged as provided in section 8-209 shall be primarily liable for the obligations of such the trust company, state or national bank, or federal savings association incurred while acting in any fiduciary capacity, ~~and~~ for depository of money in court, and for losses arising from trust funds deposited with failed financial institutions in excess of deposit insurance limits and shall not be liable for any other debt or obligation of the corporation trust company until all such trust liabilities aforesaid have been discharged.

Sec. 27. That section 8-213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-213. In the case of national banks and federal savings associations doing business as trust companies ~~under authority of the Federal Reserve Act~~ and trust companies which upon insolvency are not liquidated by the Department of Banking and Finance, ~~whether such~~

~~banks and trust companies shall heretofore have become insolvent or shall hereafter become insolvent, upon the insolvency of any such bank or trust company and upon the appointment of a receiver, trustee in bankruptcy, or other liquidating agent, the department shall turn over to such the receiver, trustee in bankruptcy, or other liquidating agent any such cash or securities deposited with pledged to it by the national bank, federal savings association, or trust company upon a proper showing, as follows:~~

(1) That all trust liabilities ~~aforsaid~~ known to the receiver, trustee in bankruptcy, or other liquidating agent and reasonably ascertainable from the records of ~~such the national bank, federal savings association,~~ or trust company have been discharged;

(2) That notice has been given for three successive weeks in some legal newspaper published in the county or, if none is published in the county, in a legal newspaper of general circulation in the county in which the principal place of business of ~~such the national bank, federal savings association,~~ or trust company is located that all claims for ~~such the trust liabilities shall must~~ be filed with ~~such the~~ receiver, referee in bankruptcy, or other liquidating agent within thirty days. In the case of national banks the notice provided for in 12 U.S.C. 193, and in the case of trust companies liquidated in bankruptcy court, the notice provided for in 11 U.S.C. 94(b), shall be sufficient without further notice being given and shall be in lieu of the notice required in this subdivision; and

(3) That after ~~such the~~ notice and ~~after such period has thirty days have~~ elapsed, all ~~such~~ claims, if any, have been discharged.

~~In the case of national banks the notice provided for in 12 U.S.C. 193, and in the case of trust companies liquidated in bankruptcy court, the notice provided for in 11 U.S.C. 94(b), shall be sufficient without further notice being given and shall be in lieu of the notice required.~~

Sec. 28. That section 8-214, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-214. Any national bank or federal savings association which has surrendered its right to exercise such fiduciary powers in this state; may have ~~such deposit returned its pledged securities released~~ to it upon furnishing to the Department of Banking and Finance a certificate by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Board of Governors of the Federal Reserve System that such national bank or federal savings association is no longer authorized to exercise such powers and has been relieved, in accordance with the laws of this state, of all duties and obligations as assignee, receiver, or trustee, either by appointment of court or under will, and for depository of money in court.

Sec. 29. That section 8-215, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-215. Any trust company or state or national bank or federal savings association with a trust department doing business in this state, upon liquidating its business and affairs for reasons other than

insolvency, may have ~~such deposit returned~~ its pledged securities released to it upon satisfying the Department of Banking and Finance that it has been lawfully relieved of all its duties and obligations as assignee, receiver, or trustee, either by appointment of court or under will, and for depository of money in court, after first having published notice three successive weeks in some legal newspaper published in the county or, if none is published in the county, in a legal newspaper of general circulation in the county in which the principal place of business of ~~such~~ the trust company or trust department of a state or national bank or federal savings association is located that all claims against such ~~deposit securities~~, whether absolute or contingent, must be filed with ~~such~~ the department by a day certain, not less than thirty days after the last publication of such notice.

Sec. 30. That section 8-216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-216. The ~~corporation~~ trust company may collect and retain the interest of all securities ~~deposited~~ pledged as provided in section 8-209, ~~and the Department of Banking and Finance may deliver interest coupons before their maturity to the corporation.~~

Sec. 31. That section 8-217, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-217. If the interest on any security ~~deposited~~ pledged as provided in section 8-209, ~~shall remain~~ remains unpaid for ~~six months~~ thirty days after maturity, the ~~Department of Banking and Finance shall require the corporation to~~ trust company shall substitute other securities therefor.

Sec. 32. That section 8-218, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-218. The Department of Banking and Finance or any duly appointed examiner authorized by it ~~shall, once during each year,~~ may make a full examination into all the books, papers, and affairs of any trust company doing business under sections 8-201 to ~~8-226, 8-233 as often as deemed necessary.~~ In ~~and in~~ so doing, the department shall have power to administer oaths and affirmations and to examine on oath or affirmation the officers, agents, and clerks of ~~such~~ the trust company, touching the matter which they may be authorized to inquire into and examine, and to summon; and by subpoena compel the attendance of any person or persons in this state to testify under oath in relation to the affairs of ~~such~~ the trust company. ~~If the department has reason to believe the affairs of any corporation are not being conducted in compliance with said sections, it may at any time make or cause to be made a special examination of the assets of such corporation. In lieu of any examination authorized by the laws of this state, the Director of Banking and Finance may accept, in his or her discretion, a report of an examination made of a trust company by the Federal Deposit Insurance Corporation, the Federal Reserve Bank, or the Office of Thrift Supervision or he or she may examine any such trust company jointly with any such federal agency.~~

Sec. 33. Any trust company which fails to exercise trust powers for three years or which voluntarily surrenders duties associated with fiduciary accounts so that no activity is reported for a period of three years, as determined by the consecutive annual reports submitted to the Department of Banking and Finance, shall be deemed inactive. Trust charters determined to be inactive as described in this section shall be revoked and the pledged assets released in accordance with section 8-215.

Sec. 34. That section 8-219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-219. Whenever ~~(1) it shall appear~~ appears to the Department of Banking and Finance from any examination or report provided for by sections 8-201 to ~~8-226~~ 8-233 that the capital stock of any ~~corporation transacting business as a~~ trust company transacting business under ~~said~~ such sections is impaired, or that ~~such corporation~~ the trust company is conducting its business in an unsafe or unauthorized manner, or ~~that the trust company~~ is endangering the interest of the beneficiaries for whom it holds property in trust, ~~or if~~ (2) the officers or employees of ~~any such corporation shall~~ the trust company refuse to submit its books, papers, and affairs to the inspection of any examiner, ~~or whenever~~ (3) any officer thereof ~~shall refuse~~ refuses to be examined upon oath touching the affairs of ~~any such corporation~~ the trust company, or ~~whenever~~ (4) from any examination or report provided for by law, the department ~~shall have~~ has reason to conclude that ~~such~~ the trust company is in an unsafe or unsound condition to transact the business for which it is organized; or that it is unsafe and inexpedient for it to continue its business, the department shall take charge of ~~such~~ the trust company; and proceed to reorganize or to liquidate ~~such~~ the trust company in the manner provided for the liquidation of insolvent banks. ~~If the~~ ~~or if such~~ trust company ~~shall neglect or refuse~~ neglects or refuses to observe any lawful order of the department, then the department may cause a suit to be brought in the name of the State of Nebraska upon the relation of the Department of Banking and Finance against ~~such~~ the trust company in the district court of the county in which ~~such~~ the trust company ~~has its place of business, is chartered~~ for the purpose of having ~~such corporation~~ the trust company adjudged insolvent and its business wound up.

Sec. 35. That section 8-220, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-220. The suit referred to in section 8-219 shall be conducted as a civil action under the laws of Nebraska. ~~If in the~~ ~~and if~~ ~~in such~~ suit the court ~~shall find~~ finds that the ~~said~~ trust company is insolvent, it shall enter a judgment of ~~such~~ insolvency and order that the business of ~~said corporation~~ the trust company shall be wound up. The court or any judge thereof may, after notice to ~~said~~ the trust company, enjoin ~~said~~ the trust company from continuing to transact business pending the hearing and entry of a judgment in ~~such~~ the case. If the court finds and adjudges that ~~said~~ the trust company is insolvent, the Department of Banking and Finance shall thereupon become the

liquidating agent to wind up the business of ~~said corporation~~ the trust company, and the department shall be vested with the title to all of the assets and the property of ~~said the~~ the trust company ~~wheresoever the same may be situated and whatsoever~~ wherever such property may be situated and whatever the kind and character of ~~such the~~ the assets and property may be, as of the date of the filing of the petition in ~~said~~ said court. Any attachment lien against the property of ~~said the~~ the trust company, acquired within sixty days next preceding the filing of ~~said the~~ said the suit, shall be thereby released and dissolved.

Sec. 36. That section 8-221, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-221. If the judge of the district court of the county where ~~such the~~ the suit is filed is absent therefrom, any judge of the Court of Appeals or Supreme Court may grant the injunction as provided in section 8-220 with the same force and effect as if ~~the same~~ it had been granted by the district judge. All the proceedings for the conduct of the suit and an entry of judgment ~~therein~~ shall be conducted in the district court of the county where the trust company ~~had its place of business was chartered~~. If the trust company is adjudged insolvent, its affairs shall be wound up by the Department of Banking and Finance under and subject to the order of the district court in the manner provided in the case of insolvent banks.

Sec. 37. That section 8-222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-222. The maximum liability which may be incurred by any ~~corporation~~ trust company organized under sections 8-201 to ~~8-226~~ 8-233, exclusive of money or properties held in trust; and exclusive of money borrowed for investment and actually invested in real estate mortgages and other securities in which trust companies are authorized to invest under ~~said~~ such sections, shall not exceed ~~two-thirds~~ one hundred percent of the paid-up capital stock.

Sec. 38. That section 8-223, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-223. ~~Such corporation~~ The trust company shall file with the Department of Banking and Finance during the ~~month~~ months of January and July of each year; a statement under oath of the condition of ~~such corporation~~ the trust company on the ~~30th day of June next preceding~~ last business day of the preceding December and June in the manner and form required by the department. For purposes of sections 8-201 to 8-233, the trust company's annual report shall be deemed to be the report filed with the Department of Banking and Finance during the month of January.

Sec. 39. That section 8-224, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-224. The reports required by section 8-223 shall be verified by one of the managing officers, and a summary of ~~such the~~ the annual report, in a form prescribed by the Department of Banking and Finance, shall, within thirty days after the filing of ~~said the~~ said the statement

with the department, be published in a newspaper of general circulation in the place county where the ~~business of such corporation trust company~~ is ~~transacted chartered~~.

Sec. 40. (1) No charge shall be allowed against an estate or trust for legal services performed by an attorney who is a salaried employee of the trust company or when a portion of the charge for legal service is retained by the trust company. Any officer or employee of the trust company causing or consenting to such division of fee for legal service shall be guilty of a Class I misdemeanor. No investments of an estate or trust shall be made in the capital stock or securities of the trust company, in the stock or securities of its affiliated companies, or in obligations, either direct or indirect, of any director, officer, or employee of the trust company. The trust company shall not substitute any of the assets of an estate or trust under its control for securities of the trust company. Any officer or employee of the trust company making such an investment or consenting to such an investment or causing such substitution or consenting to such substitution shall be guilty of a Class III felony.

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

Sec. 41. That section 8-225, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-225. Any person, ~~making oath~~ who swears to any of the statements ~~herein~~ required by sections 8-201 to 8-233, knowing the ~~same them~~ to be false, who ~~shall subscribe to, or make, or cause subscribes to, makes, or causes~~ to be made; any false statement or false entry in the books of any trust company transacting a business under sections 8-201 to 8-226 8-233, ~~or shall subscribe to or exhibit who subscribes to or exhibits~~ false papers or ~~shall fail fails~~ to make true and correct entry in the books and records of ~~said the~~ trust company of its business and transactions in the manner and form prescribed by the Department of Banking and Finance, ~~or shall mutilate, alter, destroy, secrete or remove who mutilates, alters, destroys, secretes, or removes~~ any of the books or records of ~~such the~~ trust company without the written consent of the Director of Banking and Finance, or ~~shall make, state or publish who makes, states, or publishes~~ any false statement of the amount of the assets or liabilities of ~~any such the~~ trust company; shall be guilty of a Class IV felony.

Sec. 42. That section 8-226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-226. No individual, firm, ~~company~~ corporation, or association in the State of Nebraska shall use the words trust, trust company, or trust association as any part of its title; ~~except those complying with the provisions of sections 8-201 to 8-226~~ a trust company as defined in section 8-230 or as authorized by subdivision (4) of section 67-234. Any person, persons, or corporation violating the provisions of this section shall be guilty of a Class V misdemeanor.

Sec. 43. That section 8-227, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-227. Any state trust company, with the approval of the Department of Banking and Finance, may, upon a vote of the holders of at least two-thirds of its capital stock, merge or consolidate with a national banking association, as provided by federal law, by causing a certificate to be filed with the Department of Banking and Finance setting forth the resolution of the stockholders of the state trust company and that the resolution has been duly adopted by the holders of at least two-thirds of the capital stock of the trust company.

Sec. 44. That section 8-228, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-228. When a state trust company has merged or consolidated with a national bank, the resulting national bank and trust company shall be considered the same business and corporate entity as the former national bank and the former trust company and as a continuation thereof; and the ownership and title to all properties, ~~and~~ assets, ~~and the~~ obligations, and liabilities of the merging or consolidating trust company shall automatically pass to and become the properties, ~~and~~ assets, ~~and the~~ obligations, and liabilities of the resulting national bank and trust company and shall be deemed to be transferred to and vested in the resulting national bank and trust company without any deed or other transfer. ~~The ; and such~~ resulting national bank and trust company, by virtue of such consolidation or merger and without any order or other action on the part of any court or otherwise, shall hold and enjoy the same and all rights of property, franchises, and interests, including appointments, designations, and nominations and all other rights and interests as trustee, personal representative, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any such merging or consolidating trust company at the time of such merger or consolidation. Upon the merger or consolidation, the state charter of the merging or consolidating state trust company shall automatically terminate and the charter shall be returned to the Department of Banking and Finance. Securities pledged to the department in accordance with section 8-209 shall be transferred to the name of the resulting national bank and trust company.

Sec. 45. That section 8-229, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-229. ~~The~~ When the merger or consolidation becomes

effective, the owner of shares of a state trust company which were voted against a merger or consolidation with a national bank shall be entitled to receive; the value of the stock in cash from the assets of such the state trust company, the value of such stock in cash, when the merger or consolidation becomes effective, upon written demand made to the resulting national bank and trust company at any time within thirty days after the effective date of the merger or consolidation, accompanied by the surrender of the stock certificates. The value of such the shares shall be determined; as of the date of the shareholders' meeting approving the merger or consolidation, by three appraisers, one to be selected by the owners of two-thirds of the shares voting against the merger or consolidation, one by the board of directors of the resulting national bank and trust company, and the third by the two so chosen. If the appraisal is not completed within sixty days after the merger or consolidation becomes effective, the Department of Banking and Finance shall may cause an appraisal to be made and such the resulting appraisal shall then govern. The expenses of the appraisal caused to be made by the department shall be paid by the resulting national bank and trust company.

Sec. 46. Any state trust company, with the approval of the Department of Banking and Finance, may, upon a vote of the holders of at least two-thirds of its capital stock, merge or consolidate with any state bank which has obtained powers to conduct a trust business pursuant to sections 8-201 to 8-233. The merging trust company must file with the department a certificate of the stockholders of the trust company that the resolution to merge or consolidate has been duly adopted by the holders of at least two-thirds of the capital stock of the trust company.

Sec. 47. When a state trust company has merged or consolidated with a state bank, the resulting state bank and trust company shall be considered the same business and corporate entity as the former state bank and the former trust company and as a continuation thereof. The ownership and title to all properties, assets, obligations, and liabilities of the merging or consolidating trust company shall automatically pass to and become the properties, assets, obligations, and liabilities of the resulting state bank and trust company and shall be deemed to be transferred to and vested in the resulting state bank and trust company without any deed or other transfer. The resulting state bank and trust company, by virtue of such consolidation or merger and without any order or other action on the part of any court or otherwise, shall hold and enjoy the same and all right of property, franchises, and interests, including appointments, designations, and nominations and all other rights and interests as trustee, personal representative, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any such merging or consolidating trust company at the time of such merger or consolidation. Upon the merger or consolidation, the state charter of the merging or consolidating state trust company shall automatically be transferred to the resulting state bank and trust company.

Sec. 48. When the merger or consolidation becomes effective, the owner of shares of a trust company which were voted against a merger or consolidation with a state bank shall be entitled to receive the value of the stock in cash from the assets of the state trust company upon written demand made to the resulting state bank and trust company at any time within thirty days after the effective date of the merger or consolidation accompanied by the surrender of the stock certificates. The value of the shares shall be determined as of the date of the shareholders' meeting approving the merger or consolidation. An appraisal shall be conducted by three appraisers, one to be selected by the owners of two-thirds of the shares voting against the merger or consolidation, one by the board of directors of the resulting state bank and trust company, and the third by the two so chosen. If the appraisal is not completed within sixty days after the merger or consolidation becomes effective, the Department of Banking and Finance may cause an appraisal to be made and the resulting appraisal shall then govern. The expenses of the appraisal caused to be made by the department shall be paid by the resulting state bank and trust company.

Sec. 49. That section 8-230, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-230. As used in sections 8-230 ~~8-230~~ 8-201 to 8-233, unless the context otherwise requires:

(1) Trust company shall mean any trust company which is incorporated under the laws of this state, ~~and~~ any national banking association having its principal office in this state and authorized to conduct a trust company business as defined in sections 8-201 to 8-226 ~~8-233, any bank authorized to conduct a trust company business in a trust department pursuant to sections 8-159 to 8-162, and any federal savings association authorized to conduct a trust company business; and~~

(2) Fiduciary capacity shall mean a capacity resulting from a ~~bank trust company~~ undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with its undertaking and includes the capacities of trustee, including trustee of a common trust fund, administrator, personal representative, ~~registrar or transfer agent with respect to stocks, bonds, or other evidences of indebtedness of any corporation, association, municipality, state, or public authority,~~ guardian of estates, conservator, receiver, ~~escrow agent, agent for the investment of money;~~ attorney in fact, and custodian and any other similar capacity; and

(3) Agency capacity shall mean a capacity resulting from a trust company undertaking to act alone or jointly with others primarily as agent for another in all matters connected with its undertaking, including the capacities of registrar, paying agent, or transfer agent with respect to stocks, bonds, or other evidences of indebtedness of any corporation, association, municipality, state, or public authority, escrow agent, or agent for the investment of money or any other similar capacity.

Sec. 50. That section 8-231, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-231. (1) Any trust company which has been duly authorized to commence the business for which it is organized and which has made the ~~deposit of cash or~~ pledge of securities required by sections 8-209 and 8-210; may file an application in the county court of the county in which an affiliated bank is located requesting that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for such affiliated bank specified in the application, and such specified affiliated bank shall join in such application. Such application may be made by the trust company seeking substitution and need not list the fiduciary capacities in which substitution is proposed to be made. For purposes of this section, affiliated bank with respect to a trust company shall mean any bank incorporated under the laws of this state and any national banking association having its principal office in this state, more than fifty percent of the voting stock of which is owned directly or indirectly by the same bank holding company as defined in the United States Bank Holding Company Act, as amended, that owns directly or indirectly more than fifty percent of the voting stock of such trust company. The county court may require such notice as it deems necessary.

(2) When the county court finds that such trust company has been duly authorized to commence the business for which it is organized and that it has made a ~~deposit of cash or~~ pledge of securities in accordance with sections 8-209 and 8-210, the county court may enter an order substituting such trust company in every fiduciary capacity for the specified affiliated bank; except as may be otherwise specified in the application.

(3) Upon entry of such order, such trust company shall, without further act, be substituted in every such fiduciary capacity, and such application may be evidenced by filing a copy of the order with the clerk of any county court in this state.

Sec. 51. That section 8-232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-232. Each designation in a will or other instrument ~~heretofore or hereafter~~ executed either before, on, or after the operative date of this section in which a bank is designated as fiduciary shall be deemed a designation of the trust company substituted for ~~such the~~ bank pursuant to sections 8-230 to 8-233; except when ~~such the~~ will or other instrument is executed after such substitution. Any grant in ~~any such a~~ will or other instrument of any discretionary power shall be deemed conferred upon the trust company deemed designated as the fiduciary pursuant to this section.

Sec. 52. That section 8-233, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-233. A bank shall account jointly with the trust company which has been substituted as fiduciary for ~~such the~~ bank pursuant to sections 8-230 to 8-233 for the accounting period during which the trust company is initially so substituted. Upon substitution pursuant to sections 8-230 to 8-233, the bank shall deliver to the trust company all assets held

by the bank as fiduciary, except assets held for accounts with respect to which there has been no substitution pursuant to sections 8-230 to 8-233, and upon such substitution all such the assets shall become the property of the trust company without the necessity of any instrument of transfer or conveyance.

Sec. 53. That section 8-345.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-345.01. Nothing in section 8-157 shall prohibit building and loan associations as defined in sections 8-301 to 8-345 from establishing and operating new ~~electronic transmission terminals or manned electronic transmission terminals~~ automatic teller machines for the purpose of transmitting savings and loan transactions; or industrial loan and investment companies as defined in sections 8-401 to 8-450 from establishing and operating new ~~electronic transmission terminals or manned electronic transmission terminals~~ automatic teller machines for the purpose of transmitting industrial loan and investment company transactions.

Sec. 54. That section 8-602, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

(2) For filing and examining an amendment to articles of incorporation, association, and bylaws, except cooperative credit associations and credit unions, fifty dollars, for cooperative credit associations, twenty-five dollars, and for credit unions, fifteen dollars;

(3) For issuing to banks, trust companies, building and loan associations, and industrial loan and investment companies a charter, authority, or license to do business in this state, a sum which shall be determined on the basis of one dollar and fifty cents for each one thousand dollars of authorized capital, except that the minimum fee in each case shall be two hundred twenty-five dollars, and all foreign building and loan associations shall pay annually a fee of two hundred dollars;

(4) For issuing to cooperative credit associations a charter, authority, or license to do business in this state, twenty-five dollars;

(5) For issuing an executive officer's or loan officer's license, fifty dollars at the time of the initial license and fifteen dollars on or before January 15 each year thereafter, except cooperative credit associations and credit unions for which the fee shall be twenty-five dollars at the time of the initial license and fifteen dollars on or before January 15 each year thereafter;

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

(7) For making a photostatic copy of instruments, documents, or any other departmental records and for providing a

computer-generated document, one dollar and fifty cents per page;

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

(9) For issuing a certificate of approval to a credit union, ten dollars;

(10) For investigating the applications required by sections 8-120, 8-331, and 8-403 and the documents required by sections 8-201, 21-1312, and 21-1313, the cost of such examination, investigation, and inspection, including all legal expenses and the cost of any hearing transcript, with a minimum fee under (a) section 8-120 of two thousand five hundred dollars, (b) section 8-331 of two thousand dollars, (c) section 8-403 of two thousand five hundred dollars, and (d) sections 8-201, 21-1312, and 21-1313 of one thousand dollars. The department may require the applicant to procure and give a surety bond in such principal amount as the department may determine and conditioned for the payment of the fees herein provided;

(11) For registering a statement of intention to engage in the business of making personal loans pursuant to section 8-816, fifty dollars;

(12) To meet the expense of safekeeping securities as provided in section 8-210, the company, ~~or~~ national bank, or federal savings association shall, at the time of the initial deposit of such securities, pay one dollar and fifty cents for each thousand dollars of securities deposited and a like amount on or before January 15 each year thereafter;

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

(14) For investigating an application for approval to establish or acquire a detached branch bank pursuant to section 8-157, two hundred fifty dollars;

(15) For investigating an application for approval of an ~~electronic satellite facility~~ automatic teller machine, fifteen dollars;

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

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

(18) For investigating an application for a merger of two state banks or a merger of a state bank and a national bank in which the state bank is the surviving entity, five hundred dollars; and

(19) For investigating an application for a purchase of an eligible savings association under section 8-1515, five hundred dollars.

All fees and money collected by or paid to the department under any of the provisions of Chapter 8 or any other law shall, if and when specifically appropriated by the Legislature during any biennium, constitute the Financial Institution Assessment Cash Fund for the use of the department during any biennium in administering the provisions of such chapter and any duties imposed upon the department by any other

law, and all of such money when appropriated shall be appropriated for the purposes expressed in this section.

Sec. 55. That section 28-618, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-618. For purposes of sections 28-618 to 28-630:

(1) Account holder shall mean the person or business entity named on the face of a financial transaction device for whose benefit the financial transaction device is issued by an issuer;

(2) Acquirer shall mean any business organization, financial institution, or agent of such organization or institution which authorizes a merchant to accept payment by financial transaction device for money, property, services, or anything else of value;

(3) Automated banking device shall mean any machine which, when properly activated by a financial transaction device or a personal identification code, may be used for any purpose for which a financial transaction device is issued;

(4) Counterfeit financial transaction device shall mean any financial transaction device which is fictitious, altered, forged, stolen, obtained as part of a scheme to defraud, or otherwise unlawfully obtained and which may or may not be embossed with account information or a company logo or any facsimile, false representation, depiction, or component of a financial transaction device;

(5) Embossing shall mean any process in which account numbers are placed on financial transaction devices that results in the number being raised from the surface of the device;

(6) Expired financial transaction device shall mean a financial transaction device which is no longer valid because the term shown on it has elapsed;

(7) Financial transaction device shall mean any instrument or device whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, debit card, electronic funds transfer card, or account number representing a financial account. Such device shall affect the financial interest, standing, or obligation of the financial account for services or financial payments for money, credit, property, or services;

(8) Financial-transaction-device-making equipment shall mean any equipment, impression, machine, mechanism, plate, or any other device designed, used, or capable of being used to produce a financial transaction device, a counterfeit financial transaction device, or any aspect or component of a financial transaction device;

(9) Holographic shall mean a photographic method that uses laser light to produce three-dimensional images;

(10) Intent to defraud shall mean an unlawful attempt to secure money, credit, property, or services from an issuer, without permission of the account holder, for the benefit of any person other than the account holder;

(11) Issuer shall mean any person or any financial or business entity that acquires financial rights by issuing, canceling,

controlling, or distributing a financial transaction device;

(12) Magnetic encoding shall mean any electronically encoded account holder information which is placed on a magnetic strip on the financial transaction device and is capable of being read by an electronic terminal such as an automatic teller machine or an electronic terminal at a merchant location also known as a point-of-sale ~~machine~~ terminal;

(13) Personal identification code shall mean any grouping of letters, numbers, or symbols assigned to the account holder of a financial transaction device by the issuer to permit authorized electronic access of that account;

(14) Receives or receiving shall mean acquiring possession or control of or accepting as security for a loan a financial transaction device;

(15) Revoked financial transaction device shall mean a financial transaction device which is no longer valid because permission to use it has been suspended or terminated by the issuer;

(16) Sales form shall mean any written, electronic, magnetic, or printed record of a financial transaction involving use of a financial transaction device;

(17) Sales form processing services shall mean services provided to enable a person to obtain payment or credit for sales forms;

(18) Sales form processor shall mean any bank, financial institution, or other entity which with authority from a bona fide association of issuers provides sales form processing services;

(19) Service mark shall mean a word, name, symbol, or other device or any combination thereof to identify the goods or services of the entity from the goods and services of another entity;

(20) To falsely alter a financial transaction device shall mean to change such device without the authority of anyone entitled to grant such authority, whether in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or any other means, so that such device in its altered form falsely appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible issuer;

(21) To falsely complete a financial transaction device shall mean to transform an incomplete device into a complete one by adding, inserting, or changing matter without the authority of anyone entitled to grant such authority, so that the complete device falsely appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible issuer;

(22) To falsely make a financial transaction device shall mean to make or manufacture a device, whether complete or incomplete, which purports to be an authentic creation of its ostensible issuer but which is fictitious or, if real, the ostensible issuer did not authorize the making or the manufacturing thereof; and

(23) Traffic shall mean to distribute, dispense, sell, transfer, or otherwise dispose of property or to buy, receive, possess, obtain control

of, or use property with the intent to dispense, distribute, sell, transfer, or otherwise dispose of such property.

Sec. 56. The Revisor of Statutes shall assign sections 33, 40, and 46 to 48 of this act between sections 8-218 and 8-230 and any reference to sections 8-201 to 8-233 shall be construed to include sections 33, 40, and 46 to 48 of this act.

Sec. 57. Sections 14 to 52 and 60 of this act shall become operative three calendar months after the adjournment of this legislative session. The other sections of this act shall become operative on their effective date.

Sec. 58. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 59. That original sections 8-101, 8-126, 8-141, 8-148, 8-148.01, 8-159 to 8-162, 8-345.01, and 28-618, Reissue Revised Statutes of Nebraska, 1943, and sections 8-157, 8-157.01, and 8-602, Revised Statutes Supplement, 1992, are repealed.

Sec. 60. That original sections 8-201 to 8-207 and 8-208 to 8-233, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 61. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.