

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 122**

Introduced By: Banking, Commerce and Insurance Committee; Pahls, 31, Chairperson; Carlson, 38; Christensen, 44; Gay, 14; Hansen, 42; Langemeier, 23; Pankonin, 2; Pirsch, 4

Read first time: January 8, 2007

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to banks and banking; to amend sections  
2 8-108, 8-915, 8-2107, 21-17,112, 45-347, 45-351, 45-710,  
3 45-716, 45-920, 45-927, 45-1014, and 45-1017, Reissue  
4 Revised Statutes of Nebraska, and sections 8-601, 8-602,  
5 8-2312, and 8-2504, Revised Statutes Cumulative Supplement,  
6 2006; to change and eliminate provisions relating to  
7 financial institution assessment; to change examination  
8 expense provisions relating to the Nebraska Installment  
9 Sales Act, Mortgage Bankers Registration and Licensing Act,  
10 Delayed Deposit Services Licensing Act, and Nebraska  
11 Installment Loan Act; to harmonize provisions; to repeal the  
12 original sections; and to outright repeal section 21-1739,  
13 Reissue Revised Statutes of Nebraska.

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

1           Section 1. Section 8-108, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           8-108. The director, his or her deputy, or any duly  
4 appointed examiner shall have power to make a thorough examination  
5 into all the books, papers, and affairs of any bank or other  
6 institution in Nebraska subject to the department's jurisdiction, or  
7 its holding company, if any, and in so doing to administer oaths and  
8 affirmations, to examine on oath or affirmation the officers, agents,  
9 and clerks of such institution or its holding company, if any,  
10 touching the matter which they may be authorized and directed to  
11 inquire into and examine, and to subpoena the attendance of any person  
12 or persons in this state to testify under oath or affirmation in  
13 relation to the affairs of such institution or its holding company, if  
14 any. Such powers shall include, but not be limited to, the authority  
15 to examine and monitor by electronic means the books, papers, and  
16 affairs of any financial institution or the holding company of a  
17 financial institution. The examination may be in the presence of at  
18 least two members of the board of directors of the institution or its  
19 holding company, if any, undergoing such examination, and it shall be  
20 the duty of the examiner to incorporate in his or her report the names  
21 of the directors in whose presence the examination was made. The  
22 director may accept any examination or report from the Federal Deposit  
23 Insurance Corporation, the Federal Reserve Board, the Comptroller of  
24 the Currency, or a foreign state agency. The director may provide any  
25 such examination or report to the Federal Deposit Insurance  
26 Corporation, the Federal Reserve Board, the Comptroller of the  
27 Currency, or a foreign state agency. The department shall have power

1 to examine the books, papers, and affairs of any electronic data  
2 processing center which has contracted with a financial institution to  
3 conduct the financial institution's electronic data processing  
4 business. The department may charge the electronic data processing  
5 center for the time spent by examiners in such examination at the rate  
6 set forth in section ~~8-601~~ 7 of this act for examiners' time spent  
7 in examinations of financial institutions.

8 Sec. 2. Section 8-601, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 8-601. (1) The Director of Banking and Finance may employ  
11 deputies, examiners, attorneys, and other assistants as may be  
12 necessary for the administration of the provisions and purposes of  
13 Chapter 8, articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16,  
14 19, 20, 21, 23, 24, and 25; Chapter 21, article 17; and Chapter 45,  
15 articles 1, 2, 3, 7, 9, and 10. The director may levy upon financial  
16 institutions, namely, the banks, trust companies, building and loan  
17 associations, savings and loan associations, savings banks, and  
18 credit unions, organized under the laws of this state, and holding  
19 companies, if any, of such financial institutions, an assessment each  
20 year based upon the asset size of the financial institution, except  
21 that in determining the asset size of a holding company, the assets  
22 of any financial institution or holding company otherwise assessed  
23 pursuant to this section and the assets of any nationally chartered  
24 financial institution shall be excluded. The assessment shall be a  
25 sum determined by the director in accordance with section 7 of this  
26 act and approved by the Governor.

27 ~~(1) To pay the salary and necessary expense of examiners~~

1 ~~and examiners' helpers and such sum, if any, as may be required, in~~  
2 ~~excess of the sum appropriated for the Department of Banking and~~  
3 ~~Finance, for the payment of the salaries of the Director of Banking~~  
4 ~~and Finance, his or her deputies, attorneys, and assistants, there~~  
5 ~~shall be levied upon the banks, organized under the laws of this~~  
6 ~~state, and trust companies, building and loan associations, credit~~  
7 ~~unions, and holding companies, if any, of such institutions,~~  
8 ~~organized under the laws of this state or authorized to do business~~  
9 ~~in this state, an assessment each year based upon two factors: (a) A~~  
10 ~~single assessment fee based upon the asset size of the institution,~~  
11 ~~except that in determining the asset size of a holding company, the~~  
12 ~~assets of any financial institution or holding company otherwise~~  
13 ~~assessed pursuant to this section and the assets of any nationally~~  
14 ~~chartered financial institution shall be excluded; and (b) an~~  
15 ~~assessment based upon the number of hours spent on the examination.~~  
16 ~~The assessment shall be a sum determined by the director and approved~~  
17 ~~by the Governor as set forth in this subsection and subject to the~~  
18 ~~additional assessments and adjustments referred to in subsection (3)~~  
19 ~~of this section.~~

20 ~~(2) The assessment referred to in subsection (1) of this~~  
21 ~~section and the additional assessments provided for by subsection (3)~~  
22 ~~of this section shall be paid by such banks, trust companies,~~  
23 ~~building and loan associations, credit unions, and holding companies,~~  
24 ~~if any, of such institutions on the order of the director to the~~  
25 ~~State Treasurer who shall place the same in the Financial Institution~~  
26 ~~Assessment Cash Fund, which is hereby created and which shall be used~~  
27 ~~solely for the purposes hereinafter specified. The amount of the~~

1 ~~assessment shall be the sum estimated by the director as necessary~~  
2 ~~for the fiscal year to pay the following items: (a) Salaries of~~  
3 ~~examiners and examiners' helpers; (b) the necessary expenses incurred~~  
4 ~~by examiners and examiners' helpers in the discharge of their duties~~  
5 ~~incident to the examination of the institutions enumerated in this~~  
6 ~~section; and (c) such sum, if any, as may be required, in excess of~~  
7 ~~the sum appropriated for the department, for the payment of the~~  
8 ~~salary and expenses of the director, his or her deputies, attorneys,~~  
9 ~~and assistants, and in addition there shall be included in the~~  
10 ~~assessment to be paid by banks organized under the laws of this~~  
11 ~~state, the salaries and expenses of examiners and examiners' helpers~~  
12 ~~attending a school for examiners. As soon as reasonably possible~~  
13 ~~after June 30 of each year, the director shall estimate the total sum~~  
14 ~~required for the above purposes. The director shall also estimate the~~  
15 ~~total number of days to be used by examiners and examiners' helpers~~  
16 ~~in the examination and supervision of the institutions enumerated in~~  
17 ~~this section during the fiscal year, taking into account the~~  
18 ~~experience of the preceding year. The total estimated fund shall be~~  
19 ~~divided by the total number of days estimated, as above specified,~~  
20 ~~and the quotient shall be the unit of assessment against the~~  
21 ~~individual institutions, which unit is hereinafter referred to as the~~  
22 ~~per diem unit. The assessment upon each institution shall be based~~  
23 ~~upon a percentage fee of total assets in each institution and a per~~  
24 ~~diem fee for the number of hours spent in examination as determined~~  
25 ~~by the director. The director shall set the per diem fee based on (i)~~  
26 ~~the number of per diem units required to examine the respective~~  
27 ~~institutions during the fiscal year for which the estimate is made,~~

1 ~~taking into account the experience of the previous year, and (ii) in~~  
2 ~~case of institutions organized under the laws of the states other~~  
3 ~~than the State of Nebraska, the estimated traveling expense involved~~  
4 ~~in making the examination. If the estimated sum levied and collected~~  
5 ~~is insufficient to defray the expenditures, as provided in this~~  
6 ~~section, for the fiscal year for which it was made, a special~~  
7 ~~assessment may be levied and collected in like manner for the balance~~  
8 ~~of the fiscal year.~~

9 ~~(3) At the end of the fiscal year for which the assessment~~  
10 ~~is made, the director shall forward to each of such institutions~~  
11 ~~subject to such an assessment, as provided for by subsections (1) and~~  
12 ~~(2) of this section, a statement for as many per diem units as the~~  
13 ~~days actually used in the examination of the institution exceeds that~~  
14 ~~which was estimated, under the provisions of subsection (2) of this~~  
15 ~~section, which shall be paid on the demand of the director in the~~  
16 ~~same manner as the original assessment. If the number of days~~  
17 ~~actually used is less than that estimated for any such institution,~~  
18 ~~the difference shall stand to the credit of such institution for a~~  
19 ~~subsequent year's assessment. In case an extra examination of any~~  
20 ~~institution should become necessary and be made, the reasonable cost~~  
21 ~~thereof shall be determined and shall be paid by the institution so~~  
22 ~~examined.~~

23 Sec. 3. Section 8-602, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 8-602. The Director of Banking and Finance shall charge and  
26 collect fees for certain services rendered by the Department of  
27 Banking and Finance according to the following schedule:

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

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

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

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

19           (5) For affixing certificate and seal, five dollars;

20           (6) For making a photostatic copy of instruments, documents,  
21 or any other departmental records and for providing a  
22 computer-generated document, one dollar and fifty cents per page;

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

25           (8) For issuing a certificate of approval to a credit union,  
26 ten dollars;

27           (9) For investigating the applications required by sections

1 8-120 and 8-331 and the documents required by section 8-201, the cost  
2 of such examination, investigation, and inspection, including all  
3 legal expenses and the cost of any hearing transcript, with a minimum  
4 fee under (a) sections 8-120 and 8-2402 of two thousand five hundred  
5 dollars, (b) section 8-331 of two thousand dollars, and (c) section  
6 8-201 of one thousand dollars. The department may require the  
7 applicant to procure and give a surety bond in such principal amount  
8 as the department may determine and conditioned for the payment of the  
9 fees provided in this subdivision;

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

13 (11) For the handling of pledged securities as provided in  
14 sections 8-210 and 8-1006, at the time of the initial deposit of such  
15 securities, one dollar and fifty cents for each thousand dollars of  
16 securities deposited and a like amount on or before January 15 each  
17 year thereafter. The fees shall be paid by the company, national bank,  
18 federal savings association, federally chartered trust company,  
19 out-of-state trust company authorized under the Interstate Trust  
20 Company Office Act, or state-chartered bank pledging the securities;

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

25 (13) For investigating an application under subdivision (6)  
26 of section 8-115.01, five hundred dollars;

27 (14) For investigating an application for approval to

1 establish or acquire a branch or to establish a mobile branch pursuant  
2 to section 8-157, two hundred fifty dollars;

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

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

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

10 (18) For investigating an application or a notice to  
11 establish a branch trust office, five hundred dollars;

12 (19) For investigating an application or a notice to  
13 establish a representative trust office, five hundred dollars;

14 (20) For investigating an application to establish a credit  
15 union branch under section 21-1725.01, two hundred fifty dollars; and

16 (21) For investigating an applicant under section 8-1513,  
17 five thousand dollars.

18 ~~All fees and money collected by or paid to the department~~  
19 ~~under any of the provisions of Chapter 8, 21, or 45 or any other law~~  
20 ~~shall, if and when specifically appropriated by the Legislature~~  
21 ~~during any biennium, constitute the Financial Institution Assessment~~  
22 ~~Cash Fund for the use of the department during any biennium in~~  
23 ~~administering the provisions of such chapters and any duties imposed~~  
24 ~~upon the department by any other law, and all of such money when~~  
25 ~~appropriated shall be appropriated for the purposes expressed in this~~  
26 ~~section.~~

27 Sec. 4. The assessments referred to in sections 6 and 7 of

1 this act, examination fees, investigation fees, filing fees,  
2 registration fees, licensing fees, and all other fees and money,  
3 except fines, collected by or paid to the Director of Banking and  
4 Finance under any of the laws specified in section 8-601, shall be  
5 remitted to the State Treasurer for credit to the Financial  
6 Institution Assessment Cash Fund.

7           Sec. 5. (1) The Financial Institution Assessment Cash Fund  
8 is hereby created. The fund shall be used solely for the purposes of  
9 administering and enforcing the laws specified in section 8-601.

10           (2) Any money in the fund available for investment shall be  
11 invested by the state investment officer pursuant to the Nebraska  
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

13           Sec. 6. (1) As soon as reasonably possible after June 30 of  
14 each year, the Director of Banking and Finance shall estimate the  
15 total sum required for the purposes set forth in section 5 of this  
16 act for the succeeding fiscal year. The director shall also estimate  
17 the total sum expected to be collected pursuant to section 4 of this  
18 act. The director shall use the difference between the estimate of  
19 the total sum required and the estimate of the total sum to be  
20 collected as the basis for the assessment to be levied.

21           (2) The assessment upon each financial institution shall be  
22 based upon the total assets of each financial institution, as reported  
23 in each financial institution's report of condition prepared for the  
24 period ending June 30 of each year, and may further be based upon the  
25 total amount of fiduciary and related assets and the total amount of  
26 off-balance-sheet receivables as reported in each financial  
27 institution's report of condition prepared for the period ending June

1       30 of each year.

2               (3) The director shall have the authority to prorate the  
3       assessment for any financial institution or entity which surrenders  
4       its charter or license or receives its charter or license during the  
5       assessment period. Proration shall be based on the number of months  
6       the financial institution held its charter or license. Any portion of  
7       a month shall be counted as one month.

8               (4) If the estimated sum levied and collected is  
9       insufficient to defray the expenditures for the fiscal year for which  
10       it was made, a special assessment may be levied and collected in like  
11       manner for the balance of the fiscal year.

12               Sec. 7. (1) As soon as reasonably possible following the  
13       examination of a financial institution or entity pursuant to the laws  
14       specified in section 8-601, the Department of Banking and Finance  
15       shall bill the financial institution or entity the costs of the  
16       examination. Such costs may include an hourly fee for examiner time,  
17       which shall be determined once each year by the director, with the  
18       approval of the Governor, and which shall take into consideration  
19       whether the financial institution or entity is subject to the  
20       assessment.

21               (2) In case an extra examination or an investigation of any  
22       financial institution or entity becomes necessary and is made pursuant  
23       to the laws specified in section 8-601, the costs thereof shall be  
24       paid by the financial institution or entity examined or  
25       investigated.

26               (3) In the case of a financial institution or entity  
27       organized under the law of a state other than this state or a

1 financial institution or entity organized under the law of this state  
2 but which maintains an office in another state or states, travel  
3 expenses involved in conducting an examination or investigation may  
4 also be billed to the financial institution or entity, if the  
5 examination or investigation involves travel outside this state.

6       Sec. 8. (1) If a financial institution or entity fails to  
7 pay an annual assessment, special assessment, examination fee,  
8 examination cost, investigation fee, investigation cost, or travel  
9 expense by a date specified by the Department of Banking and Finance,  
10 which shall be not less than thirty days from the date of billing,  
11 the department may, following notice and opportunity for hearing  
12 pursuant to the Administrative Procedure Act, impose a fine in  
13 accordance with section 8-1,134 for each day the financial  
14 institution or entity is in arrears.

15       (2) If the financial institution or entity is in arrears  
16 for sixty days or more, the department may, in addition to any fine  
17 imposed under this section, following notice and opportunity for  
18 hearing pursuant to the Administrative Procedure Act, suspend or  
19 revoke the charter or license of any financial institution or entity  
20 or the license or authority of any person responsible for such  
21 failure.

22       (3) The director may, in his or her discretion and for good  
23 cause shown, permit the payment of any annual assessment, special  
24 assessment, examination fee, examination cost, investigation fee,  
25 investigation cost, travel expense, or fine, in installments.

26       Sec. 9. Section 8-915, Reissue Revised Statutes of Nebraska,  
27 is amended to read:

1           8-915. The director may make examinations of any bank  
2 holding company with one or more state-chartered bank subsidiaries and  
3 each state-chartered bank subsidiary thereof, the cost of which shall  
4 be assessed, in the manner set forth in ~~section 8-601~~, sections 6  
5 and 7 of this act, against and paid for by such bank holding company.  
6 The director may accept reports of examination made by the Federal  
7 Reserve Board, the Comptroller of the Currency, the Federal Deposit  
8 Insurance Corporation, or a foreign state agency in lieu of making an  
9 examination by the department. The director may provide reports of  
10 examination conducted by the department or other confidential  
11 information to any of such regulatory entities. The director may  
12 contract with any of such regulatory entities to conduct and pay for  
13 such an examination for the department. The director may contract with  
14 any of such regulatory entities to conduct and receive payment for  
15 such an examination for any of such regulatory entities. The director  
16 may enter into cooperative agreements with any or all of such  
17 regulatory entities to foster the purposes of the Nebraska Bank  
18 Holding Company Act of 1995.

19           Sec. 10. Section 8-2107, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           8-2107. (1) The director may make such examinations of any  
22 branch established and maintained in this state by an out-of-state  
23 state chartered bank as the director may deem necessary to determine  
24 whether the branch is being operated in compliance with the laws of  
25 this state and in accordance with safe and sound banking practices.

26           (2) The director may prescribe requirements for periodic  
27 reports regarding any out-of-state bank that operates a branch in

1 Nebraska pursuant to the Interstate Branching By Merger Act of 1997.  
2 Any reporting requirements prescribed by the director under this  
3 subsection shall be consistent with the reporting requirements  
4 applicable to Nebraska state banks and appropriate for the purpose of  
5 enabling the director to carry out his or her responsibilities under  
6 the act.

7 (3) The director may enter into cooperative, coordinating,  
8 and information-sharing agreements with any other bank supervisory  
9 agencies or any organization affiliated with or representing one or  
10 more bank supervisory agencies with respect to the periodic  
11 examination or other supervision of any branch in Nebraska of an  
12 out-of-state state chartered bank or any branch of a Nebraska state  
13 chartered bank in a host state, and the director may accept such  
14 reports of examination and reports of investigation in lieu of  
15 conducting his or her own examinations or investigations.

16 (4) The director may enter into contracts with any bank  
17 supervisory agencies that have concurrent jurisdiction over a Nebraska  
18 state chartered bank or an out-of-state state chartered bank operating  
19 a branch in this state to engage the services of such agencies'  
20 examiners or to provide the services of department examiners to such  
21 agency.

22 (5) The director may enter into joint examinations or joint  
23 enforcement actions with other bank supervisory agencies having  
24 concurrent jurisdiction over any branch in Nebraska of an out-of-state  
25 state chartered bank or any branch of a Nebraska state chartered bank  
26 in any host state. The director may, at any time, take such actions  
27 independently if he or she deems such actions to be necessary or

1 appropriate to carry out his or her responsibilities under the act or  
2 to ensure compliance with the laws of this state. In the case of an  
3 out-of-state state chartered bank, the director shall recognize the  
4 exclusive authority of the home state regulator over corporate  
5 government matters and the primary responsibility of the home state  
6 regulator with respect to safety and soundness matters.

7 (6) The cost of any examination conducted under this section  
8 shall be assessed against such out-of-state state chartered bank in  
9 the manner set forth in ~~section 8-601~~ sections 6 and 7 of this act  
10 and paid for by such out-of-state state chartered bank.

11 Sec. 11. Section 8-2312, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 8-2312. (1) The director may examine any branch trust office  
14 or representative trust office established and maintained in this  
15 state by any out-of-state state trust company as he or she deems  
16 necessary to determine whether the branch trust office or  
17 representative trust office is being operated in compliance with  
18 Nebraska law and in accordance with safe and sound practices.

19 (2) The director may prescribe requirements for periodic  
20 reports by an out-of-state trust company that operates branch trust  
21 offices or representative trust offices pursuant to the Interstate  
22 Trust Company Office Act. Any such reporting requirements shall be  
23 consistent with the reporting requirements applicable to Nebraska  
24 trust companies and appropriate for the purpose of enabling the  
25 director to carry out his or her responsibilities under the act.

26 (3) The director may enter into cooperative, coordinating,  
27 and information-sharing agreements with any other trust company

1 supervisory agency that has concurrent jurisdiction over a Nebraska  
2 state-chartered trust company or an out-of-state state trust company  
3 operating a branch trust office or representative trust office in this  
4 state to engage the services of such supervisory agency's examiners or  
5 to provide the services of department examiners to such supervisory  
6 agency.

7 (4) The director may enter into joint examinations or joint  
8 enforcement actions with other trust company supervisory agencies  
9 having concurrent jurisdiction over any branch trust office or  
10 representative trust office of an out-of-state state trust company or  
11 any branch trust office or representative trust office of a Nebraska  
12 state-chartered trust company in any host state. The director may, at  
13 any time, take such actions independently if he or she deems such  
14 actions to be necessary or appropriate to carry out his or her  
15 responsibilities under the act or to ensure compliance with Nebraska  
16 law. In the case of an out-of-state state trust company, the director  
17 shall recognize the exclusive jurisdiction of the home state regulator  
18 over corporate government matters and the primary responsibility of  
19 the home state regulator with respect to safety and soundness matters.

20 (5) The cost of any examination conducted under this section  
21 shall be assessed against the out-of-state state trust company in the  
22 manner set forth in ~~section 8-601~~ sections 6 and 7 of this act and  
23 paid for by the out-of-state state trust company.

24 Sec. 12. Section 8-2504, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26 8-2504. (1) The Department of Banking and Finance may order  
27 any person to cease and desist whenever the Director of Banking and

1 Finance determines that such person has violated section 8-2501 or  
2 8-2502. Upon entry of a cease and desist order, the director shall  
3 promptly notify the affected person that such order has been entered  
4 and provide opportunity for hearing in accordance with the  
5 Administrative Procedure Act.

6 (2) If a person violates section 8-2501 or 8-2502 after  
7 receiving such cease and desist order, the director may, following  
8 notice and opportunity for hearing in accordance with the  
9 Administrative Procedure Act, impose a fine of up to one thousand  
10 dollars for each violation, plus the costs of investigation. Each  
11 instance in which a violation of section 8-2501 or 8-2502 takes place  
12 after receiving a cease and desist order constitutes a separate  
13 violation.

14 (3) The director shall remit all fines collected under this  
15 section to the State Treasurer for distribution in accordance with  
16 Article VII, section 5, of the Constitution of Nebraska. All costs  
17 collected shall be remitted to the Financial Institution Assessment  
18 Cash Fund. ~~pursuant to sections 8-601 and 8-602.~~

19 (4) This section does not affect the availability of any  
20 remedies otherwise available to a financial institution.

21 Sec. 13. Section 21-17,112, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 21-17,112. (1) A federal credit union organized under the  
24 Federal Credit Union Act, 12 U.S.C. 1753 et seq., and meeting all the  
25 requirements to become a state credit union organized under the Credit  
26 Union Act may, with the approval of the department and in compliance  
27 with the applicable law under which it was organized, be converted

1 into a state credit union organized under the Credit Union Act. The  
2 required articles of association may be executed by a majority of the  
3 board of directors of the converting credit union and presented to the  
4 department for appropriate examination and approval. A majority of the  
5 directors, after executing the articles of association in duplicate,  
6 may execute all other papers, including the adoption of bylaws for the  
7 general government of the credit union consistent with the Credit  
8 Union Act, and do whatever may be required to complete its conversion.

9 (2) The board of directors of the converting credit union  
10 may continue to be directors of the credit union. If the director  
11 approves the articles of association as presented by the board of  
12 directors, the director shall notify the board of directors of his or  
13 her decision and shall immediately issue a certificate of approval  
14 attached to the duplicate articles of association and return it to the  
15 credit union. The certificate shall indicate that the laws of this  
16 state have been complied with and that the credit union and all its  
17 members, officials, and employees shall have the same rights, powers,  
18 and privileges and shall be subject to the same duties, liabilities,  
19 and obligations in all respects, as shall be applicable to credit  
20 unions originally organized under the Credit Union Act.

21 (3) The approval of the department shall be based on an  
22 examination of the credit union and the proceedings had by its board  
23 of directors and members with respect to conversion. A conversion  
24 shall not be made to defeat or defraud any of the creditors of the  
25 credit union. The expenses of an examination, which shall be computed  
26 in accordance with ~~section 8-601~~, sections 6 and 7 of this act,  
27 shall be paid by the credit union.

1           (4) When the conversion becomes effective, all property of  
2     the converted credit union, including all its right, title, and  
3     interest in and to all property of whatsoever kind, whether real,  
4     personal, or mixed, and things in action, and every right, privilege,  
5     interest, and asset of any conceivable value or benefit then existing,  
6     belonging, or pertaining to it, or which would inure to it, shall  
7     immediately by act of law and without any conveyance or transfer, and  
8     without any further act or deed, be vested in and remain the property  
9     of the converted credit union, which shall have, hold, and enjoy the  
10    property in its own right as fully and to the same extent as the  
11    property was previously possessed, held, and enjoyed by it. The  
12    converted credit union shall be deemed to be a continuation of the  
13    same entity. All the rights, obligations, and relations of the credit  
14    union to or in respect to any person, estate, creditor, member,  
15    trustee, or beneficiary of any trust or fiduciary function shall  
16    remain unimpaired. The credit union shall continue to hold all the  
17    rights, obligations, relations, and trusts, and the duties and  
18    liabilities connected therewith, and shall execute and perform every  
19    trust and relation in the same manner as if it had after the  
20    conversion assumed the trust or relation and obligation and  
21    liabilities connected with the trust or relation.

22           Sec. 14. Section 45-347, Reissue Revised Statutes of  
23     Nebraska, is amended to read:

24           45-347. All money collected under the authority of the  
25     Nebraska Installment Sales Act shall be remitted to the State  
26     Treasurer for credit to the Financial Institution Assessment Cash  
27     Fund. ~~pursuant to sections 8-601 and 8-602.~~

1           Sec. 15. Section 45-351, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           45-351. (1) The Department of Banking and Finance shall be  
4 charged with the duty of inspecting the business, records, and  
5 accounts of all persons who engage in the business of a sales finance  
6 company subject to the Nebraska Installment Sales Act. The director  
7 shall have the power to appoint examiners who shall, under his or her  
8 direction, investigate the installment contracts and business and  
9 examine the books and records of licensees when the director shall so  
10 determine. Such examinations shall not be conducted more often than  
11 annually except as provided in subsection (2) of this section.

12           (2) The director or his or her duly authorized  
13 representative shall have the power to make such investigations as he  
14 or she shall deem necessary, and to the extent necessary for this  
15 purpose, he or she may examine such licensee or any other person and  
16 shall have the power to compel the production of all relevant books,  
17 records, accounts, and documents.

18           (3) The expenses of the director incurred in the examination  
19 of the books and records of licensees, ~~including the expenses of~~  
20 ~~travel incurred in the examination of books and records of licensees~~  
21 ~~located outside Nebraska,~~ shall be charged to the licensees ~~so~~  
22 ~~examined by the director as soon as reasonably possible. Each~~  
23 ~~licensee shall be billed by the director for the amount so charged to~~  
24 ~~such licensee. If such charge is not paid within thirty days after~~  
25 ~~the mailing of such bill, the license of such licensee may be~~  
26 ~~suspended or revoked. as set forth in sections 6 and 7 of this act.~~

27 The director may charge the costs of an investigation of a

1 nonlicensed person to such person, and such costs shall be paid  
2 within thirty days after receipt of billing.

3 (4) Upon receipt by a licensee of a notice of investigation  
4 or inquiry request for information from the department, the licensee  
5 shall respond within twenty-one calendar days. Each day a licensee  
6 fails to respond as required by this subsection shall constitute a  
7 separate violation.

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

19 (6) If a person fails to pay an administrative fine and the  
20 costs of investigation ordered pursuant to subsection (5) of this  
21 section, a lien in the amount of such fine and costs may be imposed  
22 upon all assets and property of such person in this state and may be  
23 recovered in a civil action by the director. The lien shall attach to  
24 the real property of such person when notice of the lien is filed and  
25 indexed against the real property in the office of the register of  
26 deeds in the county where the real property is located. The lien shall  
27 attach to any other property of such person when notice of the lien is

1 filed against the property in the manner prescribed by law. Failure of  
2 the person to pay such fine and costs shall constitute a separate  
3 violation of the Nebraska Installment Sales Act.

4 Sec. 16. Section 45-710, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 45-710. (1) The director may examine documents and records  
7 maintained by a licensee. The director may investigate complaints  
8 about a licensee. The director may investigate reports of alleged  
9 violations of the Mortgage Bankers Registration and Licensing Act or  
10 any rule, regulation, or order of the director under the act.

11 (2) Upon receipt by a licensee of the director's notice of  
12 investigation or inquiry request for information, the licensee shall  
13 respond within twenty-one calendar days. Each day beyond that time a  
14 licensee fails to respond as required by this subsection shall  
15 constitute a separate violation of the Mortgage Bankers Registration  
16 and Licensing Act. This subsection shall not be construed to require  
17 the director to send a notice of investigation to a licensee or any  
18 person.

19 (3) In conducting an examination under this section, the  
20 director may rely on reports made by the licensee which have been  
21 prepared within the preceding twelve months for the following federal  
22 agencies or federally related entities:

23 (a) The United States Department of Housing and Urban  
24 Development;

25 (b) The Federal Housing Administration;

26 (c) The Federal National Mortgage Association;

27 (d) The Government National Mortgage Association;

1 (e) The Federal Home Loan Mortgage Corporation; or

2 (f) The United States Department of Veterans Affairs.

3 (4) If the director receives a complaint or other  
4 information concerning noncompliance with the Mortgage Bankers  
5 Registration and Licensing Act by an exempt person, the director shall  
6 inform the agency having supervisory authority over the exempt person  
7 of the complaint.

8 (5) The total charge for an examination or investigation  
9 shall be paid by the licensee ~~to the director within thirty days~~  
10 ~~after the director has requested payment. The amount of the fee shall~~  
11 ~~be based on the actual cost of the examination, including travel~~  
12 ~~expenses, as determined by the director. The director may adopt and~~  
13 ~~promulgate rules and regulations which provide for a charge for late~~  
14 ~~payment of the fee not to exceed fifty dollars per day. as set~~  
15 forth in sections 6 and 7 of this act.

16 (6) Examination reports shall not be deemed public records  
17 and may be withheld from the public pursuant to section 84-712.05.

18 (7) Complaint files shall be deemed public records.

19 Sec. 17. Section 45-716, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 45-716. (1) All fees, charges, and costs collected by the  
22 department pursuant to the Mortgage Bankers Registration and Licensing  
23 Act shall be remitted to the State Treasurer for credit to the  
24 Financial Institution Assessment Cash Fund. ~~pursuant to sections~~  
25 ~~8-601 and 8-602.~~

26 (2) All fines collected by the department pursuant to the  
27 Mortgage Bankers Registration and Licensing Act shall be remitted to

1 the State Treasurer for credit to the permanent school fund.

2 Sec. 18. Section 45-920, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 45-920. The director shall examine the books, accounts, and  
5 records of each licensee no more often than annually, except as  
6 provided in section 45-921. The costs of the director incurred in an  
7 examination shall be paid by the licensee as set forth in sections 6  
8 and 7 of this act.

9 Sec. 19. Section 45-927, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 45-927. All fees, charges, costs, and fines collected by the  
12 director under the Delayed Deposit Services Licensing Act shall be  
13 remitted to the State Treasurer. Fees, charges, and costs shall be  
14 credited to the Financial Institution Assessment Cash Fund ~~pursuant~~  
15 ~~to sections 8-601 and 8-602,~~ and fines shall be credited to the  
16 permanent school fund.

17 Sec. 20. Section 45-1014, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 45-1014. All original license fees and annual renewal fees  
20 shall be collected by the department and remitted to the State  
21 Treasurer for credit to the Financial Institution Assessment Cash  
22 Fund. ~~pursuant to sections 8-601 and 8-602.~~ All investigation and  
23 examination fees, charges, and costs collected by or paid to the  
24 department shall likewise be remitted to the State Treasurer for  
25 credit to the Financial Institution Assessment Cash Fund pursuant to  
26 sections 8-601 and 8-602 and shall be available for the uses and  
27 purposes of the fund.

1           Sec. 21. Section 45-1017, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           45-1017. (1) The department shall inspect the business,  
4 records, and accounts of all persons that lend money subject to the  
5 Nebraska Installment Loan Act. The department may examine or  
6 investigate complaints about or reports of alleged violations by a  
7 licensee made to the department. The department may inspect and  
8 investigate the business, records, and accounts of all persons in the  
9 public business of lending money contrary to the act and who do not  
10 have a license under the act. The director may appoint examiners who  
11 shall, under his or her direction, investigate the loans and business  
12 and examine the books and records of licensees annually and more often  
13 as determined by the director. The expenses incurred by the department  
14 in examining the books and records of licensees and in administering  
15 the act during each calendar year shall be ~~charged annually to each~~  
16 ~~licensee by the department as soon as reasonably possible after the~~  
17 ~~examination. Such expenses shall be charged in proportion to the~~  
18 ~~number of days required to examine and supervise the books and~~  
19 ~~records of the respective licensees. paid by the licensee as set~~  
20 ~~forth in sections 6 and 7 of this act.~~

21           (2) Upon receipt by a licensee of a notice of investigation  
22 or inquiry request for information from the department, the licensee  
23 shall respond within twenty-one calendar days. Each day a licensee  
24 fails to respond as required by this subsection constitutes a separate  
25 violation.

26           (3) If the director finds, after notice and opportunity for  
27 hearing in accordance with the Administrative Procedure Act, that any

1 person has willfully and intentionally violated any provision of the  
2 Nebraska Installment Loan Act, any rule or regulation adopted and  
3 promulgated under the act, or any order issued under the act, the  
4 director may order such person to pay (a) an administrative fine of  
5 not more than one thousand dollars for each separate violation and (b)  
6 the costs of investigation. All fines collected by the department  
7 pursuant to this subsection shall be remitted to the State Treasurer  
8 for credit to the permanent school fund.

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

21 Sec. 22. Original sections 8-108, 8-915, 8-2107, 21-17,112,  
22 45-347, 45-351, 45-710, 45-716, 45-920, 45-927, 45-1014, and 45-1017,  
23 Reissue Revised Statutes of Nebraska, and sections 8-601, 8-602,  
24 8-2312, and 8-2504, Revised Statutes Cumulative Supplement, 2006, are  
25 repealed.

26 Sec. 23. The following section is outright repealed: Section  
27 21-1739, Reissue Revised Statutes of Nebraska.

