

LEGISLATIVE BILL 963

Approved by the Governor April 6, 2012

Introduced by Pahls, 31; McCoy, 39; Pirsch, 4.

FOR AN ACT relating to banking and finance; to amend sections 8-141, 8-183.05, 8-212, 8-213, 8-214, 8-215, 8-230, 8-1901, 8-2101, 8-2103, 8-2104, 8-2107, 8-2108, and 8-2403, Reissue Revised Statutes of Nebraska, sections 8-157, 8-209, 8-2102, and 8-2106, Revised Statutes Cumulative Supplement, 2010, and sections 8-1,140, 8-355, 8-602, and 21-17,115, Revised Statutes Supplement, 2011; to change provisions relating to loan limits and restrictions; to change provisions relating to branch banking, the pledging of securities by trust companies, and fees charged by the Department of Banking and Finance; to revise powers of state-chartered banks, building and loan associations, and credit unions; to change provisions relating to names of financial institutions; to rename the Interstate Branching By Merger Act of 1997; to change and eliminate provisions relating to interstate branch banking and mergers; to harmonize provisions; to repeal the original sections; to outright repeal section 8-2105, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 8-141, Reissue Revised Statutes of Nebraska, is amended to read:

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

(a) Obligations of any person, partnership, limited liability company, 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 or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(b) Obligations of any person, partnership, limited liability company, 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 or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(c) Obligations of any person, partnership, limited liability company, 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 or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus; or

(d) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, in an amount at least equal to the face amount of the note or notes secured by such collateral, shall be subject under this

section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired 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 and surplus or such unimpaired capital and unimpaired 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 means an obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation, but does not include municipal revenue bonds and sanitary and improvement district warrants which are 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 or such unimpaired capital and unimpaired 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 or such unimpaired capital and unimpaired 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 or such unimpaired capital and unimpaired 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, partnerships shall not be treated as separate entities. Each individual shall be charged with his or her personal debt plus the debt of every partnership in which he or she is a partner, except that for purposes of this section (a) an individual shall only be charged with the debt of any limited partnership in which he or she is a partner to the extent that the terms of the limited partnership agreement provide that such individual is to be held liable for the debts or actions of such limited partnership and (b) no individual shall be charged with the debt of any general partnership in which he or she is a partner beyond the extent to which (i) his or her liability for such partnership debt is limited by the terms of a contract or other written agreement between the bank and such individual and (ii) any personal debt of such individual is incurred for the use and benefit of such general 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.

(4) Any bank may purchase or take an interest in life insurance contracts for any purpose incidental to the business of banking. A bank's purchase of any life insurance contract, as measured by its cash surrender value, from any one life insurance company shall not at any time exceed twenty-five percent of the paid-up capital, surplus, and capital notes and debentures of such bank or fifteen percent of the ~~paid-up capital, surplus, undivided profits, and capital notes and debentures~~ unimpaired capital and unimpaired surplus of such bank, whichever is greater. A bank's purchase of life insurance contracts, as measured by their cash surrender values, in the aggregate from all life insurance companies shall not at any time exceed thirty-five percent of the paid-up capital, surplus, undivided profits, and capital notes and debentures of such bank. The limitations under this subsection on a bank's purchase of life insurance contracts, in the aggregate

from all life insurance companies, shall not apply to any contract purchased prior to April 5, 1994.

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

~~(5)~~ (6) For purposes of this section: ~~unimpaired~~

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

(b) Loan includes:

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

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

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

(c) Unimpaired capital and unimpaired surplus means ~~(a)~~ (i) the bank's tier 1 and tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), and ~~(b)~~ (ii) the balance of the bank's allowance for loan and lease losses not included in the bank's tier 2 capital for purposes of the calculation of risk-based capital by the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3). Notwithstanding the provisions of section 8-1,140, the department may, by order, deny or limit the inclusion of goodwill in the calculation of a bank's unimpaired capital and unimpaired surplus or in the calculation of a bank's paid-up capital and surplus.

Sec. 2. Section 8-157, Revised Statutes Cumulative Supplement, 2010, is amended to read:

8-157 (1) Except as otherwise provided in this section and section ~~8-2104, 8-2103,~~ the general business of every bank shall be transacted at the place of business specified in its charter.

(2)(a)(i) Except as provided in subdivision (2)(a)(ii) of this section, with the approval of the director, any bank located in this state may establish and maintain in this state an unlimited number of branches at which all banking transactions allowed by law may be made.

(ii) Any bank that owns or controls more than twenty-two percent of the total deposits in Nebraska, as described in subdivision (2)(c) of section 8-910 and computed in accordance with subsection (3) of section 8-910, or any bank that is a subsidiary of a bank holding company that owns or controls more than twenty-two percent of the total deposits in Nebraska, as described in subdivision (2)(c) of section 8-910 and computed in accordance with subsection (3) of section 8-910, shall not establish and maintain an unlimited number of branches as provided in subdivision (2)(a)(i) of this section. With the approval of the director, a bank as described in this subdivision may establish and maintain in the county in which such bank is located an unlimited number of branches at which all banking transactions allowed by law may be made, except that if such bank is located in a Class I or Class III county, such bank may establish and maintain in Class I and Class III counties an unlimited number of branches at which all banking transactions allowed by law may be made.

(iii) Any bank which establishes and maintains branches pursuant to subdivision (2)(a)(i) of this section and which subsequently becomes a bank as described in subdivision (2)(a)(ii) of this section shall not be subject to the limitations as to location of branches contained in subdivision (2)(a)(ii) of this section with regard to any such established branch and shall continue to be entitled to maintain any such established branch as if such bank had not become a bank as described in subdivision (2)(a)(ii) of this section.

(b) With the approval of the director, any bank or any branch may establish and maintain a mobile branch at which all banking transactions allowed by law may be made. Such mobile branch may consist of one or more

vehicles which may transact business only within the county in which such bank or such branch is located and within counties in this state which adjoin such county.

(c) For purposes of this subsection:

(i) Class I county means 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 means 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 means 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 means 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 establish and maintain branches acquired pursuant to section 8-1506 or 8-1516. All banking transactions allowed by law may be made at such branches.

(4) With the approval of the director, a bank may acquire the assets and assume the deposits of a branch of another financial institution in Nebraska if the acquired branch is converted to a branch of the acquiring bank. All banking transactions allowed by law may be made at a branch acquired pursuant to this subsection.

(5) With the approval of the director, a bank may establish a branch pursuant to subdivision (6) of section 8-115.01. All banking transactions allowed by law may be made at such branch.

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

(7) A bank which has a main chartered office or an approved branch 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 branch thereof.

(8) A bank which has a main chartered office or approved branch located in the State of Nebraska may, upon notification to the department, establish savings account programs at any elementary or secondary school, whether public or private, that has students who reside in the same city or village as the main chartered office or branch of the bank, or, if the main office of the bank is located in an unincorporated area of a county, at any school that has students who reside in the same unincorporated area. The savings account programs shall be limited to the establishment of individual student accounts and the receipt of deposits for such accounts.

(9) Upon receiving an application for a branch to be established pursuant to subdivision (2)(a) of this section, to establish a mobile branch pursuant to subdivision (2)(b) of this section, to acquire a branch of another financial institution pursuant to subsection (4) of this section, to establish or acquire a branch pursuant to subsection (1) of section 8-2103, or to move the location of an established branch other than a move made pursuant to subdivision (6) of section 8-115.01, the director shall hold a public hearing on the matter if he or she determines, in his or her discretion, that the condition of the applicant bank warrants a hearing. If the director determines that the condition of the bank does not warrant a hearing, the director shall (a) publish a notice of the filing of the application in a newspaper of general circulation in the county where the proposed branch or mobile branch would be located, the expense of which shall be paid by the applicant bank, and (b) give notice of such application to all financial institutions located within the county where the proposed branch or mobile branch would be located and to such other interested parties as the director may determine. The director shall send the notice to financial institutions by first-class mail, postage prepaid, or electronic mail. Electronic mail may be used if the financial institution agrees in advance to receive such notices by electronic mail. A financial institution may designate one office for receipt of any such notice if it has more than one office located within the county where such notice is to be sent or a main office in a county other than the county where such notice is to be sent. If the director receives any substantive objection to the proposed branch or mobile branch within fifteen days after publication of such notice, he or she shall hold a hearing on the application. Notice of a hearing held pursuant to this subsection shall be published for

two consecutive weeks in a newspaper of general circulation in the county where the proposed branch or mobile branch would be located. The date for hearing the application shall not be more than ninety days after the filing of the application and not less than thirty days after the last publication of notice of hearing. The expense of any publication and mailing required by this section shall be paid by the applicant.

Sec. 3. Section 8-183.05, Reissue Revised Statutes of Nebraska, is amended to read:

8-183.05 (1) Upon the issuance of a state bank charter to a converting savings association, the corporate existence of the converting association shall not terminate, but such bank shall be a continuation of the entity so converted and all property of the converted savings association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, immediately, by operation of law and without any conveyance or transfer and without any further act or deed, shall vest in and remain the property of such converted savings association, and the same shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting savings association.

(2) Upon issuance of the charter, the new state bank shall continue to have and succeed to all the rights, obligations, and relations of the converting savings association.

(3) All pending actions and other judicial proceedings to which the converting savings association is a party shall not be abated or discontinued by reason of such conversion but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion had not been made, and such converted savings association may continue the actions in its new corporate name. Any judgment, order, or decree may be rendered for or against the converting savings association theretofore involved in the proceedings.

(4) Nothing in this section shall be construed to authorize a converted savings association to establish branches except as permitted by section 8-157 and the Interstate Branching by and Merger Act, ~~of 1997~~. This subsection shall not be construed to require divestiture of any branches of a savings association in existence at the time of the conversion to a state bank charter.

Sec. 4. Section 8-1,140, Revised Statutes Supplement, 2011, is amended to read:

8-1,140 Notwithstanding any of the other provisions of the Nebraska Banking Act or any other Nebraska statute, any bank incorporated under the laws of this state and organized under the provisions of the act, or under the laws of this state as they existed prior to May 9, 1933, shall directly, or indirectly through a subsidiary or subsidiaries, have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, ~~2011~~, 2012, by a federally chartered bank doing business in Nebraska, including the exercise of all powers and activities that are permitted for a financial subsidiary of a federally chartered bank. Such rights, powers, privileges, benefits, and immunities shall not relieve such bank from payment of state taxes assessed under any applicable laws of this state.

Sec. 5. Section 8-209, Revised Statutes Cumulative Supplement, 2010, is amended to read:

8-209 (1) Any corporation organized to do business as a trust company under the Nebraska Trust Company Act shall make a pledge with the Department of Banking and Finance of approved securities.

(2) The amount of securities required to be pledged shall be based on the market value of trust assets held by the trust company as follows:

(a) Trust companies with trust assets with a market value of less than twenty-five million dollars shall pledge securities in the amount of one hundred thousand dollars in par value;

(b) Trust companies with trust assets with a market value of at least twenty-five million dollars but less than two hundred fifty million dollars shall pledge securities in the amount of two hundred thousand dollars in par value;

(c) Trust companies with trust assets with a market value of at least two hundred fifty million dollars but less than two billion five hundred million dollars shall pledge securities in the amount of three hundred thousand dollars in par value;

(d) Trust companies with trust assets with a market value of at least two billion five hundred million dollars but less than five billion dollars shall pledge securities in the amount of four hundred thousand dollars in par value; and

(e) Trust companies with trust assets with a market value of five billion dollars or more shall pledge securities in the amount of five hundred thousand dollars in par value.

(3) A trust company shall determine the market value of its trust assets at the end of each calendar year. If such valuation shows that the pledge of securities is less than is required by subsection (2) of this section, the trust company shall increase the amount of the securities pledged with the department within sixty days following the end of the calendar year.

(4) 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.

(5) 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, any out-of-state bank authorized by its home state regulator to act in a fiduciary capacity in this state, any federal savings association authorized by the ~~Director~~ of the Office of Thrift Supervision or the Office of the Comptroller of the Currency to act in a fiduciary capacity in this state, any federally chartered trust company, ~~and~~ any out-of-state trust company authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, and any out-of-state entity acting in a fiduciary capacity in this state shall make similar pledges with the department, and all such deposits of national banks held by the department shall be considered as having been lawfully so pledged and subject to the Nebraska Trust Company Act.

Sec. 6. Section 8-212, Reissue Revised Statutes of Nebraska, is amended to read:

8-212 Securities pledged as provided in section 8-209 shall be primarily liable for the obligations of the trust company, state or national bank, federal savings association, federally chartered trust company, ~~or~~ out-of-state trust company authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, or an out-of-state entity acting in a fiduciary capacity in this state, incurred while acting in any fiduciary capacity, 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 ~~trust company~~ financial institution or out-of-state entity until all such trust liabilities have been discharged.

Sec. 7. Section 8-213, Reissue Revised Statutes of Nebraska, is amended to read:

8-213 In the case of national banks and federal savings associations doing business as trust companies, trust companies, federally chartered trust companies, ~~and~~ out-of-state trust companies authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, and out-of-state entities acting in a fiduciary capacity in this state, which upon insolvency are not liquidated by the Department of Banking and Finance, upon the appointment of a receiver, trustee in bankruptcy, or other liquidating agent, the department shall turn over to the receiver, trustee in bankruptcy, or other liquidating agent any securities pledged to it by the national bank, federal savings association, trust company, federally chartered trust company, ~~or~~ out-of-state trust company authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, or any out-of-state entity acting in a fiduciary capacity in this state, upon:

(1) The entry of an order by a court having jurisdiction over a receiver, trustee in bankruptcy, or other liquidating agent of the national bank, federal savings association, trust company, federally chartered trust company, ~~or~~ out-of-state trust company authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, or any out-of-state entity acting in a fiduciary capacity in this state, ordering the department to turn over to a receiver, trustee in bankruptcy, or other liquidating agent the securities pledged to the department; and

(2) The publication of a notice 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 the national bank, federal savings association, trust company, federally chartered trust company, ~~or~~ out-of-state trust company authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, or any out-of-state entity acting in a fiduciary capacity in this state, is located that all claims for the

trust liabilities must be filed with the receiver, trustee 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. In the case of out-of-state trust companies authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, or in the case of any out-of-state entity acting in a fiduciary capacity in this state, an additional notice shall be published in each county in Nebraska where the out-of-state trust company or out-of-state entity maintains an office, does business, or acts in a fiduciary capacity, or maintained an office, conducted business, or acted in a fiduciary capacity, within one year prior to the insolvency.

Sec. 8. Section 8-214, Reissue Revised Statutes of Nebraska, is amended to read:

8-214 Any national bank, federal savings association, federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, which has surrendered its right to exercise such fiduciary powers in this state may have its pledged securities released to it upon furnishing to the Department of Banking and Finance a certificate by its primary financial institution regulator that such ~~national bank, federal savings association, federally chartered trust company,~~ financial institution 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. Any out-of-state entity acting in a fiduciary capacity in this state which has surrendered its right to exercise such fiduciary powers in this state may have its pledged securities released to it upon furnishing to the department such proof as the department may require to show that such out-of-state entity is no longer acting as a fiduciary in this state.

Sec. 9. Section 8-215, Reissue Revised Statutes of Nebraska, is amended to read:

8-215 Any trust company, state or national bank or federal savings association with a trust department, federally chartered trust company, ~~or~~ out-of-state trust company authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, or out-of-state entity acting in a fiduciary capacity in this state, upon liquidating its business and affairs for reasons other than insolvency, may have 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 the trust company, trust department of a state or national bank or federal savings association, ~~or federally chartered trust company, or out-of-state trust company authorized under the Interstate Trust Company Office Act~~ is located that all claims against such securities, whether absolute or contingent, must be filed with the department by a day certain, not less than thirty days after the last publication of such notice. In the case of an out-of-state trust company authorized under the Interstate Trust Company Office Act or otherwise doing business in this state, or in the case of any out-of-state entity acting in a fiduciary capacity in this state, the notice shall be published in each county in Nebraska where the out-of-state trust company or out-of-state entity maintains an office, does business, or acts in a fiduciary capacity, or maintained an office, conducted business, or acted in a fiduciary capacity, within one year prior to the liquidation of its affairs.

Sec. 10. Section 8-230, Reissue Revised Statutes of Nebraska, is amended to read:

8-230 For purposes of the Nebraska Trust Company Act, unless the context otherwise requires:

(1) Agency capacity means a capacity resulting from a ~~trust company~~ an 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;

(2) Branch trust office means an office of a trust company, other than the main or principal office of a trust company, at which a trust company may act in any fiduciary capacity or conduct any activity permitted under the Nebraska Trust Company Act;

(3) Fiduciary capacity means a capacity resulting from a trust ~~company~~ an undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with the undertaking and includes the capacities of trustee, including trustee of a common trust fund, administrator, personal representative, guardian of an estate, conservator, receiver, attorney in fact, and custodian and any other similar capacity;

(4) Representative trust office means an office at which a trust company does not act in any fiduciary capacity or conduct or engage in any activity related to its fiduciary capacities but may otherwise engage in any other activity permitted under the Nebraska Trust Company Act; and

(5) Trust company means any trust company which is incorporated under the laws of this state, any national banking association having its principal office in this state and authorized to conduct a trust company business as defined in the Nebraska Trust Company Act, any bank authorized to conduct a trust company business in a trust department pursuant to sections 8-159 to 8-162, any federal savings association authorized to conduct a trust company business, and any federally chartered trust company.

Sec. 11. Section 8-355, Revised Statutes Supplement, 2011, is amended to read:

8-355 Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute, except as provided in section 8-345.02, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, ~~2011~~, 2012, by a federal savings and loan association doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such association from payment of state taxes assessed under any applicable laws of this state.

Sec. 12. Section 8-602, Revised Statutes Supplement, 2011, is amended to read:

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, articles of association, and bylaws, except credit unions, one hundred dollars, and for credit unions, fifty dollars;

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

(3) For issuing to banks, credit card banks, trust companies, and building and loan associations 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;

(4) 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 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;

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

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

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

(8) For investigating the applications required by sections 8-117, 8-120, 8-331, and 8-2402 and the documents required by section 8-201, 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) sections 8-117, 8-120, and 8-2402 of two thousand five hundred dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201 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 provided in this subdivision;

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

(10) For the handling of pledged securities as provided in sections 8-210 and 8-1006, at the time of the initial deposit of such securities, one dollar and fifty cents for each thousand dollars of securities deposited and

a like amount on or before January 15 each year thereafter. The fees shall be paid by the ~~company, national bank, federal savings association, federally chartered trust company, out-of-state trust company~~ authorized under the Interstate Trust Company Office Act, ~~or state-chartered bank~~ entity pledging the securities;

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

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

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

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

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

(16) 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,~~ or an interstate merger application in which the Nebraska state chartered bank is the resulting bank, five hundred dollars;

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

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

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

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

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

Sec. 13. Section 8-1901, Reissue Revised Statutes of Nebraska, is amended to read:

8-1901 For purposes of sections 8-1901 to 8-1903, unless the context otherwise requires:

(1) Department means the Department of Banking and Finance; and

(2) Financial institution means:

(a) A state-chartered or federally chartered bank, savings bank, building and loan association, savings and loan association, credit union, or trust company, whether chartered by the department, the United States, or a foreign state agency;

(b) A subsidiary of a bank holding company or out-of-state bank holding company; or

(c) A branch of a financial institution described in subdivision (a) or (b) of this subdivision.

Sec. 14. Section 8-2101, Reissue Revised Statutes of Nebraska, is amended to read:

8-2101 Sections 8-2101 to 8-2108 shall be known and may be cited as the Interstate Branching By and Merger Act, ~~of 1997~~.

Sec. 15. Section 8-2102, Revised Statutes Cumulative Supplement, 2010, is amended to read:

8-2102 For purposes of the Interstate Branching By and Merger Act, ~~of 1997~~, unless the context otherwise requires:

(1) Bank means a bank as defined in 12 U.S.C. 1813, as such section existed on ~~March 20, 2008,~~ January 1, 2012;

(2) Department means the Department of Banking and Finance;

(3) Director means the Director of Banking and Finance;

(4) Home state means (a) with respect to a state chartered bank, the state in which the bank is chartered and (b) with respect to a national bank, the state in which the main office of the bank is located;

(5) Home state regulator means, with respect to an out-of-state state chartered bank, the bank supervisory agency of the state in which such bank is chartered;

(6) Host state means a state, other than the home state of a bank, in which the bank maintains, or seeks to establish and maintain, a branch;

(7) Interstate merger transaction means a merger or consolidation of two or more banks, at least one of which is a Nebraska bank and at least one of which is an out-of-state bank, and the conversion of the main office and the branches of any bank involved in such merger or consolidation into branches of the resulting bank;

(8) Nebraska bank means a bank whose home state is Nebraska;

(9) Nebraska state chartered bank means a corporation which is

chartered to conduct a bank in this state pursuant to the Nebraska Banking Act;

(10) Out-of-state bank means a bank whose home state is a state other than Nebraska;

(11) Out-of-state state chartered bank means a bank chartered under the laws of any state other than Nebraska;

(12) Resulting bank means a bank that has resulted from an interstate merger transaction under the Interstate Branching By and Merger Act; and of 1997; and

(13) State means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

Sec. 16. Section 8-2103, Reissue Revised Statutes of Nebraska, is amended to read:

8-2103 (1) A Nebraska state chartered bank may establish and maintain a branch or acquire a branch in any other state with the prior approval of the director and upon payment of the branch application fee set forth in section 8-602.

~~(1)~~ (2) A Nebraska state chartered bank may engage in an interstate merger transaction in any other state in which it is the resulting bank and establish one or more branches in any such other state in accordance with the laws of the other state and with the prior approval of the director and upon payment of the merger and branch application fees set forth in section 8-602.

~~(2)~~ (3) A Nebraska state chartered bank may conduct any activities at any branch outside the State of Nebraska that are permissible for a bank chartered by under the laws of the host state where the branch is located or of the United States.

Sec. 17. Section 8-2104, Reissue Revised Statutes of Nebraska, is amended to read:

8-2104 (1) A Nebraska bank which has been in existence for five years or more may be acquired by and engage in an interstate merger transaction with any out-of-state bank. An out-of-state bank may establish and maintain a branch or acquire a branch in this state upon compliance with any applicable requirements of the Business Corporation Act for registration or qualification to do business in this state.

(2) A bank which is acquired and converted to a branch of an An out-of-state bank pursuant to may engage in an interstate merger transaction shall have all the powers and be subject to the same limitations as any other branch located in this state. in this state in which it is the resulting bank and establish one or more branches in this state. The out-of-state bank shall notify the department of the proposed interstate merger transaction involving a Nebraska state chartered bank within fifteen days after the date it files an application for an interstate merger transaction with its primary regulator.

~~(3) An out-of-state bank that has acquired a Nebraska bank under the Interstate Branching By Merger Act of 1997 may maintain and operate the branches of a Nebraska bank with which the out-of-state bank engaged in an interstate merger transaction, and may establish or acquire additional branches in this state, to the same extent that any Nebraska bank may establish or acquire a branch in Nebraska.~~

(3) An out-of-state bank may conduct only those activities at its branch or branches in this state that are permissible under the laws of Nebraska or of the United States, except that an out-of-state bank with trust powers may exercise all trust powers in this state as a Nebraska bank with trust powers subject to the requirements of section 8-209.

(4) All branches of an out-of-state bank shall comply with all applicable Nebraska laws and regulations in the conduct of their business in this state to the maximum extent authorized by federal law.

Sec. 18. Section 8-2106, Revised Statutes Cumulative Supplement, 2010, is amended to read:

8-2106 An interstate merger transaction shall not be permitted if, upon consummation of such transaction, the resulting bank or its bank holding company would have direct or indirect ownership or control of deposits in Nebraska in excess of ~~fourteen~~ twenty-two percent of the total deposits of all banks in Nebraska, plus the total deposits, savings accounts, passbook accounts, and share accounts in savings and loan associations and building and loan associations in Nebraska, as determined by the director on the basis of the most recent ~~calendar-year-end~~ midyear reports, except as provided in subsection (4), (5), or (6) of section 8-910.

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

8-2107 ~~(1) The director may make such examinations of any branch~~

established and maintained in this state by an out-of-state state chartered bank as the director may deem necessary to determine whether the branch is being operated in compliance with the laws of this state and in accordance with safe and sound banking practices.

~~(2) The director may prescribe requirements for periodic reports regarding any out-of-state bank that operates a branch in Nebraska pursuant to the Interstate Branching By Merger Act of 1997. Any reporting requirements prescribed by the director under this subsection shall be consistent with the reporting requirements applicable to Nebraska state banks and appropriate for the purpose of enabling the director to carry out his or her responsibilities under the act.~~

~~(3) (1) The director may enter into cooperative, coordinating, and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies with respect to the periodic examination or other supervision of any branch in Nebraska of an out-of-state state chartered bank or any branch of a Nebraska state chartered bank in a host state, and the director may accept such reports of examination and reports of investigation in lieu of conducting his or her own examinations or investigations.~~

~~(4) (2) The director may enter into contracts with any bank supervisory agencies that have concurrent jurisdiction over a Nebraska state chartered bank or an out-of-state state chartered bank operating a branch in this state to engage the services of such agencies' examiners or to provide the services of department examiners to such agency.~~

~~(5) (3) The director may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any branch in Nebraska of an out-of-state state chartered bank or any branch of a Nebraska state chartered bank in any host state. The director may, at any time, take such actions independently if he or she deems such actions to be necessary or appropriate to carry out his or her responsibilities under the act Interstate Branching and Merger Act or to ensure compliance with the laws of this state. In the case of an out-of-state state chartered bank, the director shall recognize the exclusive authority of the home state regulator over corporate government matters and the primary responsibility of the home state regulator with respect to safety and soundness matters.~~

~~(6) (4) The cost of any examination conducted under this section shall be assessed against such out-of-state state chartered bank in the manner set forth in sections 8-605 and 8-606 and paid for by such out-of-state state chartered bank.~~

Sec. 20. Section 8-2108, Reissue Revised Statutes of Nebraska, is amended to read:

8-2108 Nothing in the Interstate Branching By and Merger Act of 1997 shall prevent the resulting bank in an interstate merger transaction from closing or disposing of any branches acquired in the transaction in accordance with state law subject to applicable federal law regarding branch closures.

Sec. 21. Section 8-2403, Reissue Revised Statutes of Nebraska, is amended to read:

8-2403 A credit card bank shall be subject to the Interstate Branching By and Merger Act, of 1997, the Nebraska Bank Holding Company Act of 1995, the Nebraska Banking Act, and Chapter 8, articles 5, 6, 7, 8, 13, 14, 15, 16, 19, and 20, unless otherwise limited or excluded or the context otherwise requires.

Sec. 22. Section 21-17,115, Revised Statutes Supplement, 2011, is amended to read:

21-17,115 Notwithstanding any of the other provisions of the Credit Union Act or any other Nebraska statute, any credit union incorporated under the laws of the State of Nebraska and organized under the provisions of the act shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, ~~2011~~, 2012, by a federal credit union doing business in Nebraska on the condition that such rights, powers, privileges, benefits, and immunities shall not relieve such credit union from payment of state taxes assessed under any applicable laws of this state.

Sec. 23. Original sections 8-141, 8-183.05, 8-212, 8-213, 8-214, 8-215, 8-230, 8-1901, 8-2101, 8-2103, 8-2104, 8-2107, 8-2108, and 8-2403, Reissue Revised Statutes of Nebraska, sections 8-157, 8-209, 8-2102, and 8-2106, Revised Statutes Cumulative Supplement, 2010, and sections 8-1,140, 8-355, 8-602, and 21-17,115, Revised Statutes Supplement, 2011, are repealed.

Sec. 24. The following section is outright repealed: Section 8-2105, Reissue Revised Statutes of Nebraska.

Sec. 25. Since an emergency exists, this act takes effect when passed and approved according to law.