

ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017
COMMITTEE STATEMENT
LB140

Hearing Date: Monday January 23, 2017
Committee On: Banking, Commerce and Insurance
Introducer: Williams
One Liner: Change provisions relating to the Nebraska Banking Act, Department of Banking and Finance powers and duties, and other financial institution regulation

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Baker, Brewer, Craighead, Kolterman, Lindstrom, McCollister, Schumacher, Williams
Nay:
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:

Senator Matt Williams
Director Mark Quandahl
Bob Hallstrom
Mark Hesser
David Routh
Brandon Luetkenhaus
Christopher Buller
Kurt Yost

Representing:

Introducer
NE Dept. of Banking and Finance
NE Bankers Assn.
Pinnacle Bancorp Inc.
Self
NE Credit Union League
Cornerstone Bank
NE Independent Community Bankers

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 140 is the result of LR 430, an interim study regarding the Nebraska Banking Act (Act), conducted by the Banking, Commerce, & Insurance Committee. The purpose of 2016's LR 430 was to study whether the Act should be updated. LB 140 contains a number of substantive changes to the Act and to related laws contained throughout the Nebraska Statutes, as well as many changes that better harmonize the language in the Act but are not substantive in nature. The bill provides section by section as follows:

Section 1 would amend Section 8-101.01, which identifies the statutory sections that comprise the Nebraska Banking Act, to incorporate new sections 1, 2, 37, and 51 into the Act.

Section 2 would amend Section 8-101 to arrange the definitions used in the Act in alphabetical order. No changes were made to the definitions.

Section 3 would amend Section 8-102 to add "savings and loan association" to the list of financial institutions supervised

by the Department to reflect the long-standing authority granted to the Department under Chapter 8, Article 3 of the Nebraska Statutes.

Section 4 would amend Section 8-103, which provides for the examination authority of the Department and restrictions on Department employees, to add the term "savings and loan association" to the list of financial institutions supervised by the Department to reflect the long-standing authority granted to the Department under Chapter 8, Article 3 of the Nebraska Statutes. Non-substantive changes to this section include updates to the language identifying institutions subject to the jurisdiction of the Department and insertion of subdivisions to improve the statute's readability.

Section 5 would amend Section 8-104, which requires the Director of the Department to take an oath of office, with non-substantive changes to improve sentence structure.

Section 6 would amend Section 8-105, which relates to the hiring of Department employees, as follows:

In Subsection (1), the current prohibition against the employment of any relative of any employee of the Department would be changed to a provision that would provide that the employment of anyone working for the Department is subject to Nebraska Statute 49-1499.07, which is the state's nepotism statute. Subsection 1 would be further amended to clarify that the Director may hire legal counsel.

In Subsection (2), obsolete language related to at will employees of the Department would be removed.

In Subsection (3), counsels would be added to the list of Department employees to be bonded under Section 11-201 of the Nebraska statutes.

Section 7 would amend Section 8-106, which gives the Director the authority to adopt and promulgate rules and regulations for banks, would be amended to clarify that the authority is discretionary and to update gender references.

Section 8 would amend Section 8-107 to change the term "power" to "authority" as it relates to the Department setting standards for the keeping of bank books and records.

Section 9 would amend Section 8-108, relating to regulatory examinations of financial institutions, as follows:

Subsection (1)(a) would be amended to add language currently contained in subsection (3) of this section authorizing the Department to provide examinations or reports to federal and state financial institution regulatory agencies, as its current placement appears to refer to Subsection (2), which is incorrect.

Subsection (1)(b), currently numbered as Subsection (2), would be amended to clarify that the Director of the Department may accept an examination or report from another state or federal financial institution regulator in lieu of an examination or report required under the Act. This Subsection would be further amended to provide:

that any examination or report received from another regulator remains the confidential property of that regulator,

that an examination or report received from another regulator cannot be obtained by a subpoena to the Department, and

that any request or subpoena for the examination or report must be directed to the originating regulator.

Non-substantive changes to Section 8-108 would include the updating of references to "power" and to institutions under the jurisdiction of the Department.

Section 10 would amend Section 8-109, which provides duties and penalties for Department examiners who have knowledge of the insolvency or unsafe condition of a state-chartered bank, by changing current references to "bank" to "financial institution" to accurately reflect the scope of the Department's jurisdiction. Gender references would also be updated. None of the amendments are substantive in nature.

Section 11 would amend Section 8-110, which requires a state-bank to obtain a fidelity bond and file an executed copy of the bond with the Department, to provide that the Director may authorize the electronic filing of the bond with the Department. Non-substantive language updates, including gender references and references to the Department, would also be made.

Section 12 would make a non-substantive amendment to Section 8-111, which provides for conveyance of real estate that is vested in the name of the Department. The amendment removes the full name of the Department due to the definition found in Section 8-101(9).

Section 13 would amend Section 8-112, which requires Department employees to keep confidential the names of depositors and debtors in the financial institutions and entities regulated by the Department, to change the current reference to "depositors and debtors" to "customers," and to add "beneficiary, member, or account holder" to the list of protected persons. The amendment more accurately reflects the types of accounts held in the various financial institutions and entities, along with amendments changing the term "borrower" to "debtor."

Section 14 would amend Section 8-113, which controls the use of the word "bank" and derivatives of the word "bank." Subsection (4) contains a Bill Drafter change of the term "shall be" to "is" regarding the criminal penalty for violation of the statute.

Section 15, relating to Section 8-114, which provides that a bank must have corporate status and comply with the Act prior to operating as a bank, contains non-substantive amendments changing the term "shall be" to "is" as the term relates to violations of the statute and the criminal penalty imposed.

Section 16 would make a non-substantive amendment to Section 8-116 to change a reference from "Department" to "Director." The statute requires surplus and paid-up capital as a condition precedent to the issuance of a bank charter.

Section 17 would amend Section 8-116.01, which allows banks to sell its capital notes and debentures, to remove obsolete references to other statutes in the Act.

Section 18 would amend Section 8-117, which authorizes the issuance of a conditional bank charter, to change references from "Department" to "Director." This change is non-substantive and is found in Subsections (6), (7), (8), and (9).

Section 19 would amend Section 8-118 by providing for subdivision numbering to the statute which governs the sale of bank stock. The amendment is non-substantive in nature.

Section 20 would amend Section 8-119, which requires a sworn statement from a representative of a bank applicant that no remuneration has been paid or promised to individuals selling the corporate stock charter of such corporation, prior to the issuance of the charter, to remove obsolete references to Section 8-121, which would be repealed outright by Section 157 of LB 140.

Section 21 would amend Section 8-120, which provides the required elements of a bank charter application, to change the requirement that a certified copy of the bank's articles of incorporation be filed as part of the application, to a requirement that a copy of the proposed articles of incorporation be filed, for the reason that the articles of incorporation cannot be filed with, or certified by, the Nebraska Secretary of State until the Department issues the charter.

Section 22 would amend Section 8-122, which sets the standards and conditions for granting a bank charter, to clarify certain references to the Director of Banking and Finance to eliminate confusion with other references in the statute to directors of banks.

Section 23 would amend Section 8-124, which relates to the composition of the board of directors of a bank. The amendments would:

Authorize an increase in the maximum number of directors from fifteen members to twenty-five members.

Provide that board of directors shall select a bank president, who shall be a member of the board of directors (at the time of selection or subsequently).

Remove the requirement that the board shall appoint a secretary.

Remove obsolete language related to a minimum number of directors.

Remove language related to filling vacancies on the board that will be moved to Section 8-124.01 for more appropriate placement and remove additional language that is duplicative of language in Section 8-124.01.

Section 24 would amend Section 8-124.01, which sets procedures for when a vacancy occurs on a bank's board of directors, to include language currently contained in Section 8-124 relating to the term of service for a board member appointed to fill a vacancy, and to clarify that any such person appointed must be approved as a director by the Department.

Section 25 contains a non-substantive amendment to Section 8-125 to update the term "spread upon" as it relates to the required contents of the minutes of bank Board of Directors' meetings.

Section 26 would amend Section 8-126, which sets the qualifications for bank directors, to change the current requirement that a bank make reasonable efforts to acquire members from the county where the bank is located to a requirement that members be from the county where the bank's main office is located or in a county where a branch is located. This will allow a bank to add board members from more of the communities where it has offices. Additional non-substantive amendments would be made to update references to the Department and the Director of the Department.

Section 27 would amend Section 8-127, to change the requirement for specified bank officers to keep a list of all bank shareholders, to a requirement that the bank keep the list. This change is non-substantive in nature.

Section 28 would amend Section 8-128, which sets requirements for a proposed change in a bank's capital stock, by providing that the shareholders may authorize an officer of the bank to notify the Department of the proposed change rather than the current specification that the president or cashier of the bank must be the person so authorized. Section 8-128 would be further amended to clarify that publication of a notice of reduction in a bank's capital stock is to be in the county where the main office of the bank is located.

Section 29 would amend Section 8-129, which gives the Director of the Department authority to call a meeting of a bank's shareholders, by updating the term "mailing" to "sending" as it relates to giving notice of the meeting. This change would allow for electronic notice. This Section would also be updated to remove unnecessary descriptive language related to banks and to update gender references.

Section 30 would amend Section 8-130, which allows state-chartered banks and trust companies to become members of the federal reserve system, with non-substantive language updates.

Section 31 would amend Section 8-131, which defines a bank's available funds and sets restrictions if such funds are deficient, to remove an outdated requirement that the Department approve "solvent banks" as holders of balances due. New subsection (2) establishes when a bank's capital is deemed unimpaired.

Section 32 would amend Section 8-133 which governs the payment of interest on bank deposits and restricts the pledging of bank assets to secure deposits. The amendments are as follows:

New subsection (1)(b) would prohibit the payment of a higher rate of interest to bank insiders than the interest rate paid

to non-insider depositors the bank for the same type of depository instrument, and would provide that a violation of this Section is a Class IV felony. This subsection essentially mirrors a federal restriction on national bank insiders.

Subsection (2) would be amended to remove obsolete language related to inducements for establishing a deposit account and language for determining the maximum rate of interest that could be paid. The language related to a restriction on the amount of interest that could be paid which was removed from the statute years ago.

New subsection (5) provides, as an exception to the prohibition on the pledge of assets, that a bank may secure a public deposit pursuant to the Nebraska Public Funds Deposit Security Act. This is not a new authority, but is added to provide notice of the exception within the governing statute.

Subsection (6) would be amended to clarify that a bank's current authority to provide a deposit guaranty bond to a depositor is for amounts that are in excess of federal depository insurance coverage.

Subsection (7), which authorizes a bank to provide a depositor a standby letter of credit from the Federal Home Loan Bank of Topeka as security for deposits in excess of federal deposit insurance coverage, would be amended to remove a notice requirement.

New Subsection (8) would define "principal shareholder," as the term is used in Subsections (1)(b) and (2), as a person owning ten percent or more a bank's voting shares.

Section 33 would amend Section 8-135, which authorizes minors to establish deposit accounts, to add new Subsection (2) to authorize minors to enter into safe deposit box contracts. In addition, renumbered Subsection (3) would be amended to update a reference to the federal Electronic Fund Transfer Act as it existed on January 1, 2017.

Section 34 proposes grammatical changes to Section 8-137, which relates to certification of bank checks.

Section 35 proposes grammatical changes to Section 8-138, which prohibits a bank from accepting deposits when it is insolvent.

Section 36 proposes grammatical changes to Section 8-139, which provides for the licensing of bank executive officers.

Section 37 is a new section which is currently contained in Section 8-702(2)(b) [see Section 137 of LB 140] which requires that banks that employ a mortgage loan originator must register that employee or employees with the Nationwide Mortgage Licensing System. Placement within the Banking Act provides more notice to banks of this requirement.

Section 38 proposes grammatical and numbering changes to Section 8-141, which set limits for loans made by banks. These are non-substantive revisions.

Section 39 proposes grammatical changes to clarify Section 8-143, which sets out the ramifications of a violation of Section 8-141 of the Act. There are no substantive changes to this Section.

Section 40 would amend Section 8-143.01, which governs loans to bank insiders, to provide, within Subsection (10), that the statute's existing reference to 12 USC 84 and its implementing federal Regulation O are to such law and regulation as they existed on January 1, 2017. The amendment will remove ambiguity in the current law. Non-substantive grammatical changes are also proposed throughout Section 40.

Section 41 proposes grammatical changes to Section 8-144, which provides for liability for violations of Sections 8-141 to 8-143.01.

Section 42 would make gender neutral and grammatical changes in Section 8-145, which provides a criminal penalty for loan inducements.

Section 43 would make grammatical changes to Section 8-147, which sets limits on bank investments.

Section 44 would amend Section 8-148, which governs bank investments, to changes the word "Department" to "Director" in Section 8-147 with respect to the promulgation of rules and regulations.

Section 45 would amend Section 8-148.01, which authorizes bank investment in a computer center, to update a reference to the Department Director and make a grammatical change.

Section 46 would make grammatical changes to Section 8-148.02, which authorizes bank investment in an agricultural credit corporation or livestock loan company.

Section 47 would make a grammatical change and change a reference to the Department in Section 8-148.04, which authorizes bank investment in a community development corporation.

Section 48 would make grammatical changes to Section 8-148.05, which authorizes bank investment in qualified Canadian government obligations.

Section 49 would amend Section 8-148.07 relating to bank investments in subsidiary corporations by updating a reference to the definition of "bank subsidiary corporation" that would be moved as the result of the alphabetizing of the definitions in the Act by Section 2 of LB 140. Section 8-148.07 would also be amended to clarify that a bank subsidiary corporation may have multiple shareholders.

Section 50 would amend Section 8-148.08 relating to examinations of bank subsidiary corporations to clarify that a bank subsidiary corporation may have multiple shareholders.

Section 51 is a new section that would:

Allow a bank to acquire the stock of another financial institution if the transaction is part of the merger, consolidation or acquisition of assets of the other institution, with the provisos that: the merger, consolidation or assets acquisition occurs on the same day that the stock is acquired

the other financial institution will not be operated as a separate entity

the prior approval of the Director of the Department is received.

Allow a bank to acquire the stock of a company controlling another financial institution if the transaction is part of the merger or consolidation of the company controlling the other financial institution with the bank's controlling company, or part of an acquisition of assets of the other controlling company, and the bank merges or consolidates with or acquires the assets of the other institution, with the provisos that:

the merger, consolidation or assets acquisition occurs on the same day that the merger, consolidation or asset acquisition of the controlling companies occurs

neither the other financial institution or the other controlling company will be operated as a separate entity

the prior approval of the Director of the Department is received.

Provide that the transactions authorized by the Section will not cause the bank acquiring the stock to be deemed a bank holding company under the Nebraska Bank Holding Company Act of 1995.

Define "financial institution" for purposes of this Section.

Section 52 would make grammatical and stylistic changes and update a reference to the Department in Section 8-150, which sets restrictions on a bank's purchase and holding of real estate.

Section 53 would amend Section 8-152, which relates to loans secured by real estate, to clarify a reference to financial institutions and to the time when a loan participation may occur. These changes are not substantive in nature.

Section 54 would amend Section 8-153, which requires the magnetic encoding of checks, to remove an unnecessary description of banks covered under the law.

Section 55 would amend Section 8-157, which authorizes bank branches, to clarify within Subdivision (2)(a)(ii), that references to the location of banks mean the main office of the bank.

Section 56 would amend Section 8-157.01, which governs automated teller machines (ATMs) and electronic switches, to update a reference within Subsection (4) to the federal Electronic Fund Transfer Act as it existed on January 1, 2017.

Section 57 would amend Section 8-158 to update language related to the authority of a bank to act as personal representatives and administrators of estates of deceased persons, and to specify which officers are authorized to make an oath on behalf of the bank related to the bank's appointment as a personal representative or special administrator.

Section 58 proposes a grammatical change to Section 8-160, which authorizes the Director of the Department to grant trust charters to banks.

Section 59 would amend Section 8-161, which sets the conditions for granting a trust charter to a bank, to remove the required finding by the Director of the Department that the directors and shareholders of the bank are persons of integrity and responsibility, for the reason that such determinations would have previously been made. The amendment would require that the Director determine that the trust department will be operated by officers of integrity and responsibility.

Section 60 would amend Section 8-162.02, which allows banks with trust departments to collateralize certain funds, by removing four references to the term "state-chartered" as it is an unnecessary descriptive for the banks covered by the statute.

Section 61 proposes to insert numbered subsections into Section 8-163, which relates to bank dividends.

Section 62 would amend Section 8-164, which sets the conditions for declaration of dividends, to clarify that the Board of Directors of a bank has the authority to require that bad debts of the bank be charged off.

Section 63 proposes to insert numbered subsections into 8-166, which relates to required bank reports.

Section 64 would amend Section 8-167 relating to publication of bank reports to clarify that references to a bank's location are references to the main office of the bank and to change a reference to "Department" to "Director." These changes are not substantive in nature.

Section 65 would amend Section 8-167.01, which provides an exception to the publication requirements of Section 8-167, to update a reference to 12 CFR part 350 as the regulation existed on January 1, 2017.

Section 66 would make grammatical changes and change a reference to the Department in Section 8-168, which provides for the filing of special reports on the condition of a bank.

Section 67 would make grammatical changes and change a reference to the Department in Section 8-160, which sets a penalty for failure to file reports or published statements with the Department.

Section 68 would amend Section 8-170, which is the bank records retention statute, to provide that copies of records

and files must be retained for the same time period as the records and files, and to add, within new Subdivision (2)(c) a requirement that such records, files, or copies of records and files be readable or legible.

Section 69 would make non-substantive grammatical changes to Section 8-171, which governs liability for destruction of bank records.

Section 70 would make a non-substantive grammatical change to Section 8-173, relating to the statute of limitations for claims based on a bank's book entries.

Section 71 would make a non-substantive grammatical change to Section 8-174, which provides for limited applicability of the records retention statutes to national banks.

Section 72 would make non-substantive grammatical changes to Section 8-175, which provides a criminal penalty for false statements or entries in the books of a bank.

Section 73 would amend Section 8-177, which sets standards for banks winding up their business in order to consolidate with another bank, to provide that the statute applies when a bank consolidates with any type of financial institution, and the bank may transfer resources to the financial institution with which it is merging. Section 73 would also update a gender reference and a reference to the Department.

Section 74 would amend Section 8-178, which provides for the conversion of a national bank to a state charter, by updating the term "national banking association" to "national bank," and inserting subsection numbering. These are non-substantive changes.

Section 75 would amend Section 8-179, which sets the procedures for a national bank conversion to a state charter, by eliminating a reference to Section 8-121, which would be outright repealed in Section 157 of LB 140, removing obsolete language regarding a certificate issued prior to chartering, and adding a clarifying cross-reference to Section 8-178.

Section 76 would update a reference to the term "national banking association" in Section 8-180, which provides authority for a state bank to convert into or merge with a national bank.

Section 77 would amend Section 8-182 to clarify that the rights of dissenting shareholders in the conversion of a state bank to a national bank are the same as the rights accorded dissenting shareholders in a merger or consolidation of a state bank into a national bank.

Section 78 would amend Section 8-183, which relates to the valuation of assets of a national bank which has converted to a state charter, to add a clarifying cross-reference to Section 8-181 and to change a reference to "Department" to "director."

Section 79 would amend Section 8-183.04, which authorizes a mutual savings association to convert to a state bank charter and retain its mutual form, to update a reference to 12 CFR part 567 as such regulation existed on January 1, 2017, and to update a reference to the Department.

Section 80 would add a clarifying reference to "savings association" in Section 8-183.05, which provides for the vesting of property rights in a savings association converted to a state bank by operation of law.

Section 81 would amend Section 8-184, relating to voluntary liquidation of a bank, to change a reference to "Department" to "Director."

Section 82 would amend Section 8-185, which provides procedures for a voluntary bank liquidation, to replace obsolete language regarding a certificate of authority with a reference to the bank's charter, and to change the word "Department" to "Director."

Section 83 would amend Section 8-186, which provides procedures for a bank to place itself under the control of the Department, to update a reference to "bank examiner" to "financial institution examiner."

Section 84 would amend Section 8-187, which provides the conditions which will result in the insolvency of a bank and the procedures upon insolvency, to make grammatical changes, change references to "Department" to "Director," and insert subdivision numbering.

Section 85 would amend Section 8-188 to add "counsel" to the list of individuals who can be authorized by the Director of the Department to take possession of an insolvent bank.

Section 86 would make grammatical changes to Section 8-189, which provides a criminal penalty for any bank insider who attempts to prevent the Department from taking possession of an insolvent bank.

Section 87 would amend Section 8-190 to clarify that the county of the main office of the bank is used for purposes of court filings if an insolvent bank refuses to turn possession over to the Department, and to change the term "forthwith" to "immediately."

Section 88 would amend Section 8-191 to change the method of notice the Department must use to give notice that it has taken possession of an insolvent bank from a telegram to electronic mail, to add a reference to trust companies, and to update the term "forthwith."

Section 89 would amend Section 8-192, which requires an inventory of an insolvent bank and provides for places where the inventory is to be filed, to clarify that one of the filings is to be made in the district court of the county where the main office of the bank is located, and to make grammatical changes.

Section 90 would make a grammatical change and change a reference to the Department in Section 8-193, which provides for a limited return of possession of an insolvent bank to the bank's insiders.

Section 91 would amend Section 8-194, which requires the filing of a declaration of insolvency of a bank with the district court, to include the bank's stockholders as the persons responsible for restoring solvency, and to clarify that the county of the main office of the bank is the proper place of filing.

Section 92 would amend Section 8-195, which provides for an action to enjoin the Department taking possession of an insolvent bank, to clarify that the county of the main office of the bank is used for purposes of certain court filings, update gender references, distinguish between the Director of the Department and directors of the insolvent bank, and make grammatical changes.

Section 93 would amend Section 8-196, to provide a clarifying cross-reference to Section 8-195 and to make grammatical changes. This Section relates to the giving of bonds in an appeal of a decision under Section 8-195.

Section 94 would amend Section 8-197, which provides for the appointment of a receiver or liquidating agent for an insolvent bank, to provide a clarifying cross-reference to Section 8-195, to make grammatical changes, and to insert numbered subsections.

Section 95 would amend Section 8-198, which provides for the appointment of the Department as receiver or liquidating agent, to update references related to the Department's jurisdiction.

Section 96 would amend Section 8-199, relating to the authority of the Department when it has been appointed receiver, to update and clarify references to the Department's jurisdiction, owners of financial institutions, and the district court.

Section 97 would amend Section 8-1,100, which authorizes the Director of the Department to employ personnel to assist in bank liquidation, to clarify that the county of the main office of the bank is used for purposes of court filings, and to update gender references.

Section 98 would amend Section 8-1,101, to provide that the district court rather than the Governor is to approve the bonds or similar insurance policies for individuals who liquidate a financial institution chartered by the Department.

Section 99 would amend Section 8-1,102, relating to the vesting of title of the assets of an insolvent bank in the Department, to clarify that the county of the main office of the bank is used for purposes of court filings, and to make grammatical changes.

Section 100 would amend Section 8-1,103, relating to the authority of the Department to institute and defend lawsuits, to change references to "delinquent bank" to "insolvent bank," to correctly identify the status of the closed bank, and to update references to legal actions.

Section 101 would amend Section 8-1,104, which provides the procedures for the collection of money due to an insolvent bank, to clarify that the county of the main office of the bank is used for purposes of court filings, to update the term "depository bond" to "guaranty bond," and to make a grammatical change.

Section 102 would amend Section 8-1,105, relating to the jurisdiction of district court judges in bank insolvency proceedings, to update a reference relating to the election of a judge and to update gender references.

Section 103 would amend Section 8-1,106, which sets out duties required of the Director of the Department as receiver of an insolvent bank, to clarify that the county of the main office of the bank is used for purposes of court filings, and to update gender references.

Section 104 would amend Section 8-1,107, regarding the processing of claims filed against an insolvent bank, to change the word "justice" to "legality" as the term is used when the Director reclassifies a claim, to clarify that the county of the main office of the bank is used for purposes of court filings, and to update gender references.

Section 105 would update gender references and make grammatical changes to Section 8-1,108, which provides the process for appealing the Director of the Department's decision on the classification of a claim against the receivership of an insolvent bank.

Section 106 would amend Section 8-1,109, which authorizes the issuance of a certificate of indebtedness for allowed claims, to change the term "payment of any dividend" to "payment of any distribution" to correctly identify the action taken, and to make a grammatical change.

Section 107 would amend Section 8-1,110, relating to the priority of claims of depositors in a receivership, to make clarifying language revisions.

Section 108 would amend Section 8-1,111, relating to the effect of FDIC insurance on the securing of deposits in an insolvent bank to make clarifying language revisions.

Section 109 would amend Section 8-1,112, which provides for payment of claims in a bank receivership, to change references to a "dividend" or "dividends" to a "distribution" or "distributions" to correctly identify the payments made, to update a gender reference, and to make a grammatical change.

Section 110 would amend Section 8-1,113, relating to the allocation of expenses of liquidation if more than one bank is in liquidation, to make clarifying language revisions.

Section 111 would amend Section 8-1,115, which requires the Director of the Department to file liquidation reports with the court, to clarify that the county of the main office of the bank is used for purposes of these court filings, to remove a reference to Section 8-121 and a certificate referenced in that statute as Section 8-121 would be outright repealed in Section 157 of LB 140, and to update a gender reference.

Section 112 would amend Section 8-1,116, relating to the reopening of a formerly insolvent bank, to change references

to the "Department" to "Director" and to make clarifying language changes.

Section 113 would amend Section 8-1,117, which permits the shareholders and the Board of Directors of a bank whose capital is impaired to levy an assessment on the shareholders, to make clarifying language changes, including differentiation between the Director of the Department and directors of the bank, and to update gender references.

Section 114 would amend Section 8-1,118, which provides for an insolvent bank to reopen for a limited business, to make clarifying language changes.

Section 115 would make grammatical changes to Section 8-1,119, which provides a general penalty for violations of the Act.

Section 116 would amend Section 8-1,124, to update the definitions used in Sections 8-1,124 to 8-1,129 relating to emergencies. These statutes are being updated and expanded to include all financial institutions. As such, the definitions currently found in Section 8-1,124 would be stricken. Three definitions would be updated emergency, office, and officers, and a definition of financial institution would be added.

Section 117 would amend Section 8-1,125, which authorizes the Director of the Department to allow a bank to close due to an emergency, as follows:

Within Subsection (1), to change all references to "bank" to "financial institution"

Within new Subsection (2), to provide

That a financial institution that closes due to an emergency may obtain the approval of the Director of the Department to open a temporary office where it may conduct its business for up to thirty months

The criteria that the Director must consider in approving a temporary office

That a temporary office may be a mobile branch if the office closed due to the emergency was a branch office

That the opening of a temporary office may be approved by the Director orally. Such approval is valid for four business days.

Section 118 would amend Section 8-1,126, which allows a bank officer to close a bank office for up to forty-eight hours without the approval of the Department due to an emergency, to change all references to "bank" to "financial institution."

Section 119 would change all references to "bank" to "financial institution" within Section 8-1,127, relating to one day closures due to presidential or gubernatorial proclamation.

Section 120 would amend Section 8-1,128, which requires a bank to give prompt notice to the Director of the Department of an emergency closing, to change a reference to "bank" to "financial institution" and remove language regarding national banks.

Section 121 would amend Section 8-1,129, which accords legal holiday status to any day on which a bank has to close due to an emergency or proclamation and provides that no liability accrues to the bank or its insiders for closing, to change all references to "bank" to "financial institution" and to make grammatical changes.

Section 122 would amend Section 8-1,131, which authorizes banks to act as trustees or custodians under the federal Self-Employed Individuals Tax Retirement Act of 1962 or for medical savings accounts under section 220 of the Internal Revenue Code, to remove unnecessary language related to the banks covered by the law.

Section 123 would amend Section 8-1,133 to clarify that the authority to adopt rules and regulations relating to bank

leasing of personal property is discretionary and not mandatory, and to change a reference to "Department" to "Director."

Section 124 would amend Section 8-1,134, which provides authority to the Department to take administrative action for violations of a law under its jurisdiction, to change references to the "Department" to "Director," to provide that fines collected be credited by the State Treasurer in accordance with Article VII, section 5, of the Nebraska Constitution, and to remove unnecessary language related to the institutions covered under the law.

Section 125 would update a reference to the Director of the Department in Section 8-1,135, which provides for an appeal of an administrative order.

Section 126 would update references to the Director and the Department in Section 8-1,136, which provides authority to the Department to bring an injunctive action for violations of Chapter 8 or the Credit Union Act.

Section 127 would amend Section 8-1,137, relating to referrals of violations to the Nebraska Attorney General or a county attorney, to clarify that any action taken as a result of a referral is discretionary with such offices, and to update a reference to the Department.

Section 128 would amend Section 8-1,138, which provides for civil and criminal liability for violations of orders issued pursuant to Section 8-1,134, to update references to the Director of the Department, to insert numerical subsections, and to make a grammatical change.

Section 129 would amend Section 8-1,139, which provides a criminal penalty for insiders of financial institutions who misapply funds or other assets of the financial institutions, to add savings and loans as an institution covered under the law, to remove cooperative credit unions from the list of covered financial institutions, to update a reference to the Department and to make a grammatical change.

Section 130 would amend Section 8-206 of the Nebraska Trust Company Act, which sets out the powers of a trust company, to provide, within Subsection (10), that the entity may request authority from the Director of the Department to invest more than 100% of its paid-up capital stock to purchase, own, or hold real estate for operation of its business.

Section 131 would amend Section 8-207 of the Nebraska Trust Company Act, relating to court appointments of trust companies, to change a reference to "administrator"D to "special administrator."

Section 132 would amend Section 8-318, relating to customer accounts in building and loan associations, to update a reference to the federal Electronic Fund Transfer Act as of January 1, 2017.

Section 133 would amend Section 8-601, relating to the authority of the Director of the Department, to identify statutes that are under the Department's jurisdiction by named Acts rather than by reference to Chapter and Article.

Section 134 would amend Section 8-602, which sets the Department's fees for reviewing various applications and providing certain services, to remove the fee provided in Subsection (9) for registering a statement of intent to make personal loans for the reason that the registration requirement contained in Section 8-819 would be repealed by Section 157 of LB 140, and to renumber the remaining sections.

Section 135 would amend Section 8-603, relating to the Financial Institution Assessment Cash Fund, to add language that fines collected under this Section shall be applied in accordance with the Nebraska Constitution.

Section 136 would make a grammatical change to Section 8-701 which provides a definition of "financial institution" for purposes of Sections 8-701 through 8-709, referred to generally as the State-Federal Cooperation Acts.

Section 137 would amend Section 8-702, which requires federal depository insurance for financial institutions, by striking Subsection (2)(a) which provides an exception to the requirement for institutions which did not have insurance and were

in operation on September 4, 2005, for the reason that the sole institution which qualified for the exception merged into an insured bank in 2016. Subsection (2)(b), which requires the registration of bank mortgage loan originators with the National Mortgage Licensing System and Registry, would also be struck as it would be moved to Section 37 of LB 140. Finally, Section 137 would update language relating to the penalties for failing to maintain membership in the Federal Deposit Insurance Corporation.

Section 138 would amend Section 8-815, which defines terms used in Sections 8-815 through 8-829, known as the personal loan statutes for banks, to strike the definitions of "registered bank" and "unregistered bank," as the statutes relating to those terms and the registration requirement, would be repealed by Section 157 of LB 140, to make clarifying changes, to renumber the remaining definitions, and to make grammatical changes.

Section 139 would amend Section 8-820, which sets the maximum interest rate and permissible charges for bank personal loans, to remove a reference to "registered bank" and an obsolete reference to a federal regulation.

Section 140 would amend Section 8-822 relating to the computation of charges on personal loans to remove obsolete language related to loans made prior to October 1, 1981.

Section 141 would amend Section 8-826 to update language related to the authority of the Department to promulgate rules and regulations related to the personal loan statutes and to change the placement of such authority to new Subsection (2).

Section 142 would amend Section 8-828, relating to bank purchase of commercial paper, to change an inclusive reference to "sections 8-815 to 8-827" to "sections 8-815 to 8-826" for the reason that Section 8-827 would be repealed by Section 157 of LB 140, and to change a reference to "registered bank" to "bank."

Section 143 would amend Section 8-1401, which governs the release of confidential records of financial institutions and other entities doing business in Nebraska, to add new Subsection (3) to allow disclosure of such records to a certified public accountant conducting an independent audit, when making a report required by statute, or in the course of regular business pursuant to a proposed purchase or sale of an entity subject to Section 8-1401.

Section 144 would amend Section 8-2401, relating to the formation of a credit card bank, to update a reference within Subsection (9) to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140.

Section 145 would amend Section 9-701, relating to gift enterprises, to update a reference within Subsection (1)(a) to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140, and to make a grammatical change within Subsection (6)(a).

Section 146 would amend Section 28-612, relating to financial crimes, to update a reference within Subsection (2) (c) to the definition of "bank," as the definition has been moved to Section 2 of LB 140.

Section 147 would amend Section 30-2602, relating to criminal history checks for persons to be appointed as guardians or conservators, to update a reference within Subsection (1) to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140.

Section 148 would amend Section 30-2640, relating to bonds for conservators, to update a reference to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140.

Section 149 would amend Section 45-335, the definitional section of the Nebraska Installment Sales Act, to update a reference within Subsection (14) to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140.

Section 150 would amend Section 45-902, the definitional section of the Delayed Deposit Services Licensing Act, to update a reference within Subsection (4) to the definition of "financial institution," as the definition has been moved to

Section 2 of LB 140.

Section 151 would amend Section 45-919, relating to prohibited acts for Delayed Deposit Services licensees, to update a reference within Subsection (2) to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140.

Section 152 would amend Section 45-1002, the definitional section of the Nebraska Installment Loan Act, to update a reference within Subsection (1)(g) to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140.

Section 153 would amend Section 45-1103, the definitional section of the Guaranteed Asset Protection Waiver Act, to update a reference within Subsection (5) to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140.

Section 154 would amend Section 49-1497, which defines "financial institution" for purposes of Section 49-1496, which enumerates the contents of a statement of financial interests filed with the Nebraska Accountability and Disclosure Commission, to update a reference within Subsection (1)(a) to the definition of "financial institution," as the definition has been moved to Section 2 of LB 140.

Section 155 is a savings clause stating that transactions validly entered into before the effective date of this legislation remains effective as though this legislation had not occurred.

Section 156 provides for amendatory repealers.

Section 157 would outright repeal these statutes:

Section 8-121, which requires the Department to issue a certificate to an applicant for a bank charter stating that the applicant has complied with state laws and advising of any requirements which must be met, for the reason that the issuance of the certificate was made obsolete by the Administrative Procedure Act which requires the issuance of findings of fact, conclusions of law, and order with respect to such applications. Any conditions precedent to the issuance of a charter are contained within such order.

Section 8-151, which provides that a bank shall not increase the book value of property without obtaining the prior approval of the Department, for the reason that such approval is unnecessary. Any increase that appears unwarranted would be noted during the course of an examination and justification required.

Section 8-1,120, which authorizes the Department to offer and pay up to \$250 for the apprehension and conviction of any person violating the Act, for the reason that the amount is too low to be of any consequence and any increase would not be deemed an appropriate use of the Financial Institution Assessment Cash Fund.

Sections 8-816, 8-819, and 8-827, relating to the requirement of registration by banks of a statement of intention to make personal loans in order to charge an interest rate on such loans greater than usury, for the reasons that registration provides no additional protection to consumers and is unnecessary due to the level of regulation of banks.

Brett Lindstrom, Chairperson