

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 156**

Introduced By: Langemeier, 23;  
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 8-149  
2 and 8-1,123, Reissue Revised Statutes of Nebraska, and  
3 section 8-124, Revised Statutes Cumulative Supplement, 2006;  
4 to change provisions relating to bank boards of directors,  
5 bank investments in bank premises, and premiums on demand  
6 deposits; to repeal the original sections; and to declare an  
7 emergency.

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

1           Section 1. Section 8-124, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           8-124. The affairs and business of any bank chartered after  
4 September 2, 1973, or which has had transfer of twenty-five percent or  
5 more of voting shares after September 2, 1973, shall be managed or  
6 controlled by a board of directors of not less than five and not more  
7 than fifteen members, who shall be selected at such time and in such  
8 manner as may be provided by the articles of incorporation of the  
9 corporation and in conformity with the Nebraska Banking Act. Any bank  
10 chartered before September 2, 1973, may have a minimum of three  
11 directors and not more than fifteen directors so long as it does not  
12 have transfer of twenty-five percent or more voting shares, with such  
13 directors selected as provided in this section. Any vacancy on the  
14 board shall be filled within ninety days by appointment by the  
15 remaining directors, and any director so appointed shall serve until  
16 the next election of directors, except that if the vacancy created  
17 leaves a minimum of five directors, appointment shall be optional. The  
18 board shall ~~select from among its number the president and secretary~~  
19 ~~and shall select a cashier.~~ appoint a secretary and, from among its  
20 own members, select a president. Such officers shall hold their  
21 office at the pleasure of the board of directors. The board of  
22 directors shall hold at least one regular meeting in each calendar  
23 quarter, and at one of such meetings in each year a thorough  
24 examination of the books, records, funds, and securities held by the  
25 bank shall be made and recorded in detail upon its record book. In  
26 lieu of the one annual examination required, the board of directors  
27 may accept one annual audit by an accountant or accounting firm

1 approved by the Director of Banking and Finance.

2 Sec. 2. Section 8-149, Reissue Revised Statutes of Nebraska,  
3 is amended to read:

4 8-149. (1) No bank shall, without the written approval of  
5 the director, ~~(1)~~ (a) invest in bank premises, or in the stock,  
6 bonds, debentures, or other such obligations of any corporation  
7 holding the premises of such bank, or ~~(2)~~ (b) make loans to or  
8 upon the security of the stock of any such corporation, if the  
9 aggregate of all such investments and loans will exceed the paid-up  
10 capital stock, surplus, and capital notes and debentures of such bank.  
11 Stock held as authorized by this section shall not be subject to the  
12 provisions of section 8-148.

13 (2) Investments by a bank in bank premises necessary for  
14 the transaction of its business shall include, but not be limited to:

15 (a) Premises that are owned and occupied, or to be occupied  
16 if under construction, by the bank, its branches, or its consolidated  
17 subsidiaries;

18 (b) Real estate acquired and intended, in good faith, for  
19 use in future expansions;

20 (c) Parking facilities that are used by customers or  
21 employees of the bank, its branches, or its consolidated  
22 subsidiaries;

23 (d) Residential property for the use of officers or  
24 employees of the bank, its branches, or its consolidated subsidiaries  
25 who are:

26 (i) Located in remote areas where suitable housing at a  
27 reasonable price is not readily available; or

1           (ii) Temporarily assigned to a foreign country, including  
2           foreign nationals temporarily assigned to the United States; and

3           (e) Property for the use of officers, employees, or  
4           customers of the bank, its branches, and its consolidated subsidiaries  
5           or for the temporary lodging of such persons in areas where suitable  
6           commercial lodging is not readily available, if the purchase and  
7           operation of the property qualifies as a deductible business expense  
8           for federal tax purposes.

9           Sec. 3. Section 8-1,123, Reissue Revised Statutes of  
10          Nebraska, is amended to read:

11           8-1,123. (1) No institution under the supervision of the  
12           department shall, directly or indirectly, by any device whatsoever,  
13           pay any interest on any demand deposit account. Any premium that is  
14           not, directly or indirectly, related to or dependent upon the balance  
15           in a demand deposit account and the duration of the demand deposit  
16           account balance shall not be considered the payment of interest on a  
17           demand deposit account and shall not be subject to the limitations of  
18           subsection (2) of this section.

19           (2) For purposes of this section, a premium, whether in the  
20           form of merchandise, credit, or cash, given by an institution under  
21           the supervision of the department to a depositor will be considered  
22           an advertising or promotional expense and not the payment of interest  
23           if (a) the premium is given to a depositor only at the time of the  
24           opening of a new demand deposit account or an addition to an existing  
25           demand deposit account, (b) no more than two premiums per demand  
26           deposit account are given within a twelve-month period, and (c) the  
27           value of the premium or, in the case of articles of merchandise, the

1 total cost of the articles of merchandise, including shipping,  
2 warehousing, packaging, and handling costs, does not exceed ten  
3 dollars for deposits of less than five thousand dollars or does not  
4 exceed twenty dollars for deposits of five thousand dollars or more.  
5 The costs of premiums shall not be averaged. The institution shall  
6 retain sufficient supporting documentation showing that the total  
7 cost of a premium, including shipping, warehousing, packaging, and  
8 handling costs, does not exceed the applicable limitations under this  
9 subsection and that no portion of the total cost of any premium has  
10 been attributed to development, advertising, promotional, or other  
11 expenses. The supporting documents shall be retained by the  
12 institution for at least two years after the date of issuing the  
13 premium and shall be made available to the department upon request.  
14 The institution shall not, directly or indirectly, solicit or promote  
15 demand deposit accounts from customers on the basis that the funds  
16 will be divided into more than one demand deposit account by the  
17 institution for the purpose of providing more than two premiums per  
18 demand deposit account within a twelve-month period. under the  
19 supervision of the Department of Banking and Finance and which  
20 accepts savings deposits shall, for the opening or increasing of any  
21 account, give for any one such opening or any one such increase any  
22 giveaway that has a monetary value in excess of that designated by  
23 the Director of Banking and Finance. The monetary value of any  
24 giveaway so given shall be the cost thereof to the institution and  
25 the institution shall keep in its records for a period of at least  
26 two years suitable evidence of such cost. If the giveaway is  
27 purchased or obtained by the institution together with, in connection

1 ~~with, or at the same time as another item or other items from the~~  
2 ~~same supplier, not identical therewith, such value shall be deemed to~~  
3 ~~be the then current regular selling price or charge of the supplier~~  
4 ~~on separate sales or dispositions thereof in the quantity included,~~  
5 ~~and the institution shall in such case obtain, and keep in its~~  
6 ~~records for a period of at least two years, a signed statement by~~  
7 ~~such supplier of such regular selling price or charge. As used in the~~  
8 ~~foregoing provisions of this section, the term give means to give, to~~  
9 ~~sell or dispose of for less than full monetary value as hereinbefore~~  
10 ~~defined, or with any agreement or undertaking, contingent or~~  
11 ~~otherwise, for repurchase or redemption, whether total or partial, or~~  
12 ~~to offer, promise, or agree to do any of the foregoing; the term~~  
13 ~~giveaway means any money, property, service, or other thing of value,~~  
14 ~~whether tangible or intangible.~~

15           Sec. 4. Original sections 8-149 and 8-1,123, Reissue Revised  
16 Statutes of Nebraska, and section 8-124, Revised Statutes Cumulative  
17 Supplement, 2006, are repealed.

18           Sec. 5. Since an emergency exists, this act takes effect  
19 when passed and approved according to law.