

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 148**

FINAL READING

Introduced by Schumacher, 22.

Read first time January 09, 2017

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to finance; to amend sections 8-1102, 8-1103,  
2 8-1107, 8-1109.01, 8-1109.02, 8-1110, 8-1115, 8-1116, 8-1117,  
3 8-1122.01, and 8-1123, Reissue Revised Statutes of Nebraska, and  
4 sections 8-1101, 8-1106, 8-1108, 8-1108.01, 8-1109, 8-1111, 8-1118,  
5 and 8-1120, Revised Statutes Cumulative Supplement, 2016; to change  
6 provisions of the Securities Act of Nebraska; to harmonize  
7 provisions; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-1101, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 8-1101 For purposes of the Securities Act of Nebraska, unless the  
4 context otherwise requires:

5 (1) Agent means any individual other than a broker-dealer who  
6 represents a broker-dealer or issuer in effecting or attempting to effect  
7 sales of securities, but agent does not include an individual who  
8 represents (a) an issuer in (i) effecting a transaction in a security  
9 exempted by subdivision (6), (7), or (8) of section 8-1110, (ii)  
10 effecting certain transactions exempted by section 8-1111, (iii)  
11 effecting transactions in a federal covered security as described in  
12 section 18(b)(3) of the Securities Act of 1933, or (iv) effecting  
13 transactions with existing employees, limited liability company members,  
14 partners, or directors of the issuer or any of its subsidiaries if no  
15 commission or other remuneration is paid or given directly or indirectly  
16 for soliciting any person in this state or (b) a broker-dealer in  
17 effecting transactions described in section 15(h)(2) of the Securities  
18 Exchange Act of 1934. A partner, limited liability company member,  
19 officer, or director of a broker-dealer is an agent only if he or she  
20 otherwise comes within this definition;

21 (2) Broker-dealer means any person engaged in the business of  
22 effecting transactions in securities for the account of others or for his  
23 or her own account. Broker-dealer does not include (a) an issuer-dealer,  
24 agent, bank, savings institution, or trust company, (b) an issuer  
25 effecting a transaction in its own security exempted by subdivision (5)  
26 (a), (b), (c), (d), (e), or (f) ~~(5)~~ of section 8-1110 or which qualifies  
27 as a federal covered security pursuant to section 18(b)(1) of the  
28 Securities Act of 1933, (c) a person who has no place of business in this  
29 state if he or she effects transactions in this state exclusively with or  
30 through the issuers of the securities involved in the transactions, other  
31 broker-dealers, or banks, savings institutions, credit unions, trust

1 companies, insurance companies, investment companies as defined in the  
2 Investment Company Act of 1940, pension or profit-sharing trusts, or  
3 other financial institutions or institutional buyers, whether acting for  
4 themselves or as trustees, ~~or~~ (d) a person who has no place of business  
5 in this state if during any period of twelve consecutive months he or she  
6 does not direct more than five offers to sell or to buy into this state  
7 in any manner to persons other than those specified in subdivision (2)(c)  
8 of this section, or (e) a person who is a resident of Canada and who has  
9 no office or other physical presence in Nebraska if the following  
10 conditions are satisfied: (i) The person must be registered with, or be a  
11 member of, a securities self-regulatory organization in Canada or a stock  
12 exchange in Canada; (ii) the person must maintain, in good standing, its  
13 provisional or territorial registration or membership in a securities  
14 self-regulatory organization in Canada, or stock exchange in Canada;  
15 (iii) the person effects, or attempts to effect, (A) a transaction with  
16 or for a Canadian client who is temporarily present in this state and  
17 with whom the Canadian broker-dealer had a bona fide customer  
18 relationship before the client entered this state or (B) a transaction  
19 with or for a Canadian client in a self-directed tax advantaged  
20 retirement plan in Canada of which that client is the holder or  
21 contributor; and (iv) the person complies with all provisions of the  
22 Securities Act of Nebraska relating to the disclosure of material  
23 information in connection with the transaction;

24 (3) Department means the Department of Banking and Finance. Director  
25 means the Director of Banking and Finance of the State of Nebraska except  
26 as further provided in section 8-1120;

27 (4) Federal covered adviser means a person who is (a) registered  
28 under section 203 of the Investment Advisers Act of 1940 or (b) is  
29 excluded from the definition of investment adviser under section 202 of  
30 the Investment Advisers Act of 1940;

31 (5) Federal covered security means any security described as a

1 covered security under section 18(b) of the Securities Act of 1933 or  
2 rules and regulations under the act ~~promulgated thereunder~~;

3 (6) Guaranteed means guaranteed as to payment of principal,  
4 interest, or dividends;

5 (7) Investment adviser means any person who for compensation engages  
6 in the business of advising others, either directly or through  
7 publications or writings, as to the value of securities or as to the  
8 advisability of investing in, purchasing, or selling securities or who  
9 for compensation and as a part of a regular business issues or  
10 promulgates analyses or reports concerning securities. Investment adviser  
11 also includes financial planners and other persons who, as an integral  
12 component of other financially related services, provide the foregoing  
13 investment advisory services to others for compensation and as part of a  
14 business or who hold themselves out as providing the foregoing investment  
15 advisory services to others for compensation. Investment adviser does not  
16 include (a) an investment adviser representative, (b) a bank, savings  
17 institution, or trust company, (c) a lawyer, accountant, engineer, or  
18 teacher whose performance of these services is solely incidental to the  
19 practice of his or her profession, (d) a broker-dealer or its agent whose  
20 performance of these services is solely incidental to its business as a  
21 broker-dealer and who receives no special compensation for them, (e) an  
22 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,  
23 newsletter ~~news letter~~, news magazine, or business or financial  
24 publication or service, whether communicated in hard copy form, by  
25 electronic means, or otherwise which does not consist of the rendering of  
26 advice on the basis of the specific investment situation of each client,  
27 (g) a person who has no place of business in this state if (i) his or her  
28 only clients in this state are other investment advisers, federal covered  
29 advisers, broker-dealers, banks, savings institutions, credit unions,  
30 trust companies, insurance companies, investment companies as defined in  
31 the Investment Company Act of 1940, pension or profit-sharing trusts, or

1 other financial institutions or institutional buyers, whether acting for  
2 themselves or as trustees, or (ii) during the preceding twelve-month  
3 period, he or she has had five or fewer clients who are residents of this  
4 state other than those persons specified in subdivision (g)(i) of this  
5 subdivision, (h) any person that is a federal covered adviser, or (i)  
6 such other persons not within the intent of this subdivision as the  
7 director may by rule and  ~~, regulation,~~ or order designate;

8 (8) Investment adviser representative means any partner, limited  
9 liability company member, officer, or director or any person occupying a  
10 similar status or performing similar functions of a partner, limited  
11 liability company member, officer, or director or other individual,  
12 except clerical or ministerial personnel, who is employed by or  
13 associated with an investment adviser that is registered or required to  
14 be registered under the Securities Act of Nebraska or who has a place of  
15 business located in this state and is employed by or associated with a  
16 federal covered adviser, and who (a) makes any recommendations or  
17 otherwise renders advice regarding securities, (b) manages accounts or  
18 portfolios of clients, (c) determines which recommendation or advice  
19 regarding securities should be given, (d) solicits, offers, or negotiates  
20 for the sale of or sells investment advisory services, or (e) supervises  
21 employees who perform any of the foregoing;

22 (9) Issuer means any person who issues or proposes to issue any  
23 security, except that (a) with respect to certificates of deposit,  
24 voting-trust certificates, or collateral-trust certificates or with  
25 respect to certificates of interest or shares in an unincorporated  
26 investment trust not having a board of directors, or persons performing  
27 similar functions, or of the fixed, restricted management, or unit type,  
28 the term issuer means the person or persons performing the acts and  
29 assuming the duties of depositor or manager pursuant to the provisions of  
30 the trust or other agreement or instrument under which the security is  
31 issued and (b) with respect to a fractional or pooled interest in a

1 viatical settlement contract, issuer means the person who creates, for  
2 the purpose of sale, the fractional or pooled interest. In the case of a  
3 viatical settlement contract that is not fractionalized or pooled, issuer  
4 means the person effecting a transaction with a purchaser of such  
5 contract;

6 (10) Issuer-dealer means (a) any issuer located in the State of  
7 Nebraska or (b) any issuer which registered its securities by  
8 qualification who proposes to sell to the public of the State of Nebraska  
9 the securities that it issues without the benefit of another registered  
10 broker-dealer. Such securities shall have been approved for sale in the  
11 State of Nebraska pursuant to section 8-1104;

12 (11) Nonissuer means not directly or indirectly for the benefit of  
13 the issuer;

14 (12) Person means an individual, a corporation, a partnership, a  
15 limited liability company, an association, a joint-stock company, a trust  
16 in which the interests of the beneficiaries are evidenced by a security,  
17 an unincorporated organization, a government, or a political subdivision  
18 of a government;

19 (13) Sale or sell includes every contract of sale of, contract to  
20 sell, or disposition of a security or interest in a security for value.  
21 Offer or offer to sell includes every attempt or offer to dispose of, or  
22 solicitation of an offer to buy, a security or interest in a security for  
23 value. Any security given or delivered with or as a bonus on account of  
24 any purchase of securities or any other thing is considered to constitute  
25 part of the subject of the purchase and to have been offered and sold for  
26 value. A purported gift of assessable stock shall be considered to  
27 involve an offer and sale. Every sale or offer of a warrant or right to  
28 purchase or subscribe to another security of the same or another issuer,  
29 as well as every sale or offer of a security which gives the holder a  
30 present or future right or privilege to convert into another security of  
31 the same or another issuer, shall be considered to include an offer of

1 the other security;

2 (14) Securities Act of 1933, Securities Exchange Act of 1934,  
3 Investment Advisers Act of 1940, Investment Company Act of 1940, and  
4 Commodity Exchange Act means the acts as they existed on federal statutes  
5 of those names as amended on or before January 1, 2017 2013;

6 (15) Security means any note, stock, treasury stock, bond,  
7 debenture, units of beneficial interest in a real estate trust, evidence  
8 of indebtedness, certificate of interest or participation in any profit-  
9 sharing agreement, collateral-trust certificate, preorganization  
10 certificate or subscription, transferable share, investment contract,  
11 viatical settlement contract or any fractional or pooled interest in such  
12 contract, membership interest in any limited liability company organized  
13 under Nebraska law or any other jurisdiction unless otherwise excluded  
14 from this definition, voting-trust certificate, certificate of deposit  
15 for a security, certificate of interest or participation in an oil, gas,  
16 or mining title or lease or in payments out of production under such a  
17 title or lease, in general any interest or instrument commonly known as a  
18 security, or any certificate of interest or participation in, temporary  
19 or interim certificate for, guarantee of, or warrant or right to  
20 subscribe to or purchase any of the foregoing. Security does not include  
21 any insurance or endowment policy or annuity contract issued by an  
22 insurance company. Security also does not include a membership interest  
23 in a limited liability company when all of the following exist: (a) The  
24 member enters into a written commitment to be engaged actively and  
25 directly in the management of the limited liability company; and (b) all  
26 members of the limited liability company are actively engaged in the  
27 management of the limited liability company. For the limited purposes of  
28 determining professional malpractice insurance premiums, a security  
29 issued through a transaction that is exempted pursuant to subdivision  
30 (23) of section 8-1111 shall not be considered a security;

31 (16) State means any state, territory, or possession of the United

1 States as well as the District of Columbia and Puerto Rico; and

2 (17) Viatical settlement contract means an agreement for the  
3 purchase, sale, assignment, transfer, devise, or bequest of all or any  
4 portion of the death benefit or ownership of a life insurance policy or  
5 contract for consideration which is less than the expected death benefit  
6 of the life insurance policy or contract. Viatical settlement contract  
7 does not include (a) the assignment, transfer, sale, devise, or bequest  
8 of a death benefit of a life insurance policy or contract made by the  
9 viator to an insurance company or to a viatical settlement provider or  
10 broker licensed pursuant to the Viatical Settlements Act, (b) the  
11 assignment of a life insurance policy or contract to a bank, savings  
12 bank, savings and loan association, credit union, or other licensed  
13 lending institution as collateral for a loan, or (c) the exercise of  
14 accelerated benefits pursuant to the terms of a life insurance policy or  
15 contract and consistent with applicable law.

16 Sec. 2. For purposes of the Securities Act of Nebraska, federal  
17 rules and regulations adopted under the Investment Advisors Act of 1940  
18 or the Securities Act of 1933 means such rules and regulations as they  
19 existed on January 1, 2017, except that references to Rule 147 and Rule  
20 147A adopted under the Securities Act of 1933 shall be to such rules as  
21 published in the Federal Register on November 21, 2016.

22 Sec. 3. Section 8-1102, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 8-1102 (1) It shall be unlawful for any person, in connection with  
25 the offer, sale, or purchase of any security, directly or indirectly:

26 (a) To employ any device, scheme, or artifice to defraud;

27 (b) To make any untrue statement of a material fact or to omit to  
28 state a material fact necessary in order to make the statements made, in  
29 the light of the circumstances under which they are made, not misleading;  
30 or

31 (c) To engage in any act, practice, or course of business which

1 operates or would operate as a fraud or deceit upon any person.

2 (2) It shall be unlawful for any person who receives any  
3 consideration from another person primarily for advising the other person  
4 as to the value of securities or their purchase or sale, whether through  
5 the issuance of analyses or reports or otherwise:

6 (a) To employ any device, scheme, or artifice to defraud any person;

7 (b) To engage in any act, practice, or course of business which  
8 operates or would operate as a fraud or deceit upon any person;

9 (c) To knowingly sell any security to or purchase any security from  
10 a client while acting as principal for his or her own account, act as a  
11 broker for a person other than the client, or knowingly effect any sale  
12 or purchase of any security for the account of the client, without  
13 disclosing to the client in writing before the completion of the  
14 transaction the capacity in which he or she is acting and obtaining the  
15 consent of the client to the transaction. This subdivision shall not  
16 apply to any transaction involving a broker-dealer's client if the  
17 broker-dealer is not acting as an investment adviser in the transaction;

18 (d) To engage in dishonest or unethical practices as the director  
19 may define by rule and ~~7~~ regulation~~7~~ or order; or

20 (e) In the solicitation of advisory clients, to make any untrue  
21 statement of a material fact or to omit to state a material fact  
22 necessary in order to make the statements made, in light of the  
23 circumstances under which they are made, not misleading.

24 (3) Except as may be permitted by rule and ~~7~~ regulation~~7~~ or order of  
25 the director, it shall be unlawful for any investment adviser or  
26 investment adviser representative to enter into, extend, or renew any  
27 investment advisory contract:

28 (a) Which provides for the compensation of the investment adviser or  
29 investment adviser representative on the basis of a share of capital  
30 gains upon or capital appreciation of the funds or any portion of the  
31 funds of any client;

1 (b) Unless the investment advisory contract prohibits in writing the  
2 assignment of the contract by the investment adviser or investment  
3 adviser representative without the consent of the other party to the  
4 contract; and

5 (c) Unless the investment advisory contract provides in writing that  
6 if the investment adviser is a partnership or a limited liability  
7 company, the other party to the contract shall be notified of any change  
8 in the membership of the partnership or limited liability company within  
9 a reasonable time after the change.

10 (4) Subdivision (3)(a) of this section shall not prohibit an  
11 investment advisory contract which provides for compensation based upon  
12 the total value of a fund averaged over a definite period or as of  
13 definite dates or taken as of a definite date. Assignment, as used in  
14 subdivision (3)(b) of this section, shall include any direct or indirect  
15 transfer or hypothecation of an investment advisory contract by the  
16 assignor or of a controlling block of the assignor's outstanding voting  
17 securities by a security holder of the assignor, except that if the  
18 investment adviser is a partnership or a limited liability company, no  
19 assignment of an investment advisory contract shall be considered to  
20 result from the death or withdrawal of a minority of the members of the  
21 investment adviser having only a minority interest in the business of the  
22 investment adviser or from the admission to the investment adviser of one  
23 or more members who, after admission, will be only a minority of the  
24 members and will have only a minority interest in the business.

25 (5) It shall be unlawful for any investment adviser or investment  
26 adviser representative to take or have custody of any securities or funds  
27 of any client if:

28 (a) The director by rule and  $\tau$  regulation $\tau$  or order prohibits the  
29 taking or custody; or

30 (b) In the absence of any rule and  $\tau$  regulation $\tau$  or order by the  
31 director, the investment adviser or investment adviser representative

1 fails to notify the director that he or she has or may have custody.

2 (6) The director may by rule and  ~~regulation~~, or order adopt and  
3 promulgate exemptions from subdivisions (2)(c), (3)(a), (3)(b), and (3)  
4 (c) of this section when the exemptions are consistent with the public  
5 interest and are within the purposes fairly intended by the Securities  
6 Act of Nebraska.

7 Sec. 4. Section 8-1103, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 8-1103 (1) It shall be unlawful for any person to transact business  
10 in this state as a broker-dealer, issuer-dealer, or agent, except in  
11 certain transactions exempt under section 8-1111, unless he or she is  
12 registered under the Securities Act of Nebraska. It shall be unlawful for  
13 any broker-dealer to employ an agent for purposes of effecting or  
14 attempting to effect transactions in this state unless the agent is  
15 registered. It shall be unlawful for an issuer to employ an agent unless  
16 the issuer is registered as an issuer-dealer and unless the agent is  
17 registered. The registration of an agent shall not be effective unless  
18 the agent is employed by a broker-dealer or issuer-dealer registered  
19 under the act. When the agent begins or terminates employment with a  
20 registered broker-dealer or issuer-dealer, the broker-dealer or issuer-  
21 dealer shall promptly notify the director.

22 (2)(a) It shall be unlawful for any person to transact business in  
23 this state as an investment adviser or as an investment adviser  
24 representative unless he or she is registered under the act.

25 (b) Except with respect to federal covered advisers whose only  
26 clients are those described in subdivision (7)(g)(i) of section 8-1101,  
27 it shall be unlawful for any federal covered adviser to conduct advisory  
28 business in this state unless such person files with the director the  
29 documents which are filed with the Securities and Exchange Commission, as  
30 the director may by rule and regulation or order require, a consent to  
31 service of process, and payment of the ~~a two-hundred-dollar filing fee~~

1 prescribed in subsection (6) of this section prior to acting as a federal  
2 covered adviser in this state.

3 (c)(i) It shall be unlawful for any investment adviser required to  
4 be registered under the Securities Act of Nebraska to employ an  
5 investment adviser representative unless the investment adviser  
6 representative is registered under the act.

7 (ii) It shall be unlawful for any federal covered adviser to employ,  
8 supervise, or associate with an investment adviser representative having  
9 a place of business located in this state unless such investment adviser  
10 representative is registered under the Securities Act of Nebraska or is  
11 exempt from registration.

12 (d) The registration of an investment adviser representative shall  
13 not be effective unless the investment adviser representative is employed  
14 by a registered investment adviser or a federal covered adviser. When an  
15 investment adviser representative begins or terminates employment with an  
16 investment adviser, the investment adviser shall promptly notify the  
17 director. When an investment adviser representative begins or terminates  
18 employment with a federal covered adviser, the investment adviser  
19 representative shall promptly notify the director.

20 (3) A broker-dealer, issuer-dealer, agent, investment adviser, or  
21 investment adviser representative may apply for registration by filing  
22 with the director an application and payment of the fee prescribed in  
23 subsection (6) of this section. If the applicant is an individual, the  
24 application shall include the applicant's social security number.  
25 Registration of a broker-dealer or issuer-dealer shall automatically  
26 constitute registration of all partners, limited liability company  
27 members, officers, or directors of such broker-dealer or issuer-dealer as  
28 agents, except any partner, limited liability company member, officer, or  
29 director whose registration as an agent is denied, suspended, or revoked  
30 under subsection (9) of this section, without the filing of applications  
31 for registration as agents or the payment of fees for registration as

1 agents. The application shall contain whatever information the director  
2 requires concerning such matters as:

3 (a) The applicant's form and place of organization;

4 (b) The applicant's proposed method of doing business;

5 (c) The qualifications and business history of the applicant and, in  
6 the case of a broker-dealer or investment adviser, the qualifications and  
7 business history of any partner, limited liability company member,  
8 officer, director, person occupying a similar status or performing  
9 similar functions of a partner, limited liability company member,  
10 officer, or director, or person directly or indirectly controlling the  
11 broker-dealer or investment adviser;

12 (d) Any injunction or administrative order or conviction of a  
13 misdemeanor involving a security or any aspect of the securities business  
14 and any conviction of a felony;

15 (e) The applicant's financial condition and history; and

16 (f) Information to be furnished or disseminated to any client or  
17 prospective client if the applicant is an investment adviser.

18 (4)(a) If no denial order is in effect and no proceeding is pending  
19 under subsection (9) of this section, registration shall become effective  
20 at noon of the thirtieth day after an application is filed, complete with  
21 all amendments. The director may specify an earlier effective date.

22 (b) The director shall require as conditions of registration:

23 (i) That the applicant, except for renewal, and, in the case of a  
24 corporation, partnership, or limited liability company, the officers,  
25 directors, partners, or limited liability company members pass such  
26 examination or examinations as the director may prescribe as evidence of  
27 knowledge of the securities business;

28 (ii) That an issuer-dealer and its agents pass an examination  
29 prescribed and administered by the department ~~Department of Banking and~~  
30 ~~Finance~~. Such examination shall be administered upon request and upon  
31 payment of an examination fee of five dollars. Any applicant for issuer-

1 dealer registration who has satisfactorily passed any other examination  
2 approved by the director shall be exempted from this requirement upon  
3 furnishing evidence of satisfactory completion of such examination to the  
4 director;

5 (iii) That an issuer-dealer have a minimum net capital of twenty-  
6 five thousand dollars. In lieu of a minimum net capital requirement of  
7 twenty-five thousand dollars, the director may require an issuer-dealer  
8 to post a corporate surety bond with a surety company licensed to do  
9 business in Nebraska in an amount equal to such capital requirements.  
10 When the director finds that a surety bond with a surety company would  
11 cause an undue burden on an issuer-dealer, the director may require the  
12 issuer-dealer to post a signature bond. Every such surety or signature  
13 bond shall run in favor of Nebraska, shall provide for an action suit  
14 thereon by any person who has a cause of action under section 8-1118, and  
15 shall provide that no action suit may be maintained to enforce any  
16 liability on the bond unless brought within the time periods specified by  
17 section 8-1118;

18 (iv) That a broker-dealer have such minimum net capital as the  
19 director may by rule and regulation or order require, subject to the  
20 limitations provided in section 15 of the Securities Exchange Act of  
21 1934. In lieu of any such minimum net capital requirement, the director  
22 may by rule and regulation or order require a broker-dealer to post a  
23 corporate surety bond with a surety company licensed to do business in  
24 Nebraska in an amount equal to such capital requirement, subject to the  
25 limitations of section 15 of the Securities Exchange Act of 1934. Every  
26 such surety bond shall run in favor of Nebraska, shall provide for an  
27 action suit thereon by any person who has a cause of action under section  
28 8-1118, and shall provide that no action suit may be maintained to  
29 enforce any liability on the bond unless brought within the time periods  
30 specified by section 8-1118; and

31 (v) That an investment adviser have such minimum net capital as the

1 director may by rule and regulation or order require, subject to the  
2 limitations of section 222 of the Investment Advisers Act of 1940, which  
3 may include different requirements for those investment advisers who  
4 maintain custody of clients' funds or securities or who have  
5 discretionary authority over such funds or securities and those  
6 investment advisers who do not. In lieu of any such minimum net capital  
7 requirement, the director may require by rule and regulation or order an  
8 investment adviser to post a corporate surety bond with a surety company  
9 licensed to do business in Nebraska in an amount equal to such capital  
10 requirement, subject to the limitations of section 222 of the Investment  
11 Advisers Act of 1940. Every such surety bond shall run in favor of  
12 Nebraska, shall provide for an action suit thereon by any person who has  
13 a cause of action under section 8-1118, and shall provide that no action  
14 suit may be maintained to enforce any liability on the bond unless  
15 brought within the time periods specified by section 8-1118.

16 (c) The director may waive the requirement of an examination for any  
17 applicant who by reason of prior experience can demonstrate his or her  
18 knowledge of the securities business. Registration of a broker-dealer,  
19 agent, investment adviser, and investment adviser representative shall be  
20 effective for a period of not more than one year and shall expire on  
21 December 31 unless renewed. Registration of an issuer-dealer shall be  
22 effective for a period of not more than one year and may be renewed as  
23 provided in this section. Notice filings by a federal covered adviser  
24 shall be effective for a period of not more than one year and shall  
25 expire on December 31 unless renewed.

26 (d) The director may restrict or limit an applicant as to any  
27 function or activity in this state for which registration is required  
28 under the Securities Act of Nebraska.

29 (5) Registration of a broker-dealer, issuer-dealer, agent,  
30 investment adviser, or investment adviser representative may be renewed  
31 by filing with the director or with a registration depository designated

1 by the director prior to the expiration date such information as the  
2 director by rule and  ~~regulation~~, or order may require to indicate any  
3 material change in the information contained in the original application  
4 or any renewal application for registration as a broker-dealer, issuer-  
5 dealer, agent, investment adviser, or investment adviser representative  
6 previously filed with the director by the applicant, and payment of the  
7 prescribed fee. A federal covered adviser may renew its notice filing by  
8 filing with the director prior to the expiration thereof the documents  
9 filed with the Securities and Exchange Commission, as the director by  
10 rule and  ~~regulation~~ or order may require, a consent to service of  
11 process, and the prescribed fee.

12 (6) The fee for initial or renewal registration shall be two hundred  
13 fifty dollars for a broker-dealer, two hundred dollars for an investment  
14 adviser, one hundred dollars for an issuer-dealer, forty dollars for an  
15 agent, and forty dollars for an investment adviser representative. The  
16 fee for initial or renewal filings for a federal covered adviser shall be  
17 two hundred dollars. When an application is denied or withdrawn, the  
18 director shall retain all of the fee.

19 (7)(a) Every registered broker-dealer, issuer-dealer, and investment  
20 adviser shall make and keep such accounts, correspondence, memoranda,  
21 papers, books, and other records as the director may prescribe ~~prescribes~~  
22 by rule and regulation or order, except as provided by section 15 of the  
23 Securities Exchange Act of 1934, in connection with broker-dealers, and  
24 section 222 of the Investment Advisers Act of 1940, in connection with  
25 investment advisers. All records so required shall be preserved for such  
26 period as the director may prescribe ~~prescribes~~ by rule and regulation or  
27 order.

28 (b) All the records of a registered broker-dealer, issuer-dealer, or  
29 investment adviser shall be subject at any time or from time to time to  
30 such reasonable periodic, special, or other examinations by  
31 representatives of the director, within or without this state, as the

1 director deems necessary or appropriate in the public interest or for the  
2 protection of investors and advisory clients. For the purpose of avoiding  
3 unnecessary duplication of examinations, the director, insofar as he or  
4 she deems it practicable in administering this subsection, may cooperate  
5 with the securities administrators of other states, the Securities and  
6 Exchange Commission, and any national securities exchange or national  
7 securities association registered under the Securities Exchange Act of  
8 1934. Costs of such examinations shall be borne by the registrant.

9 (c) Every registered broker-dealer, except as provided in section 15  
10 of the Securities Exchange Act of 1934, and investment adviser, except as  
11 provided by section 222 of the Investment Advisers Act of 1940, shall  
12 file such financial reports as the director may prescribe by rule and  
13 regulation or order.

14 (d) If any information contained in any document filed with the  
15 director is or becomes inaccurate or incomplete in any material respect,  
16 a broker-dealer, issuer-dealer, agent, investment adviser, or investment  
17 adviser representative shall promptly file a correcting amendment or a  
18 federal covered adviser shall file a correcting amendment when such  
19 amendment is required to be filed with the Securities and Exchange  
20 Commission.

21 (8) With respect to investment advisers, the director may require  
22 that certain information be furnished or disseminated to clients as  
23 necessary or appropriate in the public interest or for the protection of  
24 investors and advisory clients. To the extent determined by the director  
25 in his or her discretion, information furnished to clients of an  
26 investment adviser that would be in compliance with the Investment  
27 Advisers Act of 1940 and the rules and regulations under such act may be  
28 used in whole or in part to satisfy the information requirement  
29 prescribed in this subsection.

30 (9)(a) The director may by order deny, suspend, or revoke  
31 registration of any broker-dealer, issuer-dealer, agent, investment

1 adviser, or investment adviser representative or bar, censure, or impose  
2 a fine pursuant to subsection (4) of section 8-1108.01 on any registrant  
3 or any partner, limited liability company member, officer, director, or  
4 person occupying a similar status or performing similar functions of a  
5 partner, limited liability company member, officer, or director for a  
6 registrant from employment with any broker-dealer, issuer-dealer, or  
7 investment adviser if he or she finds that the order is in the public  
8 interest and that the applicant or registrant or, in the case of a  
9 broker-dealer, issuer-dealer, or investment adviser, any partner, limited  
10 liability company member, officer, director, person occupying a similar  
11 status or performing similar functions of a partner, limited liability  
12 company member, officer, or director, or person directly or indirectly  
13 controlling the broker-dealer, issuer-dealer, or investment adviser:

14 (i) Has filed an application for registration under this section  
15 which, as of any date after filing in the case of an order denying  
16 effectiveness, was incomplete in any material respect or contained any  
17 statement which was, in the light of the circumstances under which it was  
18 made, false or misleading with respect to any material fact;

19 (ii) Has willfully violated or willfully failed to comply with any  
20 provision of the Securities Act of Nebraska or a ~~predecessor act~~ or any  
21 rule and ~~regulation~~, or order under ~~adopted and promulgated pursuant to~~  
22 the act ~~or a predecessor act~~;

23 (iii) Has been convicted, within the past ten years, of any  
24 misdemeanor involving a security or commodity or any aspect of the  
25 securities or commodities business or any felony;

26 (iv) Is permanently or temporarily enjoined by any court of  
27 competent jurisdiction from engaging in or continuing any conduct or  
28 practice involving any aspect of the securities or commodities business;

29 (v) Is the subject of an order of the director denying, suspending,  
30 or revoking registration as a broker-dealer, issuer-dealer, agent,  
31 investment adviser, or investment adviser representative;

1 (vi) Is the subject of an adjudication or determination, after  
2 notice and opportunity for hearing, within the past ten years by a  
3 securities or commodities agency or administrator of another state or a  
4 court of competent jurisdiction that the person has willfully violated  
5 the Securities Act of 1933, the Securities Exchange Act of 1934, the  
6 Investment Advisers Act of 1940, the Investment Company Act of 1940, the  
7 Commodity Exchange Act, or the securities or commodities law of any other  
8 state;

9 (vii) Has engaged in dishonest or unethical practices in the  
10 securities or commodities business;

11 (viii) Is insolvent, either in the sense that his or her liabilities  
12 exceed his or her assets or in the sense that he or she cannot meet his  
13 or her obligations as they mature, but the director may not enter an  
14 order against a broker-dealer, issuer-dealer, or investment adviser under  
15 this subdivision without a finding of insolvency as to the broker-dealer,  
16 issuer-dealer, or investment adviser;

17 (ix) Has not complied with a condition imposed by the director under  
18 subsection (4) of this section or is not qualified on the basis of such  
19 factors as training, experience, or knowledge of the securities business;

20 (x) Has failed to pay the proper filing fee, but the director may  
21 enter only a denial order under this subdivision, and he or she shall  
22 vacate any such order when the deficiency has been corrected;

23 (xi) Has failed to reasonably supervise his or her agents or  
24 employees, if he or she is a broker-dealer or issuer-dealer, or his or  
25 her investment adviser representatives or employees, if he or she is an  
26 investment adviser, to assure their compliance with the Securities Act of  
27 Nebraska; ~~or~~

28 (xii) Has been denied the right to do business in the securities  
29 industry, or the person's respective authority to do business in an  
30 investment-related industry has been revoked by any other state, federal,  
31 or foreign governmental agency or self-regulatory organization for cause,

1 or the person has been the subject of a final order in a criminal, civil,  
2 injunctive, or administrative action for securities, commodities, or  
3 fraud-related violations of the law of any state, federal, or foreign  
4 governmental unit; ~~or -~~

5 (xiii) Has refused to allow or otherwise impedes the department from  
6 conducting an examination under subsection (7) of this section or has  
7 refused the department access to a registrant's office to conduct an  
8 examination under subsection (7) of this section.

9 (b) The director may by order bar any person from engaging in the  
10 securities business in this state if the director finds that the order is  
11 in the public interest and that the person has:

12 (i) Willfully violated or willfully failed to comply with any  
13 provision of the Securities Act of Nebraska or ~~a predecessor act or any~~  
14 ~~rule and , regulation, or order under adopted and promulgated pursuant to~~  
15 ~~the act or a predecessor act; or~~

16 (ii) Engaged in dishonest or unethical practices in the securities  
17 business, which activity at the time was subject to regulation by the  
18 Securities Act of Nebraska.

19 (c)(i) For purposes of subdivisions (9)(a)(vii) and (9)(b)(ii) of  
20 this section, the director may, by rule and regulation or order,  
21 determine that a violation of any provision of the fair practice or  
22 ethical rules or standards promulgated by the Securities and Exchange  
23 Commission, the Financial Industry Regulatory Authority, or a self-  
24 regulatory organization approved by the Securities and Exchange  
25 Commission, in effect on January 1, 2017, constitutes a dishonest or  
26 unethical practice in the securities or commodities business.

27 (ii) ~~(c)(i)~~ The director may not institute a proceeding under this  
28 section on the basis of a final judicial or administrative order made  
29 known to him or her by the applicant prior to the effective date of the  
30 registration unless the proceeding is instituted within the next ninety  
31 days following registration. For purposes of this subdivision, a final

1 judicial or administrative order does not include an order that is stayed  
2 or subject to further review or appeal. This subdivision shall not apply  
3 to renewed registrations.

4 (iii) ~~(ii)~~ The director may by order summarily postpone or suspend  
5 registration pending final determination of any proceeding under this  
6 subsection. Upon the entry of the order, the director shall promptly  
7 notify the applicant or registrant, as well as the employer or  
8 prospective employer if the applicant or registrant is an agent or  
9 investment adviser representative, that it has been entered and of the  
10 reasons therefor and that within fifteen business days after the receipt  
11 of a written request the matter will be set down for hearing. If no  
12 hearing is requested within fifteen business days of the issuance of the  
13 order and none is ordered by the director, the order shall automatically  
14 become a final order and shall remain in effect until it is modified or  
15 vacated by the director. If a hearing is requested or ordered, the  
16 director, after notice of and opportunity for hearing, shall enter his or  
17 her written findings of fact and conclusions of law and may affirm,  
18 modify, or vacate the order. No order may be entered under this section  
19 denying or revoking registration without appropriate prior notice to the  
20 applicant or registrant, as well as the employer or prospective employer  
21 if the applicant or registrant is an agent or investment adviser  
22 representative, and opportunity for hearing.

23 (10)(a) ~~(d)~~ If the director finds that any registrant or applicant  
24 for registration is no longer in existence or has ceased to do business  
25 as a broker-dealer, issuer-dealer, agent, investment adviser, or  
26 investment adviser representative, is subject to an adjudication of  
27 mental incompetence or to the control of a committee, conservator, or  
28 guardian, or cannot be located after reasonable search, the director may  
29 by order cancel the registration or application.

30 (b) If an applicant for registration does not complete the  
31 registration application and fails to respond to a notice or notices from

1 the department to correct the deficiency or deficiencies for a period of  
2 one hundred twenty days or more after the date the department sends the  
3 initial notice to correct the deficiency, the department may deem the  
4 registration application as abandoned and may issue a notice of  
5 abandonment of the registration application to the applicant in lieu of  
6 proceedings to deny the application.

7 (c) ~~(e)~~ Withdrawal from registration as a broker-dealer, issuer-  
8 dealer, agent, investment adviser, or investment adviser representative  
9 shall become effective thirty days after receipt of an application to  
10 withdraw or within a shorter period of time as the director may determine  
11 unless a revocation or suspension proceeding is pending when the  
12 application is filed or a proceeding to revoke or suspend or to impose  
13 conditions upon the withdrawal is instituted within thirty days after the  
14 application is filed. If a revocation or suspension proceeding is pending  
15 or instituted, withdrawal shall become effective at such time and upon  
16 such conditions as the director shall order.

17 Sec. 5. Section 8-1106, Revised Statutes Cumulative Supplement,  
18 2016, is amended to read:

19 8-1106 (1) Any security for which a registration statement has been  
20 filed under the Securities Act of 1933 in connection with the same  
21 offering may be registered by coordination.

22 (2) A registration statement under this section shall contain the  
23 following information and be accompanied by the following documents, in  
24 addition to payment of the registration fee prescribed in section 8-1108  
25 and, if required under section 8-1112, a consent to service of process  
26 meeting the requirements of that section:

27 (a) One copy of the prospectus filed under the Securities Act of  
28 1933 together with all amendments thereto;

29 (b) The amount of securities to be offered in this state;

30 (c) The states in which a registration statement or similar document  
31 in connection with the offering has been or is expected to be filed;

1 (d) Any adverse order, judgment, or decree previously entered in  
2 connection with the offering by any court or the Securities and Exchange  
3 Commission;

4 (e) If the director by rule and regulation or order otherwise  
5 requires, a copy of the articles of incorporation and bylaws or their  
6 substantial equivalents currently in effect, a copy of any agreements  
7 with or among underwriters, a copy of any indenture or other instrument  
8 governing the issuance of the security to be registered, and a specimen  
9 or copy of the security;

10 (f) If the director requests, any other information or copies of any  
11 other documents filed under the Securities Act of 1933; and

12 (g) An undertaking to forward promptly all amendments to the federal  
13 registration statement, other than an amendment which merely delays the  
14 effective date.

15 (3) A registration statement under this section shall automatically  
16 become effective at the moment the federal registration statement or  
17 qualification becomes effective if all the following conditions are  
18 satisfied:

19 (a) No stop order is in effect and no proceeding is pending under  
20 the Securities Act of 1933, as amended, or under section 8-1109;

21 (b) The registration statement has been on file with the director  
22 for at least ten days; and

23 (c) A statement of the maximum and minimum proposed offering prices  
24 and the maximum underwriting discounts and commissions has been filed and  
25 the offering is made within those limitations. The registrant shall  
26 promptly notify the director by facsimile transmission or electronic mail  
27 of the date and time when the federal registration statement became  
28 effective and the content of the price amendment, if any, and shall  
29 promptly file a posteffective amendment containing the information and  
30 documents in the price amendment. Price amendment means ~~shall mean~~ the  
31 final federal amendment which includes a statement of the offering price,

1 underwriting and selling discounts or commissions, amount of proceeds,  
2 conversion rates, call prices, and other matters dependent upon the  
3 offering price.

4 (4) Upon failure to receive the required notification and  
5 posteffective amendment with respect to the price amendment, the director  
6 may enter a stop order, without notice or hearing, retroactively denying  
7 effectiveness to the registration statement or suspending its  
8 effectiveness until there has been compliance with this subsection, if he  
9 or she promptly notifies the registrant by telephone or electronic mail  
10 and promptly confirms by letter sent postage prepaid when he or she  
11 notifies by telephone or electronic mail of the issuance of the order. If  
12 the registrant proves compliance with the requirements of this subsection  
13 as to notice and posteffective amendment, the stop order shall be void as  
14 of the time of its entry.

15 (5) The director may by rule and regulation or order ~~otherwise~~ waive  
16 either or both of the conditions specified in subsections (2) and (3) of  
17 this section. If the federal registration statement or qualification  
18 becomes effective before all these conditions have been satisfied and  
19 they are not waived, the registration statement shall automatically  
20 become effective as soon as all the conditions have been satisfied.

21 Sec. 6. Section 8-1107, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 8-1107 (1) Any security may be registered by qualification.

24 (2) A registration statement under this section shall contain the  
25 following information and be accompanied by the following documents, in  
26 addition to payment of the registration fee prescribed in section 8-1108  
27 and, if required under section 8-1112, a consent to service of process  
28 meeting the requirements of that section:

29 (a) With respect to the issuer and any significant subsidiary, its  
30 name, address, and form of organization, the state or foreign  
31 jurisdiction and date of its organization, the general character and

1 location of its business, and a description of its physical properties  
2 and equipment;

3 (b) With respect to every director and officer of the issuer, or  
4 person occupying a similar status or performing similar functions, his or  
5 her name, address, and principal occupation for the past five years, the  
6 amount of securities of the issuer held by him or her as of a specified  
7 date within ninety days of the filing of the registration statement, the  
8 remuneration paid to all such persons in the aggregate during the past  
9 twelve months, and estimated to be paid during the next twelve months,  
10 directly or indirectly, by the issuer together with all predecessors,  
11 parents and subsidiaries;

12 (c) With respect to any person not named in subdivision (e) of this  
13 subsection, owning of record, or beneficially if known, ten percent or  
14 more of the outstanding shares of any class of equity security of the  
15 issuer, the information specified in subdivision (b) of this subsection  
16 other than his or her occupation;

17 (d) With respect to every promoter, not named in subdivision (b) of  
18 this subsection, if the issuer was organized within the past three years,  
19 the information specified in subdivision (b) of this subsection, any  
20 amount paid to him or her by the issuer within that period or intended to  
21 be paid to him or her, and the consideration for any such payment;

22 (e) The capitalization and long-term debt, on both a current and a  
23 pro forma basis, of the issuer and any significant subsidiary, including  
24 a description of each security outstanding or being registered or  
25 otherwise offered, and a statement of the amount and kind of  
26 consideration whether in the form of cash, physical assets, services,  
27 patents, goodwill, or anything else for which the issuer or any  
28 subsidiary has issued any of its securities within the past two years or  
29 is obligated to issue any of its securities;

30 (f) The kind and amount of securities to be offered, the amount to  
31 be offered in this state, the proposed offering price and any variation

1 therefrom at which any portion of the offering is to be made to any  
2 persons except as underwriting and selling discounts and commissions, the  
3 estimated aggregate underwriting and selling discounts or commissions and  
4 finders' fees including separately cash, securities, or anything else of  
5 value to accrue to the underwriters in connection with the offering, the  
6 estimated amounts of other selling expenses, and legal, engineering, and  
7 accounting expenses to be incurred by the issuer in connection with the  
8 offering, the name and address of every underwriter and every recipient  
9 of a finders' fee, a copy of any underwriting or selling-group agreement  
10 pursuant to which the distribution is to be made, or the proposed form of  
11 any such agreement whose terms have not yet been determined, and a  
12 description of the plan of distribution of any securities which are to be  
13 offered otherwise than through an underwriter;

14 (g) The estimated cash proceeds to be received by the issuer from  
15 the offering, the purposes for which the proceeds are to be used by the  
16 issuer, the amount to be used for each purpose, the order or priority in  
17 which the proceeds will be used for the purposes stated, the amounts of  
18 any funds to be raised from other sources to achieve the purposes stated,  
19 and the sources of any such funds, and, if any part of the proceeds is to  
20 be used to acquire any property, including goodwill, otherwise than in  
21 the ordinary course of business, the names and addresses of the vendors  
22 and the purchase price;

23 (h) A description of any stock options or other security options  
24 outstanding, or to be created in connection with the offering, together  
25 with the amount of any such options held or to be held by every person  
26 required to be named in subdivision (b), (c), (d), (e) or (g) of this  
27 subsection and by any person who holds or will hold ten percent or more  
28 in the aggregate of any such options;

29 ~~(i) The states in which a registration statement or similar document~~  
30 ~~in connection with the offering has been or is expected to be filed;~~

31 (i) (j) Any adverse order, judgment or decree previously entered in

1 connection with the offering by any court or the Securities and Exchange  
2 Commission, and a description of any pending litigation or proceeding to  
3 which the issuer is a party and which materially affects its business or  
4 assets including any such litigation or proceeding known to be  
5 contemplated by governmental authorities;

6 ~~(k) A copy of any prospectus or circular intended as of the~~  
7 ~~effective date to be used in connection with the offering;~~

8 ~~(j) (1)~~ A specimen or copy of the security being registered, a copy  
9 of the issuer's articles of incorporation and bylaws, or their  
10 substantial equivalent as currently in effect, and a copy of any  
11 indenture or other instrument covering the security to be registered;

12 ~~(k) (m)~~ A signed or conformed copy of an opinion of counsel, if  
13 available, as to the legality of the security being registered; ~~and~~

14 ~~(l) (n)~~ A balance sheet of the issuer as of a date within four  
15 months prior to the filing of the registration statement, a profit and  
16 loss statement and analysis of surplus for each of the three fiscal years  
17 preceding the date of the balance sheet and for any period between the  
18 close of the last fiscal year and the date of the balance sheet, or for  
19 the period of the issuer's and any predecessor's existence if less than  
20 three years, and, if any part of the proceeds of the offering is to be  
21 applied to the purchase of any business, the same financial statements  
22 which would be required if that business were the registrant; ~~or~~

23 (m) If a report or valuation, other than an official record that is  
24 public, is used in connection with the registration statement, a signed  
25 or conformed copy of a consent of any accountant, engineer, appraiser, or  
26 other person whose profession gives authority for a statement made by the  
27 person, if the person is named as having prepared or certified the report  
28 or valuation;

29 (n) The states in which a registration statement or similar document  
30 in connection with the offering has been or is expected to be filed; and

31 (o) A copy of any prospectus or circular intended as of the

1 effective date to be used in connection with the offering.

2 (3) In the case of a nonissuer distribution, information may not be  
3 required under this section unless it is known to the person filing the  
4 registration statement or to the persons on whose behalf the distribution  
5 is to be made, or can be furnished by them without unreasonable effort or  
6 expense.

7 (4) ~~(3)~~ A registration statement under this section shall become  
8 effective when the director so orders. The director shall require as a  
9 condition of registration under this section that a prospectus containing  
10 substantially the information specified in subdivisions (a) to (m) ~~(h)~~ of  
11 subsection (2) of this section be sent or given to each person to whom an  
12 offer is made before or concurrently with the first written offer made to  
13 him or her otherwise than by means of a public advertisement by or for  
14 the account of the issuer or any other person on whose behalf the  
15 offering is being made, or by any underwriter or broker-dealer who is  
16 offering part of an unsold allotment or subscription taken by him or her  
17 as a participant in the distribution, the confirmation of any sale made  
18 by or for the account of any such person, payment pursuant to any such  
19 sale, or delivery of the security pursuant to any such sale, whichever  
20 first occurs, but the director shall accept for use under any such  
21 requirement a current prospectus or offering circular regarding the same  
22 securities filed under the Securities Act of 1933 or rules and  
23 regulations under such act thereunder.

24 Sec. 7. Section 8-1108, Revised Statutes Cumulative Supplement,  
25 2016, is amended to read:

26 8-1108 (1) A registration statement may be filed by the issuer, by  
27 any other person on whose behalf the offering is to be made, or by a  
28 registered broker-dealer. Any document filed under the Securities Act of  
29 Nebraska ~~or a predecessor act~~ within five years preceding the filing of a  
30 registration statement may be incorporated by reference in the  
31 registration statement to the extent that the document is currently

1 accurate. The director may by rule and regulation or order permit the  
2 omission of any item of information or document from any registration  
3 statement.

4 (2) The director may require as a condition of registration by  
5 qualification (a) that the proceeds from the sale of the registered  
6 security be impounded until the issuer receives a specified amount, (b)  
7 that the applicant comply with the ~~federal~~ Securities Act of 1933 if it  
8 appears to the director to be in the public interest or that the  
9 registered security is or will be offered in such manner as to be subject  
10 to such act, (c) such reasonable conditions, restrictions, or limitations  
11 upon the offering as may be in the public interest, or (d) that any  
12 security issued within the past three years, or to be issued, to a  
13 promoter for a consideration substantially different from the public  
14 offering price or to any person for a consideration other than cash, be  
15 delivered in escrow to him or her or to some other depository  
16 satisfactory to him or her under an escrow agreement that the owners of  
17 such securities shall not be entitled to sell or transfer such securities  
18 or to withdraw such securities from escrow until all other stockholders  
19 who have paid for their stock in cash shall have been paid a dividend or  
20 dividends aggregating not less than six percent of the initial offering  
21 price shown to the satisfaction of the director to have been actually  
22 earned on the investment in any common stock so held. The director shall  
23 not reject a depository solely because of location in another state. In  
24 case of dissolution or insolvency during the time such securities are  
25 held in escrow, the owners of such securities shall not participate in  
26 the assets until after the owners of all other securities shall have been  
27 paid in full.

28 (3) For the registration of securities by coordination or  
29 qualification, there shall be paid to the director a registration fee of  
30 one-tenth of one percent of the aggregate offering price of the  
31 securities which are to be offered in this state, but the fee shall in no

1 case be less than one hundred dollars. When a registration statement is  
2 withdrawn before the effective date or a preeffective stop order is  
3 entered under section 8-1109, the director shall retain one hundred  
4 dollars of the fee. Any issuer who sells securities in this state in  
5 excess of the aggregate amount of securities registered may, at the  
6 discretion of the director and while such registration is still  
7 effective, apply to register the excess securities sold to persons within  
8 this state by paying a registration fee of three-tenths of one percent  
9 for the difference between the initial fee paid and the fee required in  
10 this subsection. Registration of the excess securities, if granted, shall  
11 be effective retroactively to the date of the existing registration.

12 (4) When securities are registered by coordination or qualification,  
13 they may be offered and sold by a registered broker-dealer. Every  
14 registration shall remain effective for one year or until sooner revoked  
15 by the director or sooner terminated upon request of the registrant with  
16 the consent of the director. All outstanding securities of the same class  
17 as a registered security shall be considered to be registered for the  
18 purpose of any nonissuer transaction. A registration statement which has  
19 become effective may not be withdrawn for one year from its effective  
20 date if any securities of the same class are outstanding.

21 (5) The director may require the person who filed the registration  
22 statement to file reports, not more often than quarterly, to keep  
23 reasonably current the information contained in the registration  
24 statement and to disclose the progress of the offering with respect to  
25 registered securities which are being offered and sold directly by or for  
26 the account of the issuer.

27 (6) A registration of securities shall be effective for a period of  
28 one year or such shorter period as the director may determine.

29 Sec. 8. Section 8-1108.01, Revised Statutes Cumulative Supplement,  
30 2016, is amended to read:

31 8-1108.01 (1) Whenever it appears to the director that the sale of

1 any security is subject to registration under the Securities Act of  
2 Nebraska and is being offered or has been offered for sale without such  
3 registration, he or she may order the issuer or offerer of such security  
4 to cease and desist from the further offer or sale of such security  
5 unless and until it has been registered under the act.

6 (2) Whenever it appears to the director that any person is acting as  
7 a broker-dealer, issuer-dealer, agent, investment adviser, or investment  
8 adviser representative without registration as such or acting as a  
9 federal covered adviser without making a notice filing under the act, he  
10 or she may order such person to cease and desist from such activity  
11 unless and until he or she has been registered as such or has made the  
12 required notice filing under the act.

13 (3) Whenever it appears to the director that any person is violating  
14 section 8-1102, he or she may order the person to cease and desist from  
15 such activity.

16 (4) The director may, after giving reasonable notice and an  
17 opportunity for a hearing under this section, impose a fine not to exceed  
18 twenty-five thousand dollars per violation, in addition to costs of the  
19 investigation, upon a person found to have engaged in any act or practice  
20 which would constitute a violation of the act or any rule and ~~7~~  
21 regulation~~7~~ or order ~~issued~~ under the act, except that the director shall  
22 not impose a fine upon any person in connection with a transaction made  
23 pursuant to subdivision (23) of section 8-1111 for any statement of a  
24 material fact made or for an omission of a material fact required to be  
25 stated or necessary to make the statement made not misleading unless such  
26 statement or omission was made with the intent to defraud or mislead. The  
27 fine and costs shall be in addition to all other penalties imposed by the  
28 laws of this state. The director shall collect the fines and costs and  
29 remit them to the State Treasurer. The State Treasurer shall credit the  
30 costs to the Securities Act Cash Fund and distribute the fines in  
31 accordance with Article VII, section 5, of the Constitution of Nebraska.

1 Imposition of any fine and payment of costs under this subsection may be  
2 appealed pursuant to section 8-1119. If a person fails to pay the fine or  
3 costs of the investigation referred to in this subsection, a lien in the  
4 amount of the fine and costs shall be imposed upon all of the assets and  
5 property of such person in this state and may be recovered by an action  
6 ~~suit~~ by the director and remitted to the State Treasurer. The State  
7 Treasurer shall credit the costs to the Securities Act Cash Fund and  
8 distribute the fines in accordance with Article VII, section 5, of the  
9 Constitution of Nebraska. Failure of the person to pay a fine and costs  
10 shall also constitute a forfeiture of his or her right to do business in  
11 this state under the Securities Act of Nebraska.

12 (5) After such an order has been made under subsection (1), (2),  
13 (3), or (4) of this section, if a request for a hearing is filed in  
14 writing within fifteen business days of the issuance of the order by the  
15 person to whom such order was directed, a hearing shall be held by the  
16 director within thirty business days after receipt of the request, unless  
17 both parties consent to a later date or the director or a hearing officer  
18 sets a later date for good cause. If no hearing is requested within  
19 fifteen business days of the issuance of the order and none is ordered by  
20 the director, the order shall automatically become a final order and  
21 shall remain in effect until it is modified or vacated by the director.  
22 If a hearing is requested or ordered, the director, after notice of and  
23 opportunity for hearing, shall enter his or her written findings of fact  
24 and conclusions of law and may affirm, modify, or vacate the order.

25 Sec. 9. Section 8-1109, Revised Statutes Cumulative Supplement,  
26 2016, is amended to read:

27 8-1109 The director may issue a stop order denying effectiveness to,  
28 or suspending or revoking the effectiveness of, a registration statement  
29 to register securities by coordination if he or she finds that the order  
30 is in the public interest and that:

31 (1) Any such registration statement registering securities, as of

1 its effective date or as of any earlier date in the case of an order  
2 denying effectiveness, is incomplete in any material respect or contains  
3 any statement which was, in the light of the circumstances under which it  
4 was made, false or misleading with respect to any material fact;

5 (2) Any provision of the Securities Act of Nebraska or any rule and  
6 regulation or ~~an~~ order, or condition ~~lawfully imposed~~ under the act has  
7 been violated, in connection with the offering by the person filing the  
8 registration statement, the issuer, any partner, limited liability  
9 company member, officer, or director of the issuer, any person occupying  
10 a similar status or performing similar functions, or any person directly  
11 or indirectly controlling or controlled by the issuer, but only if the  
12 person filing the registration statement is directly or indirectly  
13 controlled by or acting for the issuer or any underwriter;

14 (3) The security registered or sought to be registered is the  
15 subject of a permanent or temporary injunction of any court of competent  
16 jurisdiction entered under any other federal or state act applicable to  
17 the offering. The director may not institute a proceeding against an  
18 effective registration statement under this subdivision more than one  
19 year from the date of the injunction relied on, and he or she may not  
20 enter an order under this subdivision on the basis of an injunction  
21 entered under any other state act unless the injunction was based on  
22 facts which would currently constitute a ground for a stop order under  
23 this section;

24 (4) When a security is sought to be registered by coordination,  
25 there has been a failure to comply with the undertaking required by  
26 subdivision (2)(g) of section 8-1106;

27 (5) The applicant or registrant has failed to pay the proper  
28 registration fee. The director may enter only a denial order under this  
29 subdivision and shall vacate any such order when the deficiency has been  
30 corrected. The director may not enter an order against an effective  
31 registration statement on the basis of a fact or transaction known to him

1 or her when the registration statement became effective;

2 (6) The authority of the applicant or registrant to do business has  
3 been denied or revoked by any other governmental agency;

4 (7) The issuer's or registrant's literature, circulars, or  
5 advertising is misleading, incorrect, incomplete, or calculated to  
6 deceive the purchaser or investor;

7 (8) All or substantially all the enterprise or business of the  
8 issuer, promoter, or guarantor has been found to be unlawful by a final  
9 order of a court or administrative agency of competent jurisdiction; or

10 (9) There is a refusal to furnish information required by the  
11 director within a reasonable time to be fixed by the director.

12 Sec. 10. Section 8-1109.01, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 8-1109.01 The director may issue an order denying effectiveness to,  
15 or suspend or revoke the effectiveness of, a registration statement to  
16 register securities by qualification if he or she finds that the  
17 conditions in subdivision (1) of section 8-1109, or if he or she finds  
18 that any of the following conditions exist:

19 (1) Such order is in the public interest;

20 (2) The issuer's plan of business, or the plan of financing is  
21 either unfair, unjust, inequitable, dishonest, oppressive, or fraudulent  
22 or would tend to work a fraud upon the purchaser;

23 (3) The issuer's or registrant's literature, circulars, or  
24 advertising is misleading, incorrect, incomplete, or calculated to  
25 deceive the purchaser or investor;

26 (4) The securities offered or to be offered, or issued or to be  
27 issued, in payment for property, patents, formulas, goodwill, promotion,  
28 or intangible assets, are in excess of the reasonable value thereof, or  
29 the offering has been, or would be, made with unreasonable amounts of  
30 options;

31 (5) The offering has been or would be made with unreasonable amounts

1 of underwriters' or sellers' discounts, commissions, or other  
2 compensation, or promoters' profits or participation, or unreasonable  
3 amounts or kinds of options. However, in an application to register the  
4 securities for a holding company which is organized for one of its  
5 purposes to acquire or start an insurance company, the total commissions,  
6 organization and promotion expenses shall not exceed ten percent of the  
7 money paid upon stock subscriptions;

8 (6) The authority of the applicant or registrant to do business has  
9 been denied or revoked by any other governmental agency;

10 (7) The enterprise or business of the issuer, promoter, or guarantor  
11 is unlawful;

12 (8) There is a refusal to furnish information required by the  
13 director within a reasonable time to be fixed by the director;

14 (9) There has been a violation of the Securities Act of Nebraska,  
15 any rule and regulation under the act, or an order of the orders of the  
16 director of which such issuer or registrant has notice;

17 (10) There has been a failure to keep and maintain sufficient  
18 records to permit an audit satisfactorily disclosing to the director the  
19 true situation or condition of such issuer;

20 (11) The applicant or registrant has failed to pay the proper  
21 registration, filing, or investigation fee;

22 (12) Any registration statement registering securities by  
23 qualification, as of its effective date or as of any earlier date in the  
24 case of an order denying effectiveness, is incomplete in any material  
25 respect or contains any statement which was, in the light of the  
26 circumstances under which it was made, false or misleading with respect  
27 to any material fact; or

28 (13) The security registered or sought to be registered is the  
29 subject of a permanent or temporary injunction of any court of competent  
30 jurisdiction entered under any federal or state act applicable to the  
31 offering.

1           Sec. 11. Section 8-1109.02, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           8-1109.02 Upon the entry of an order denying effectiveness to or  
4 suspending or revoking the effectiveness of a registration statement to  
5 register securities under any part of section 8-1109 or 8-1109.01, the  
6 director shall promptly notify the issuer of the securities and the  
7 applicant or registrant that the order has been entered and of the  
8 reasons therefor and that any person to whom the order is directed may  
9 request a hearing within fifteen business days after the issuance of the  
10 order. Upon receipt of a written request the matter will be set down for  
11 hearing to commence within thirty business days after the receipt unless  
12 the parties consent to a later date or the director or a hearing officer  
13 sets a later date for good cause. If no hearing is requested within  
14 fifteen business days of the issuance of the order and none is ordered by  
15 the director, the order shall automatically become a final order and  
16 shall remain in effect until it is modified or vacated by the director.  
17 If a hearing is requested or ordered, the director, after notice of and  
18 opportunity for hearing to the issuer and to the applicant or registrant,  
19 shall enter his or her written findings of fact and conclusions of law  
20 and may affirm, modify, or vacate the order. The director may modify or  
21 vacate a stop order if he or she finds that the conditions which prompted  
22 its entry have changed or that it is otherwise in the public interest to  
23 do so.

24           Sec. 12. Section 8-1110, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26           8-1110 Sections 8-1104 to 8-1109 shall not apply to any of the  
27 following securities:

28           (1) Any security, including a revenue obligation, issued or  
29 guaranteed by the State of Nebraska, any political subdivision, or any  
30 agency or corporate or other instrumentality thereof or any certificate  
31 of deposit for any of the foregoing;

1           (2) Any security issued or guaranteed by Canada, any Canadian  
2 province, any political subdivision of any such province, any agency or  
3 corporate or other instrumentality of one or more of the foregoing, or  
4 any other foreign government with which the United States currently  
5 maintains diplomatic relations, if the security is recognized as a valid  
6 obligation by the issuer or guarantor;

7           (3) Any security issued or guaranteed by any federal credit union or  
8 any credit union or similar association organized and supervised under  
9 the laws of this state;

10          (4) Any security issued or guaranteed by any railroad, other common  
11 carrier, public utility, or holding company which is (a) regulated in  
12 respect of its rates and charges by a governmental authority of the  
13 United States or any state or municipality or (b) regulated in respect of  
14 the issuance or guarantee of the security by a governmental authority of  
15 the United States, any state, Canada, or any Canadian province;

16          (5)(a) Any federal covered security specified in Section 18(b)(1) of  
17 the Securities Act of 1933 or by rule adopted under that provision;

18          (b) Any security listed or approved for listing on another  
19 securities market specified by rule and regulation or order under the  
20 Securities Act of Nebraska;

21          (c) Any put or a call option contract, a warrant, or a subscription  
22 right on or with respect to securities described in subdivisions (a) or  
23 (b) of this subdivision;

24          (d) Any option or similar derivative security on a security or an  
25 index of securities or foreign currencies issued by a clearing agency  
26 registered under the Securities Exchange Act of 1934 and listed or  
27 designated for trading on a national securities exchange, a facility of a  
28 national securities exchange, or a facility of a national securities  
29 association registered under the Securities Exchange Act of 1934;

30          (e) Any offer or sale of the underlying security in connection with  
31 the offer, sale, or exercise of an option or other security that was

1 exempt when the option or other security was written or issued; or

2 (f) Any option or a derivative security designated by the Securities  
3 and Exchange Commission under Section 9(b) of the Securities Exchange Act  
4 of 1934;

5 ~~(5)(a) Any security listed on the Chicago Stock Exchange, the~~  
6 ~~Chicago Board Options Exchange, Tier I of the Pacific Stock Exchange,~~  
7 ~~Tier I of the Philadelphia Stock Exchange, or any other stock exchange or~~  
8 ~~market system approved by the director, if, in each case, quotations have~~  
9 ~~been available and public trading has taken place for such class of~~  
10 ~~security prior to the offer or sale of that security in reliance on the~~  
11 ~~exemption; any other security of the same issuer which is of senior or~~  
12 ~~substantially equal rank; any security called for by subscription rights~~  
13 ~~or warrants so listed or approved; or any warrant or right to purchase or~~  
14 ~~subscribe to any of the foregoing or to any security listed on the New~~  
15 ~~York Stock Exchange, the American Stock Exchange, or the NASDAQ Global~~  
16 ~~Market.~~

17 ~~(b) The issuer of any security which has been approved for listing~~  
18 ~~or designation on notice of issuance on such exchanges or market systems,~~  
19 ~~and for which no quotations have been available and no public trading has~~  
20 ~~taken place for any of such issuer's securities, may rely upon the~~  
21 ~~exemption stated in subdivision (5)(a) of this section, if a notice is~~  
22 ~~filed with the director, together with a filing fee of two hundred~~  
23 ~~dollars, prior to first use of a disclosure document covering such~~  
24 ~~securities in this state, except that failure to file such notice in a~~  
25 ~~timely manner may be cured by the director in his or her discretion.~~

26 ~~(c) The director may adopt and promulgate rules and regulations~~  
27 ~~which, after notice to such exchange or market system and an opportunity~~  
28 ~~to be heard, remove any such exchange or market system from the exemption~~  
29 ~~stated in subdivision (5)(a) of this section if the director finds that~~  
30 ~~the listing requirements or market surveillance of such exchange or~~  
31 ~~market system is such that the continued availability of such exemption~~

1 ~~for such exchange or market system is not in the public interest and that~~  
2 ~~removal is necessary for the protection of investors;~~

3 (6) Any security which meets all of the following conditions:

4 (a) The issuer is organized under the laws of the United States or a  
5 state or has appointed a duly authorized agent in the United States for  
6 service of process and has set forth the name and address of such agent  
7 in its prospectus;

8 (b) A class of the issuer's securities is required to be and is  
9 registered under section 12 of the Securities Exchange Act of 1934 and  
10 has been so registered for the three years immediately preceding the  
11 offering date;

12 (c) Neither the issuer nor a significant subsidiary has had a  
13 material default during the last seven years, or during the issuer's  
14 existence if such existence is less than seven years, in the payment of  
15 (i) principal, interest, dividends, or sinking-fund installments on  
16 preferred stock or indebtedness for borrowed money or (ii) rentals under  
17 leases with terms of three or more years;

18 (d) The issuer has had consolidated net income, without taking into  
19 account extraordinary items and the cumulative effect of accounting  
20 changes, of at least one million dollars in four of its last five fiscal  
21 years, including its last fiscal year, and if the offering is of  
22 interest-bearing securities the issuer has had for its last fiscal year  
23 net income before deduction for income taxes and depreciation of at least  
24 one and one-half times the issuer's annual interest expense, taking into  
25 account the proposed offering and the intended use of the proceeds.  
26 However, if the issuer of the securities is a finance company which has  
27 liquid assets of at least one hundred five percent of its liabilities,  
28 other than deferred income taxes, deferred investment tax credit, capital  
29 stock, and surplus, at the end of its last five fiscal years, the net  
30 income requirement before deduction for interest expense shall be one and  
31 one-fourth times its annual interest expense. For purposes of this

1 subdivision: (i) Last fiscal year means the most recent year for which  
2 audited financial statements are available, if such statements cover a  
3 fiscal period ending not more than fifteen months from the commencement  
4 of the offering; (ii) finance company means a company engaged primarily  
5 in the business of wholesale, retail, installment, mortgage, commercial,  
6 industrial, or consumer financing, banking, or factoring; and (iii)  
7 liquid assets means (A) cash, (B) receivables payable on demand or not  
8 more than twelve months following the close of the company's last fiscal  
9 year less applicable reserves and unearned income, and (C) readily  
10 marketable securities less applicable reserves and unearned income;

11 (e) If the offering is of stock or shares other than preferred stock  
12 or shares, such securities have voting rights which include (i) the right  
13 to have at least as many votes per share and (ii) the right to vote on at  
14 least as many general corporate decisions as each of the issuer's  
15 outstanding classes of stock or shares, except as otherwise required by  
16 law; and

17 (f) If the offering is of stock or shares other than preferred stock  
18 or shares, such securities are owned beneficially or of record on any  
19 date within six months prior to the commencement of the offering by at  
20 least one thousand two hundred persons, and on such date there are at  
21 least seven hundred fifty thousand such shares outstanding with an  
22 aggregate market value of at least three million seven hundred fifty  
23 thousand dollars based on the average bid price for such day. When  
24 determining the number of persons who are beneficial owners of the stock  
25 or shares of an issuer, for purposes of this subdivision, the issuer or  
26 broker-dealer may rely in good faith upon written information furnished  
27 by the record owners;

28 (7) Any security issued or guaranteed as to both principal and  
29 interest by an international bank of which the United States is a member;  
30 or

31 (8) Any security issued by any person organized and operated not for

1 private profit but exclusively for religious, educational, benevolent,  
2 charitable, fraternal, social, athletic, or reformatory purposes, as a  
3 chamber of commerce, or as a trade or professional association.

4 Sec. 13. Section 8-1111, Revised Statutes Cumulative Supplement,  
5 2016, is amended to read:

6 8-1111 Except as provided in this section, sections 8-1103 to 8-1109  
7 shall not apply to any of the following transactions:

8 (1) Any isolated transaction, whether effected through a broker-  
9 dealer or not;

10 (2)(a) Any nonissuer transaction by a registered agent of a  
11 registered broker-dealer, and any resale transaction by a sponsor of a  
12 unit investment trust registered under the Investment Company Act of  
13 1940, in a security of a class that has been outstanding in the hands of  
14 the public for at least ninety days if, at the time of the transaction:

15 (i) The issuer of the security is actually engaged in business and  
16 not in the organization stage or in bankruptcy or receivership and is not  
17 a blank check, blind pool, or shell company whose primary plan of  
18 business is to engage in a merger or combination of the business with, or  
19 an acquisition of, an unidentified person or persons;

20 (ii) The security is sold at a price reasonably related to the  
21 current market price of the security;

22 (iii) The security does not constitute the whole or part of an  
23 unsold allotment to, or a subscription or participation by, the broker-  
24 dealer as an underwriter of the security;

25 (iv) A nationally recognized securities manual designated by rule  
26 and regulation or order of the director or a document filed with the  
27 Securities and Exchange Commission which is publicly available through  
28 the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR)  
29 contains:

30 (A) A description of the business and operations of the issuer;

31 (B) The names of the issuer's officers and the names of the issuer's

1 directors, if any, or, in the case of a non-United-States issuer, the  
2 corporate equivalents of such persons in the issuer's country of  
3 domicile;

4 (C) An audited balance sheet of the issuer as of a date within  
5 eighteen months or, in the case of a reorganization or merger when  
6 parties to the reorganization or merger had such audited balance sheet, a  
7 pro forma balance sheet; and

8 (D) An audited income statement for each of the issuer's immediately  
9 preceding two fiscal years, or for the period of existence of the issuer  
10 if in existence for less than two years, or, in the case of a  
11 reorganization or merger when the parties to the reorganization or merger  
12 had such audited income statement, a pro forma income statement; and

13 (v) The issuer of the security has a class of equity securities  
14 listed on a national securities exchange registered under the Securities  
15 Exchange Act of 1934 ~~or designated for trading on the National~~  
16 ~~Association of Securities Dealers Automated Quotation System (NASDAQ),~~  
17 unless:

18 (A) The issuer of the security is a unit investment trust registered  
19 under the Investment Company Act of 1940;

20 (B) The issuer of the security has been engaged in continuous  
21 business, including predecessors, for at least three years; or

22 (C) The issuer of the security has total assets of at least two  
23 million dollars based on an audited balance sheet as of a date within  
24 eighteen months or, in the case of a reorganization or merger when  
25 parties to the reorganization or merger had such audited balance sheet, a  
26 pro forma balance sheet; or

27 (b) Any nonissuer transaction in a security by a registered agent of  
28 a registered broker-dealer if:

29 (i) The issuer of the security is actually engaged in business and  
30 not in the organization stage or in bankruptcy or receivership and is not  
31 a blank check, blind pool, or shell company whose primary plan of

1 business is to engage in a merger or combination of the business with, or  
2 an acquisition of, an unidentified person or persons; and

3 (ii) The security is senior in rank to the common stock of the  
4 issuer both as to payment of dividends or interest and upon dissolution  
5 or liquidation of the issuer and such security has been outstanding at  
6 least three years and the issuer or any predecessor has not defaulted  
7 within the current fiscal year or the three immediately preceding fiscal  
8 years in the payment of any dividend, interest, principal, or sinking  
9 fund installment on the security when due and payable. ÷

10 The director may by order deny or revoke the exemption specified in  
11 subdivision (a) or (b) of subdivision (2) of this section with respect to  
12 a specific security. Upon the entry of such an order, the director shall  
13 promptly notify all registered broker-dealers that such order has been  
14 entered and the reasons for such order and that within fifteen business  
15 days after receipt of a written request the matter will be set for  
16 hearing. If no hearing is requested within fifteen business days of the  
17 issuance of the order and none is ordered by the director, the order  
18 shall automatically become a final order and shall remain in effect until  
19 modified or vacated by the director. If a hearing is requested or  
20 ordered, the director shall, after notice of and opportunity for hearing  
21 to all interested persons, enter his or her written findings of fact and  
22 conclusions of law and may affirm, modify, or vacate the order. No such  
23 order shall operate retroactively. No person may be considered to have  
24 violated the Securities Act of Nebraska by reason of any offer or sale  
25 effected after the entry of any such order if he or she sustains the  
26 burden of proof that he or she did not know, and in the exercise of  
27 reasonable care could not have known, of the order;

28 (3) Any nonissuer transaction effected by or through a registered  
29 agent of a registered broker-dealer pursuant to an unsolicited order or  
30 offer to buy, but the director may by rule and ~~or~~ regulation or order  
31 require that the customer acknowledge upon a specified form that the sale

1 was unsolicited and that a signed copy of each such form be preserved by  
2 the broker-dealer for a specified period;

3 (4) Any transaction between the issuer or other person on whose  
4 behalf the offering is made and an underwriter or among underwriters;

5 (5) Any transaction in a bond or other evidence of indebtedness  
6 secured by a real or chattel mortgage or deed of trust or by an agreement  
7 for the sale of real estate or chattels if the entire mortgage, deed of  
8 trust, or agreement, together with all the bonds or other evidences of  
9 indebtedness secured thereby, are offered and sold as a unit. Such  
10 exemption shall not apply to any transaction in a bond or other evidence  
11 of indebtedness secured by a real estate mortgage or deed of trust or by  
12 an agreement for the sale of real estate if the real estate securing the  
13 evidences of indebtedness are parcels of real estate the sale of which  
14 requires the subdivision in which the parcels are located to be  
15 registered under the federal Interstate Land Sales Full Disclosure Act,  
16 15 U.S.C. 1701 et seq., as such ~~the~~ act existed on January 1, 2017 ~~2015~~;

17 (6) Any transaction by an executor, personal representative,  
18 administrator, sheriff, marshal, receiver, guardian, or conservator;

19 (7) Any transaction executed by a bona fide pledgee without any  
20 purpose of evading the Securities Act of Nebraska;

21 (8)(a) Any offer or sale to any of the following, whether the  
22 purchaser is acting for itself or in some fiduciary capacity:

23 (i) A bank, savings institution, credit union, trust company, or  
24 other financial institution;

25 (ii) An insurance company;

26 (iii) An investment company as defined in the Investment Company Act  
27 of 1940;

28 (iv) A pension or profit-sharing trust;

29 (v) A broker-dealer;

30 (vi) A corporation with total assets in excess of five million  
31 dollars, not formed for the specific purpose of acquiring the securities

1 offered;

2 (vii) A Massachusetts or similar business trust with total assets in  
3 excess of five million dollars, not formed for the specific purpose of  
4 acquiring the securities offered;

5 (viii) A partnership with total assets in excess of five million  
6 dollars, not formed for the specific purpose of acquiring the securities  
7 offered;

8 (ix) A trust with total assets in excess of five million dollars,  
9 not formed for the specific purpose of acquiring the securities, whose  
10 purchase is directed by a person who has such knowledge and experience in  
11 financial and business matters that he or she is capable of evaluating  
12 the merits and risks of the prospective investment;

13 (x) Any entity in which all of the equity owners are individuals who  
14 are individual accredited investors as defined in subdivision (b) of this  
15 subdivision;

16 (xi) An institutional buyer as may be defined by the director by  
17 rule and regulation or order; or

18 (xii) An individual accredited investor.

19 ~~(b) (8) Any offer or sale to a bank, savings institution, trust~~  
20 ~~company, insurance company, investment company as defined in the~~  
21 ~~Investment Company Act of 1940, pension or profit-sharing trust, or other~~  
22 ~~financial institution or institutional buyer, to an individual accredited~~  
23 ~~investor, or to a broker-dealer, whether the purchaser is acting for~~  
24 ~~itself or in some fiduciary capacity. For purposes of subdivision (8)(a)~~  
25 ~~of this section, individual accredited investor this subdivision, the~~  
26 ~~term "individual accredited investor" means (i) (a) any director,~~  
27 ~~executive officer, or general partner of the issuer of the securities~~  
28 ~~being offered or sold, or any director, executive officer, or general~~  
29 ~~partner of a general partner of that issuer, (ii) (b) any manager of a~~  
30 ~~limited liability company that is the issuer of the securities being~~  
31 ~~offered or sold, (iii) (c) any natural person whose individual net worth,~~

1 or joint net worth with that person's spouse, at the time of his or her  
2 purchase, exceeds one million dollars, excluding the value of the primary  
3 residence of such person, or (iv) ~~(d)~~ any natural person who had an  
4 individual income in excess of two hundred thousand dollars in each of  
5 the two most recent years or joint income with that person's spouse in  
6 excess of three hundred thousand dollars in each of those years and has a  
7 reasonable expectation of reaching the same income level in the current  
8 year;

9 (9)(a) Any transaction pursuant to an offering in which sales are  
10 made to not more than fifteen persons, other than those designated in  
11 subdivisions (8), (11), and (17) of this section, in this state during  
12 any period of twelve consecutive months if (i) the seller reasonably  
13 believes that all the buyers are purchasing for investment, (ii) no  
14 commission or other remuneration is paid or given directly or indirectly  
15 for soliciting any prospective buyer except to a registered agent of a  
16 registered broker-dealer, (iii) a notice generally describing the terms  
17 of the transaction and containing a representation that the conditions of  
18 this exemption are met is filed by the seller with the director within  
19 thirty days after the first sale for which this exemption is claimed,  
20 except that failure to give such notice may be cured by an order issued  
21 by the director in his or her discretion, and (iv) no general or public  
22 advertisements or solicitations are made.

23 (b) If a seller (i) makes sales pursuant to this subdivision for  
24 five consecutive twelve-month periods or (ii) makes sales of at least one  
25 million dollars from an offering or offerings pursuant to this  
26 subdivision, the seller shall, within ninety days after the earlier of  
27 either such occurrence, file with the director audited financial  
28 statements and a sales report which lists the names and addresses of all  
29 purchasers and holders of the seller's securities and the amount of  
30 securities held by such persons. Subsequent thereto, such seller shall  
31 file audited financial statements and sales reports with the director

1 each time an additional one million dollars in securities is sold  
2 pursuant to this subdivision or after the elapse of each additional  
3 sixty-month period during which sales are made pursuant to this  
4 subdivision;

5 (10) Any offer or sale of a preorganization certificate or  
6 subscription if (a) no commission or other remuneration is paid or given  
7 directly or indirectly for soliciting any prospective subscriber, (b) the  
8 number of subscribers does not exceed ten, and (c) no payment is made by  
9 any subscriber;

10 (11) Any transaction pursuant to an offer to existing security  
11 holders of the issuer, including persons who at the time of the  
12 transaction are holders of convertible securities, nontransferable  
13 warrants, or transferable warrants exercisable within not more than  
14 ninety days of their issuance, if (a) no commission or other  
15 remuneration, other than a standby commission, is paid or given directly  
16 or indirectly for soliciting any security holder in this state or (b) the  
17 issuer first files a notice specifying the terms of the offer and the  
18 director does not by order disallow the exemption within the next five  
19 full business days;

20 (12) Any offer, but not a sale, of a security for which registration  
21 statements have been filed under both the Securities Act of Nebraska and  
22 the Securities Act of 1933 if no stop order or refusal order is in effect  
23 and no public proceeding or examination looking toward such an order is  
24 pending under either the Securities Act of Nebraska or the Securities Act  
25 of 1933;

26 (13) The issuance of any stock dividend, whether the corporation  
27 distributing the dividend is the issuer of the stock or not, if nothing  
28 of value is given by the stockholders for the distribution other than the  
29 surrender of a right to a cash dividend when the stockholder can elect to  
30 take a dividend in cash or stock;

31 (14) Any transaction incident to a right of conversion or a

1 statutory or judicially approved reclassification, recapitalization,  
2 reorganization, quasi-reorganization, stock split, reverse stock split,  
3 merger, consolidation, or sale of assets;

4 (15) Any transaction involving the issuance for cash of any evidence  
5 of ownership interest or indebtedness by ~~a an agricultural~~ cooperative  
6 formed as a corporation under section 21-1301 or 21-1401 or a limited  
7 cooperative association formed under the Nebraska Limited Cooperative  
8 Association Act if the issuer has first filed a notice of intention to  
9 issue with the director and the director has not by order, mailed to the  
10 issuer by certified or registered mail within ten business days after  
11 receipt thereof, disallowed the exemption;

12 (16) Any transaction in this state not involving a public offering  
13 when (a) there is no general or public advertising or solicitation, (b)  
14 no commission or remuneration is paid directly or indirectly for  
15 soliciting any prospective buyer, except to a registered agent of a  
16 registered broker-dealer or registered issuer-dealer, (c) a notice  
17 generally describing the terms of the transaction and containing a  
18 representation that the conditions of this exemption are met is filed by  
19 the seller with the director within thirty days after the first sale for  
20 which this exemption is claimed, except that failure to give such notice  
21 may be cured by an order issued by the director in his or her discretion,  
22 (d) a filing fee of two hundred dollars is paid at the time of filing the  
23 notice, and (e) any such transaction is effected in accordance with rules  
24 and regulations ~~of adopted and promulgated~~ by the director relating to  
25 this section when the director finds in adopting and promulgating such  
26 rules and regulations that the applicability of sections 8-1104 to 8-1107  
27 is not necessary or appropriate in the public interest or for the  
28 protection of investors. For purposes of this subdivision, not involving  
29 a public offering means any offering in which the seller has reason to  
30 believe that the securities purchased are taken for investment and in  
31 which each offeree, by reason of his or her knowledge about the affairs

1 of the issuer or otherwise, does not require the protections afforded by  
2 registration under sections 8-1104 to 8-1107 in order to make a  
3 reasonably informed judgment with respect to such investment;

4 (17) Any security issued in connection with an employees' stock  
5 purchase, savings, option, profit-sharing, pension, or similar employees'  
6 benefit plan, including any securities, plan interests, and guarantees  
7 issued under a compensatory benefit plan or compensation contract,  
8 contained in a record, established by the issuer, its parents, its  
9 majority-owned subsidiaries, or the majority-owned subsidiaries of the  
10 issuer's parent for the participation of their employees, if no  
11 commission or other remuneration is paid or given directly or indirectly  
12 for soliciting any prospective buyer except to a registered agent of a  
13 registered broker-dealer. This subdivision shall apply to offers and  
14 sales to the following individuals: The issuance of any investment  
15 contract issued in connection with an employee's stock purchase, savings,  
16 pension, profit-sharing, or similar benefit plan if no commission or  
17 other remuneration is paid or given directly or indirectly for soliciting  
18 any prospective buyer except to a registered agent of a registered  
19 broker-dealer;

20 (a) Directors; general partners; trustees, if the issuer is a  
21 business trust; officers; consultants; and advisors;

22 (b) Family members who acquire such securities from those persons  
23 through gifts or domestic relations orders;

24 (c) Former employees, directors, general partners, trustees,  
25 officers, consultants, and advisors if those individuals were employed by  
26 or providing services to the issuer when the securities were offered; and

27 (d) Insurance agents who are exclusive insurance agents of the  
28 issuer, or the issuer's subsidiaries or parents, or who derive more than  
29 fifty percent of their annual income from those organizations;

30 (18) Any interest in a common trust fund or similar fund maintained  
31 by a bank or trust company organized and supervised under the laws of any

1 state or a bank organized under the laws of the United States for the  
2 collective investment and reinvestment of funds contributed to such  
3 common trust fund or similar fund by the bank or trust company in its  
4 capacity as trustee, personal representative, administrator, or guardian  
5 and any interest in a collective investment fund or similar fund  
6 maintained by the bank or trust company for the collective investment of  
7 funds contributed to such collective investment fund or similar fund by  
8 the bank or trust company in its capacity as trustee or agent which  
9 interest is issued in connection with an employee's savings, pension,  
10 profit-sharing, or similar benefit plan or a self-employed person's  
11 retirement plan, if a notice generally describing the terms of the  
12 collective investment fund or similar fund is filed by the bank or trust  
13 company with the director within thirty days after the establishment of  
14 the fund. Failure to give the notice may be cured by an order issued by  
15 the director in his or her discretion;

16 (19) Any transaction in which a United States Series EE Savings Bond  
17 is given or delivered with or as a bonus on account of any purchase of  
18 any item or thing;

19 (20) Any transaction in this state not involving a public offering  
20 by a Nebraska issuer selling solely to Nebraska residents, when (a) any  
21 such transaction is effected in accordance with rules and regulations of  
22 ~~adopted and promulgated~~ by the director relating to this section when the  
23 director finds in adopting and promulgating such rules and regulations  
24 that the applicability of sections 8-1104 to 8-1107 is not necessary or  
25 appropriate in the public interest or for the protection of investors,  
26 (b) no commission or remuneration is paid directly or indirectly for  
27 soliciting any prospective buyer, except to a registered agent of a  
28 registered broker-dealer or registered issuer-dealer, (c) a notice  
29 generally describing the terms of the transaction and containing a  
30 representation that the conditions of this exemption are met is filed by  
31 the seller with the director no later than twenty days prior to any sales

1 for which this exemption is claimed, except that failure to give such  
2 notice may be cured by an order issued by the director in his or her  
3 discretion, (d) a filing fee of two hundred dollars is paid at the time  
4 of filing the notice, and (e) there is no general or public advertising  
5 or solicitation;

6 (21) Any transaction by a person who is an organization described in  
7 section 501(c)(3) of the Internal Revenue Code as defined in section  
8 49-801.01 involving an offering of interests in a fund described in  
9 section 3(c)(10)(B) of the Investment Company Act of 1940 solely to  
10 persons who are organizations described in section 501(c)(3) of the  
11 Internal Revenue Code as defined in section 49-801.01 when (a) there is  
12 no general or public advertising or solicitation, (b) a notice generally  
13 describing the terms of the transaction and containing a representation  
14 that the conditions of this exemption are met is filed by the seller with  
15 the director within thirty days after the first sale for which this  
16 exemption is claimed, except that failure to give such notice may be  
17 cured by an order issued by the director in his or her discretion, and  
18 (c) any such transaction is effected by a trustee, director, officer,  
19 employee, or volunteer of the seller who is either a volunteer or is  
20 engaged in the overall fundraising activities of a charitable  
21 organization and receives no commission or other special compensation  
22 based on the number or the value of interests sold in the fund;

23 (22) Any offer or sale of any viatical settlement contract or any  
24 fractionalized or pooled interest therein in a transaction that meets all  
25 of the following criteria:

26 (a) Sales of such securities are made only to the following  
27 purchasers:

28 (i) A natural person who, either individually or jointly with the  
29 person's spouse, (A) has a minimum net worth of two hundred fifty  
30 thousand dollars and had taxable income in excess of one hundred twenty-  
31 five thousand dollars in each of the two most recent years and has a

1 reasonable expectation of reaching the same income level in the current  
2 year or (B) has a minimum net worth of five hundred thousand dollars. Net  
3 worth shall be determined exclusive of home, home furnishings, and  
4 automobiles;

5 (ii) A corporation, partnership, or other organization specifically  
6 formed for the purpose of acquiring securities offered by the issuer in  
7 reliance upon this exemption if each equity owner of the corporation,  
8 partnership, or other organization is a person described in subdivision  
9 (22)(a)(i) of this section;

10 (iii) A pension or profit-sharing trust of the issuer, a self-  
11 employed individual retirement plan, or an individual retirement account,  
12 if the investment decisions made on behalf of the trust, plan, or account  
13 are made solely by persons described in subdivision (22)(a)(i) of this  
14 section; or

15 (iv) An organization described in section 501(c)(3) of the Internal  
16 Revenue Code as defined in section 49-801.01, or a corporation,  
17 Massachusetts or similar business trust, or partnership with total assets  
18 in excess of five million dollars according to its most recent audited  
19 financial statements;

20 (b) The amount of the investment of any purchaser, except a  
21 purchaser described in subdivision (a)(ii) of this subdivision, does not  
22 exceed five percent of the net worth, as determined by this subdivision,  
23 of that purchaser;

24 (c) Each purchaser represents that the purchaser is purchasing for  
25 the purchaser's own account or trust account, if the purchaser is a  
26 trustee, and not with a view to or for sale in connection with a  
27 distribution of the security;

28 (d)(i) Each purchaser receives, on or before the date the purchaser  
29 remits consideration pursuant to the purchase agreement, the following  
30 information in writing:

31 (A) The name, principal business and mailing addresses, and

1 telephone number of the issuer;

2 (B) The suitability standards for prospective purchasers as set  
3 forth in subdivision (a) of this subdivision;

4 (C) A description of the issuer's type of business organization and  
5 the state in which the issuer is organized or incorporated;

6 (D) A brief description of the business of the issuer;

7 (E) If the issuer retains ownership or becomes the beneficiary of  
8 the insurance policy, an audit report from an independent certified  
9 public accountant together with a balance sheet and related statements of  
10 income, retained earnings, and cash flows that reflect the issuer's  
11 financial position, the results of the issuer's operations, and the  
12 issuer's cash flows as of a date within fifteen months before the date of  
13 the initial issuance of the securities described in this subdivision. The  
14 financial statements shall be prepared in conformity with generally  
15 accepted accounting principles. If the date of the audit report is more  
16 than one hundred twenty days before the date of the initial issuance of  
17 the securities described in this subdivision, the issuer shall provide  
18 unaudited interim financial statements;

19 (F) The names of all directors, officers, partners, members, or  
20 trustees of the issuer;

21 (G) A description of any order, judgment, or decree that is final as  
22 to the issuing entity of any state, federal, or foreign governmental  
23 agency or administrator, or of any state, federal, or foreign court of  
24 competent jurisdiction (I) revoking, suspending, denying, or censuring  
25 for cause any license, permit, or other authority of the issuer or of any  
26 director, officer, partner, member, trustee, or person owning or  
27 controlling, directly or indirectly, ten percent or more of the  
28 outstanding interest or equity securities of the issuer, to engage in the  
29 securities, commodities, franchise, insurance, real estate, or lending  
30 business or in the offer or sale of securities, commodities, franchises,  
31 insurance, real estate, or loans, (II) permanently restraining,

1 enjoining, barring, suspending, or censuring any such person from  
2 engaging in or continuing any conduct, practice, or employment in  
3 connection with the offer or sale of securities, commodities, franchises,  
4 insurance, real estate, or loans, (III) convicting any such person of, or  
5 pleading nolo contendere by any such person to, any felony or misdemeanor  
6 involving a security, commodity, franchise, insurance, real estate, or  
7 loan, or any aspect of the securities, commodities, franchise, insurance,  
8 real estate, or lending business, or involving dishonesty, fraud, deceit,  
9 embezzlement, fraudulent conversion, or misappropriation of property, or  
10 (IV) holding any such person liable in a civil action involving breach of  
11 a fiduciary duty, fraud, deceit, embezzlement, fraudulent conversion, or  
12 misappropriation of property. This subdivision does not apply to any  
13 order, judgment, or decree that has been vacated or overturned or is more  
14 than ten years old;

15 (H) Notice of the purchaser's right to rescind or cancel the  
16 investment and receive a refund;

17 (I) A statement to the effect that any projected rate of return to  
18 the purchaser from the purchase of a viatical settlement contract or any  
19 fractionalized or pooled interest therein is based on an estimated life  
20 expectancy for the person insured under the life insurance policy; that  
21 the return on the purchase may vary substantially from the expected rate  
22 of return based upon the actual life expectancy of the insured that may  
23 be less than, may be equal to, or may greatly exceed the estimated life  
24 expectancy; and that the rate of return would be higher if the actual  
25 life expectancy were less than, and lower if the actual life expectancy  
26 were greater than, the estimated life expectancy of the insured at the  
27 time the viatical settlement contract was closed;

28 (J) A statement that the purchaser should consult with his or her  
29 tax advisor regarding the tax consequences of the purchase of the  
30 viatical settlement contract or any fractionalized or pooled interest  
31 therein; and

1 (K) Any other information as may be prescribed by rule and  
2 regulation or order of the director; and

3 (ii) The purchaser receives in writing at least five business days  
4 prior to closing the transaction:

5 (A) The name, address, and telephone number of the issuing insurance  
6 company and the name, address, and telephone number of the state or  
7 foreign country regulator of the insurance company;

8 (B) The total face value of the insurance policy and the percentage  
9 of the insurance policy the purchaser will own;

10 (C) The insurance policy number, issue date, and type;

11 (D) If a group insurance policy, the name, address, and telephone  
12 number of the group and, if applicable, the material terms and conditions  
13 of converting the policy to an individual policy, including the amount of  
14 increased premiums;

15 (E) If a term insurance policy, the term and the name, address, and  
16 telephone number of the person who will be responsible for renewing the  
17 policy if necessary;

18 (F) That the insurance policy is beyond the state statute for  
19 contestability and the reason therefor;

20 (G) The insurance policy premiums and terms of premium payments;

21 (H) The amount of the purchaser's money that will be set aside to  
22 pay premiums;

23 (I) The name, address, and telephone number of the person who will  
24 be the insurance policyowner and the person who will be responsible for  
25 paying premiums;

26 (J) The date on which the purchaser will be required to pay premiums  
27 and the amount of the premium, if known; and

28 (K) Any other information as may be prescribed by rule and  
29 regulation or order of the director;

30 (e) The purchaser may rescind or cancel the purchase for any reason  
31 by giving written notice of rescission or cancellation to the issuer or

1 the issuer's agent within (i) fifteen calendar days after the date the  
2 purchaser remits the required consideration or receives the disclosure  
3 required under subdivision (d)(i) of this subdivision and (ii) five  
4 business days after the date the purchaser receives the disclosure  
5 required by subdivision (d)(ii) of this subdivision. No specific form is  
6 required for the rescission or cancellation. The notice is effective when  
7 personally delivered, deposited in the United States mail, or deposited  
8 with a commercial courier or delivery service. The issuer shall refund  
9 all the purchaser's money within seven calendar days after receiving the  
10 notice of rescission or cancellation;

11 (f) A notice of the issuer's intent to sell securities pursuant to  
12 this subdivision, signed by a duly authorized officer of the issuer and  
13 notarized, together with a filing fee of two hundred dollars, is filed  
14 with the department ~~Department of Banking and Finance~~ before any offers  
15 or sales of securities are made under this subdivision. Such notice shall  
16 include:

17 (i) The issuer's name, the issuer's type of organization, the state  
18 in which the issuer is organized, the date the issuer intends to begin  
19 selling securities within or from this state, and the issuer's principal  
20 business;

21 (ii) A consent to service of process; and

22 (iii) An audit report of an independent certified public accountant  
23 together with a balance sheet and related statements of income, retained  
24 earnings and cash flows that reflect the issuer's financial position, the  
25 results of the issuer's operations, and the issuer's cash flows as of a  
26 date within fifteen months before the date of the notice prescribed in  
27 this subdivision. The financial statements shall be prepared in  
28 conformity with generally accepted accounting principles and shall be  
29 examined according to generally accepted auditing standards. If the date  
30 of the audit report is more than one hundred twenty days before the date  
31 of the notice prescribed in this subdivision, the issuer shall provide

1 unaudited interim financial statements;

2 (g) No commission or remuneration is paid directly or indirectly for  
3 soliciting any prospective purchaser, except to a registered agent of a  
4 registered broker-dealer or registered issuer-dealer; and

5 (h) At least ten days before use within this state, the issuer files  
6 with the department all advertising and sales materials that will be  
7 published, exhibited, broadcast, or otherwise used, directly or  
8 indirectly, in the offer or sale of a viatical settlement contract in  
9 this state;

10 (23) Any transaction in this state not involving a public offering  
11 by a Nebraska issuer selling solely to Nebraska residents when:

12 (a) The proceeds from all sales of securities by the issuer in any  
13 two-year period do not exceed seven ~~two~~ hundred fifty thousand dollars or  
14 such greater amount as from time to time may be set in accordance with  
15 rules and regulations adopted and promulgated by the director to adjust  
16 the amount to reflect changes in the Consumer Price Index for All Urban  
17 Consumers as prepared by the United States Department of Labor, Bureau of  
18 Labor Statistics, and at least eighty percent of the proceeds are used in  
19 Nebraska;

20 (b) No commission or other remuneration is paid or given directly or  
21 indirectly for soliciting any prospective buyer except to a registered  
22 agent of a registered broker-dealer;

23 (c) The issuer, any partner or limited liability company member of  
24 the issuer, any officer, director, or any person occupying a similar  
25 status of the issuer, any person performing similar functions for the  
26 issuer, or any person holding a direct or indirect ownership interest in  
27 the issuer or in any way a beneficial interest in such sale of securities  
28 of the issuer, has not been:

29 (i) Found by a final order of any state or federal administrative  
30 agency or a court of competent jurisdiction to have violated any  
31 provision of the Securities Act of Nebraska or a similar act of any other

1 state or of the United States;

2 (ii) Convicted of any felony or misdemeanor in connection with the  
3 offer, purchase, or sale of any security or any felony involving fraud or  
4 deceit, including, but not limited to, forgery, embezzlement, obtaining  
5 money under false pretenses, larceny, or conspiracy to defraud;

6 (iii) Found by any state or federal administrative agency or court  
7 of competent jurisdiction to have engaged in fraud or deceit, including,  
8 but not limited to, making an untrue statement of a material fact or  
9 omitting to state a material fact; or

10 (iv) Temporarily or preliminarily restrained or enjoined by a court  
11 of competent jurisdiction from engaging in or continuing any conduct or  
12 practice in connection with the purchase or sale of any security or  
13 involving the making of any false filing with any state or with the  
14 Securities and Exchange Commission;

15 (d)(i) At least fifteen business days prior to the offer or sale,  
16 the issuer files a notice with the director, which notice shall include:

17 (A) The name, address, telephone number, and email address of the  
18 issuer;

19 (B) The name and address of each person holding direct or indirect  
20 ownership or beneficial interest in the issuer;

21 (C) The amount of the offering; and

22 (D) The type of security being offered, the manner in which  
23 purchasers will be solicited, and a statement made upon oath or  
24 affirmation that the conditions of this exemption have been or will be  
25 met.

26 (ii) Failure to give such notice may be cured by an order issued by  
27 the director in his or her discretion;

28 (e) Prior to payment of consideration for the securities, the  
29 offeree receives a written disclosure statement containing (i) a  
30 description of the proposed use of the proceeds of the offering; (ii) the  
31 name of each partner or limited liability company member of the issuer,

1 officer, director, or person occupying a similar status of the issuer or  
2 performing similar functions for the issuer; and (iii) the financial  
3 condition of the issuer;

4 (f) The purchaser signs a subscription agreement in which the  
5 purchaser acknowledges that he or she:

6 (i) Has received the written disclosure statement;

7 (ii) Understands the investment involves a high level of risk; and

8 (iii) Has the financial resources to withstand the total loss of the  
9 money invested; and

10 (g) The issuer, within thirty days after the completion of the  
11 offering, files with the department ~~Department of Banking and Finance~~ a  
12 statement indicating the number of investors, the total dollar amount  
13 raised, and the use of the offering proceeds; or

14 (24)(a) An offer or a sale of a security made after August 30, 2015,  
15 by an issuer if the offer or sale is conducted in accordance with all the  
16 following requirements:

17 (i) The issuer of the security is a business entity organized under  
18 the laws of Nebraska and authorized to do business in Nebraska;

19 (ii) The transaction meets the requirements of the federal exemption  
20 for intrastate offerings in section 3(a)(11) of the Securities Act of  
21 1933, ~~15 U.S.C. 77c(a)(11)~~, and Rule 147 adopted under the Securities Act  
22 of 1933, or complies with Rule 147A adopted under the Securities Act of  
23 1933, ~~17 C.F.R. 230.147~~;

24 (iii) Except as provided in subdivision (c) of this subdivision, the  
25 sum of all cash and other consideration to be received for all sales of  
26 the security in reliance on the exemption under this subdivision,  
27 excluding sales to any accredited investor, does not exceed the following  
28 amount:

29 (A) If the issuer has not undergone, and made available to each  
30 prospective investor and the director the documentation resulting from, a  
31 financial audit of its most recently completed fiscal year that complies

1 with generally accepted accounting principles, one million dollars, less  
2 the aggregate amount received for all sales of securities by the issuer  
3 within the twelve months before the first offer or sale made in reliance  
4 on the exemption under this subdivision; or

5 (B) If the issuer has undergone, and made available to each  
6 prospective investor and the director the documentation resulting from, a  
7 financial audit of its most recently completed fiscal year that complies  
8 with generally accepted accounting principles, two million dollars, less  
9 the aggregate amount received for all sales of securities by the issuer  
10 within the twelve months before the first offer or sale made in reliance  
11 on the exemption under this subdivision;

12 (iv) The issuer does not accept more than five thousand dollars from  
13 any single purchaser except that such limitation shall not apply to an  
14 accredited investor;

15 (v) Unless waived by written consent by the director, not less than  
16 ten days before the commencement of an offering of securities in reliance  
17 on the exemption under this subdivision, the issuer must do all the  
18 following:

19 (A) Make a notice filing with the department ~~Department of Banking~~  
20 ~~and Finance~~ on a form prescribed by the director;

21 (B) Pay a filing fee of two hundred dollars. However, no filing fee  
22 is required to file amendments to the form;

23 (C) Provide the director a copy of the disclosure document to be  
24 provided to prospective investors under subdivision (a)(xi) of this  
25 subdivision;

26 (D) Provide the director a copy of an escrow agreement with a bank,  
27 regulated trust company, savings bank, savings and loan association, or  
28 credit union authorized to do business in Nebraska in which the issuer  
29 will deposit the investor funds or cause the investor funds to be  
30 deposited. The bank, regulated trust company, savings bank, savings and  
31 loan association, or credit union in which the investor funds are

1 deposited is only responsible to act at the direction of the party  
2 establishing the escrow agreement and does not have any duty or  
3 liability, contractual or otherwise, to any investor or other person;

4 (E) The issuer shall not access the escrow funds until the aggregate  
5 funds raised from all investors equals or exceeds the minimum amount  
6 specified in the escrow agreement; and

7 (F) An investor may cancel the investor's commitment to invest if  
8 the target offering amount is not raised before the time stated in the  
9 escrow agreement;

10 (vi) The issuer is not, either before or as a result of the  
11 offering, an investment company, as defined in section 3 of the  
12 Investment Company Act of 1940, ~~15 U.S.C. 80a-3~~, an entity that would be  
13 an investment company but for the exclusions provided in section 3(c) of  
14 the Investment Company Act of 1940, ~~15 U.S.C. 80a-3(c)~~, or subject to the  
15 reporting requirements of section 13 or 15(d) of the Securities Exchange  
16 Act of 1934, ~~15 U.S.C. 78m~~ or ~~15 U.S.C. 78o(d)~~;

17 (vii) The issuer informs all prospective purchasers of securities  
18 offered under an exemption under this subdivision that the securities  
19 have not been registered under federal or state securities law and that  
20 the securities are subject to limitations on resale. The issuer shall  
21 display the following legend conspicuously on the cover page of the  
22 disclosure document:

23 IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN  
24 EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE  
25 MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY  
26 ANY FEDERAL OR STATE SECURITIES COMMISSION, DEPARTMENT, OR DIVISION OR  
27 OTHER REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE  
28 NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT.  
29 ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE  
30 SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND  
31 MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION\_(e) OF

1 SEC RULE 147 OR SUBSECTION (e) OF RULE 147A ADOPTED ~~(17 C.F.R.~~  
2 ~~230.147(e))~~ AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED,  
3 AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR  
4 EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED  
5 TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD  
6 OF TIME.;

7 (viii) The issuer requires each purchaser to certify in writing or  
8 electronically as follows:

9 I understand and acknowledge that I am investing in a high-risk,  
10 speculative business venture. I may lose all of my investment, or under  
11 some circumstances more than my investment, and I can afford this loss.  
12 This offering has not been reviewed or approved by any state or federal  
13 securities commission, department, or division or other regulatory  
14 authority and no such person or authority has confirmed the accuracy or  
15 determined the adequacy of any disclosure made to me relating to this  
16 offering. The securities I am acquiring in this offering are illiquid,  
17 there is no ready market for the sale of such securities, it may be  
18 difficult or impossible for me to sell or otherwise dispose of this  
19 investment, and, accordingly, I may be required to hold this investment  
20 indefinitely. I may be subject to tax on my share of the taxable income  
21 and losses of the company, whether or not I have sold or otherwise  
22 disposed of my investment or received any dividends or other  
23 distributions from the company.;

24 (ix) The issuer obtains from each purchaser of a security offered  
25 under an exemption under this subdivision evidence that the purchaser is  
26 a resident of Nebraska and, if applicable, is an individual accredited  
27 investor;

28 (x) All payments for purchase of securities offered under an  
29 exemption under this subdivision are directed to and held by the  
30 financial institution specified in subdivision (a)(v)(D) of this  
31 subdivision. The director may request from the financial institutions

1 information necessary to ensure compliance with this section. This  
2 information is not a public record and is not available for public  
3 inspection;

4 (xi) The issuer of securities offered under an exemption under this  
5 subdivision provides a disclosure document to each prospective investor  
6 at the time the offer of securities is made to the prospective investor  
7 that contains all the following:

8 (A) A description of the company, its type of entity, the address  
9 and telephone number of its principal office, its history, its business  
10 plan, and the intended use of the offering proceeds, including any  
11 amounts to be paid, as compensation or otherwise, to any owner, executive  
12 officer, director, managing member, or other person occupying a similar  
13 status or performing similar functions on behalf of the issuer;

14 (B) The identity of all persons owning more than twenty percent of  
15 the ownership interests of any class of securities of the company;

16 (C) The identity of the executive officers, directors, managing  
17 members, and other persons occupying a similar status or performing  
18 similar functions in the name of and on behalf of the issuer, including  
19 their titles and their prior experience;

20 (D) The terms and conditions of the securities being offered and of  
21 any outstanding securities of the company; the minimum and maximum amount  
22 of securities being offered, if any; either the percentage ownership of  
23 the company represented by the offered securities or the valuation of the  
24 company implied by the price of the offered securities; the price per  
25 share, unit, or interest of the securities being offered; any  
26 restrictions on transfer of the securities being offered; and a  
27 disclosure of any anticipated future issuance of securities that might  
28 dilute the value of securities being offered;

29 (E) The identity of any person who has been or will be retained by  
30 the issuer to assist the issuer in conducting the offering and sale of  
31 the securities, including any portal operator but excluding persons

1 acting solely as accountants or attorneys and employees whose primary job  
2 responsibilities involve the operating business of the issuer rather than  
3 assisting the issuer in raising capital;

4 (F) For each person identified as required in subdivision (a)(xi)(E)  
5 of this subdivision, a description of the consideration being paid to the  
6 person for such assistance;

7 (G) A description of any litigation, legal proceedings, or pending  
8 regulatory action involving the company or its management;

9 (H) The names and addresses of each portal operator that will be  
10 offering or selling the issuer's securities under an exemption under this  
11 subdivision;

12 (I) The Uniform Resource Locator for each funding portal that will  
13 be used by the portal operator to offer or sell the issuer's securities  
14 under an exemption under this subdivision; and

15 (J) Any additional information material to the offering, including,  
16 if appropriate, a discussion of significant factors that make the  
17 offering speculative or risky. This discussion must be concise and  
18 organized logically and may not be limited to risks that could apply to  
19 any issuer or any offering;

20 (xii) The offering or sale exempted under this subdivision is made  
21 exclusively through one or more funding portals and each funding portal  
22 is subject to the following:

23 (A) Before any offer or sale of securities, the issuer must provide  
24 to the portal operator evidence that the issuer is organized under the  
25 laws of Nebraska and is authorized to do business in Nebraska;

26 (B) Subject to subdivisions (a)(xii)(C) and (E) of this subdivision,  
27 the portal operator must register with the department ~~Department~~ of  
28 ~~Banking and Finance~~ by filing a statement, accompanied by a two-hundred-  
29 dollar filing fee, that includes the following information:

30 (I) Documentation which demonstrates that the portal operator is a  
31 business entity and authorized to do business in Nebraska;

1 (II) A representation that the funding portal is being used to offer  
2 and sell securities pursuant to the exemption under this subdivision; and

3 (III) The identity and location of, and contact information for, the  
4 portal operator;

5 (C) The portal operator is not required to register as a broker-  
6 dealer if all of the following apply with respect to the funding portal  
7 and its portal operator:

8 (I) It does not offer investment advice or recommendations;

9 (II) It does not solicit purchases, sales, or offers to buy the  
10 securities offered or displayed on the funding portal;

11 (III) It does not compensate employees, agents, or other persons for  
12 the solicitation or based on the sale of securities displayed or  
13 referenced on the funding portal;

14 (IV) It is not compensated based on the amount of securities sold,  
15 and it does not hold, manage, possess, or otherwise handle investor funds  
16 or securities;

17 (V) The fee it charges an issuer for an offering of securities on  
18 the funding portal is a fixed amount for each offering, a variable amount  
19 based on the length of time that the securities are offered on the  
20 funding portal, or a combination of the fixed and variable amounts;

21 (VI) It does not identify, promote, or otherwise refer to any  
22 individual security offered on the funding portal in any advertising for  
23 the funding portal;

24 (VII) It does not engage in any other activities that the director  
25 ~~Department of Banking and Finance~~, by rule and  ~~,~~ regulation ~~,~~ or order,  
26 determines are prohibited of the funding portal; and

27 (VIII) Neither the portal operator, nor any director, executive  
28 officer, general partner, managing member, or other person with  
29 management authority over the portal operator, has been subject to any  
30 conviction, order, judgment, decree, or other action specified in Rule  
31 506(d)(1) adopted under the Securities Act of 1933, ~~17 C.F.R. 230.506(d)~~

1 ~~(1)~~, that would disqualify an issuer under Rule 506(d) adopted under the  
2 Securities Act of 1933, ~~17 C.F.R. 230.506(d)~~, from claiming an exemption  
3 specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act  
4 of 1933, ~~17 C.F.R. 230.506(a) to 17 C.F.R. 230.506(c)~~. However, this  
5 subdivision does not apply if both of the following are met:

6 (1) On a showing of good cause and without prejudice to any other  
7 action by the Director of Banking and Finance ~~director~~, the director  
8 determines that it is not necessary under the circumstances that an  
9 exemption is denied; and

10 (2) The portal operator establishes that it made a factual inquiry  
11 into whether any disqualification existed under this subdivision but did  
12 not know, and in the exercise of reasonable care, could not have known,  
13 that a disqualification existed under this subdivision. The nature and  
14 scope of the requisite inquiry will vary based on the circumstances of  
15 the issuer and the other offering participants;

16 (D) If any change occurs that affects the funding portal's  
17 registration exemption, the portal operator must notify the department  
18 ~~Department of Banking and Finance~~ within thirty days after the change  
19 occurs;

20 (E) A registered broker-dealer who also serves as a portal operator  
21 must register with the department ~~Department of Banking and Finance~~ as a  
22 portal operator pursuant to subdivision (a)(xii)(B) of this subdivision,  
23 except that the fee for registration shall be waived;

24 (F) The issuer and the portal operator must maintain records of all  
25 offers and sales of securities effected through the funding portal and  
26 must provide ready access to the records to the department ~~Department of~~  
27 ~~Banking and Finance~~, upon request. The records of a portal operator under  
28 this subdivision are subject to the reasonable periodic, special, or  
29 other audits or inspections by a representative of the director, in or  
30 outside Nebraska, as the director considers necessary or appropriate in  
31 the public interest and for the protection of investors. An audit or

1 inspection may be made at any time and without prior notice. The director  
2 may copy, and remove for audit or inspection copies of, all records the  
3 director reasonably considers necessary or appropriate to conduct the  
4 audit or inspection. The director may assess a reasonable charge for  
5 conducting an audit or inspection under this subdivision;

6 (G) The portal operator shall limit web site access to the offer or  
7 sale of securities to only Nebraska residents;

8 (H) The portal operator shall not hold, manage, possess, or handle  
9 investor funds or securities; and

10 (I) The portal operator may not be an investor in any Nebraska  
11 offering under this subdivision.

12 (b) An issuer of a security, the offer and sale of which is exempt  
13 under this subdivision, shall provide, free of charge, a quarterly report  
14 to the issuer's investors until no securities issued under an exemption  
15 under this subdivision are outstanding. An issuer may satisfy the  
16 reporting requirement of this subdivision by making the information  
17 available on a funding portal if the information is made available within  
18 forty-five days after the end of each fiscal quarter and remains  
19 available until the succeeding quarterly report is issued. An issuer  
20 shall file each quarterly report under this subdivision with the  
21 department ~~Department of Banking and Finance~~ and, if the quarterly report  
22 is made available on a funding portal, the issuer shall also provide a  
23 written copy of the report to any investor upon request. The report must  
24 contain all the following:

25 (i) Compensation received by each director and executive officer,  
26 including cash compensation earned since the previous report and on an  
27 annual basis and any bonuses, stock options, other rights to receive  
28 securities of the issuer or any affiliate of the issuer, or other  
29 compensation received; and

30 (ii) An analysis by management of the issuer of the business  
31 operations and financial condition of the issuer.

1 (c) An offer or a sale under this subdivision to an officer,  
2 director, partner, trustee, or individual occupying similar status or  
3 performing similar functions with respect to the issuer or to a person  
4 owning ten percent or more of the outstanding shares of any class or  
5 classes of securities of the issuer does not count toward the monetary  
6 limitations in subdivision (a)(iii) of this subdivision.

7 (d) The exemption under this subdivision may not be used in  
8 conjunction with any other exemption under the Securities Act of  
9 Nebraska, except for offers and sales to individuals identified in the  
10 disclosure document, during the immediately preceding twelve-month  
11 period.

12 (e) The exemption under this subdivision does not apply if an issuer  
13 or any director, executive officer, general partner, managing member, or  
14 other person with management authority over the issuer, has been subject  
15 to any conviction, order, judgment, decree, or other action specified in  
16 Rule 506(d)(1) adopted under the Securities Act of 1933, ~~17 C.F.R.~~  
17 ~~230.506(d)(1)~~, that would disqualify an issuer under Rule 506(d) adopted  
18 under the Securities Act of 1933, ~~17 C.F.R. 230.506(d)~~, from claiming an  
19 exemption specified in Rule 506(a) to Rule 506(c) adopted under the  
20 Securities Act of 1933, ~~17 C.F.R. 230.506(a) to 17 C.F.R. 230.506(c)~~.  
21 However, this subdivision does not apply if both of the following are  
22 met:

23 (i) On a showing of good cause and without prejudice to any other  
24 action by the Director of Banking and Finance ~~director~~, the director  
25 determines that it is not necessary under the circumstances that an  
26 exemption is denied; and

27 (ii) The issuer establishes that it made a factual inquiry into  
28 whether any disqualification existed under this subdivision but did not  
29 know, and in the exercise of reasonable care, could not have known, that  
30 a disqualification existed under this subdivision. The nature and scope  
31 of the requisite inquiry will vary based on the circumstances of the

1 issuer and the other offering participants.

2 (f) For purposes of this subdivision:

3 (i) Accredited investor means a bank, a savings institution, a trust  
4 company, an insurance company, an investment company as defined in the  
5 Investment Company Act of 1940, a pension or profit-sharing trust or  
6 other financial institution or institutional buyer, an individual  
7 accredited investor, or a broker-dealer, whether the purchaser is acting  
8 for itself or in some fiduciary capacity;

9 (ii) Funding portal means an Internet web site that is operated by a  
10 portal operator for the offer and sale of securities pursuant to this  
11 subdivision;

12 (iii) Individual accredited investor means (A) any director,  
13 executive officer, or general partner of the issuer of the securities  
14 being offered or sold, or any director, executive officer, or general  
15 partner of a general partner of that issuer, (B) any manager of a limited  
16 liability company that is the issuer of the securities being offered or  
17 sold, (C) any natural person whose individual net worth, or joint net  
18 worth with that person's spouse, at the time of his or her purchase,  
19 exceeds one million dollars, excluding the value of the primary residence  
20 of such person, or (D) any natural person who had an individual income in  
21 excess of two hundred thousand dollars in each of the two most recent  
22 years or joint income with that person's spouse in excess of three  
23 hundred thousand dollars in each of those years and has a reasonable  
24 expectation of reaching the same income level in the current year; and

25 (iv) Portal operator means an entity authorized to do business in  
26 this state which operates a funding portal and has registered with the  
27 department ~~Department of Banking and Finance~~ as required by this  
28 subdivision.

29 ~~The director may by order deny or revoke the exemption specified in~~  
30 ~~subdivision (2) of this section with respect to a specific security. Upon~~  
31 ~~the entry of such an order, the director shall promptly notify all~~

~~1 registered broker-dealers that it has been entered and of the reasons  
2 therefor and that within fifteen business days of the receipt of a  
3 written request the matter will be set down for hearing. If no hearing is  
4 requested within fifteen business days of the issuance of the order and  
5 none is ordered by the director, the order shall automatically become a  
6 final order and shall remain in effect until it is modified or vacated by  
7 the director. If a hearing is requested or ordered, the director, after  
8 notice of and opportunity for hearing to all interested persons, shall  
9 enter his or her written findings of fact and conclusions of law and may  
10 affirm, modify, or vacate the order. No such order may operate  
11 retroactively. No person may be considered to have violated the  
12 provisions of the Securities Act of Nebraska by reason of any offer or  
13 sale effected after the entry of any such order if he or she sustains the  
14 burden of proof that he or she did not know and in the exercise of  
15 reasonable care could not have known of the order. In any proceeding  
16 under the act, the burden of proving an exemption from a definition shall  
17 be upon the person claiming it.~~

18       Sec. 14. Section 8-1115, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20       8-1115 (1) The director in his or her discretion (a) may make such  
21 public or private investigations within or without this state as he or  
22 she deems necessary to determine whether any registration should be  
23 granted, denied, or revoked or whether any person has violated or is  
24 about to violate the Securities Act of Nebraska or any rule and   
25 regulation, or order under the act or to aid in the enforcement of the  
26 act or in the adopting and promulgating of rules and  regulations, and  
27 the prescribing of forms under the act, (b) may require or permit any  
28 person to file a statement in writing, under oath or otherwise as the  
29 director may determine, as to all the facts and circumstances concerning  
30 the matter to be investigated, and (c) may publish information concerning  
31 any violation of the act or any rule and  regulation, or order under the

1 act. In the discretion of the director, the actual expense of any such  
2 investigation may be charged to the applicant or person who is the  
3 subject of the investigation.

4 (2) For the purpose of any investigation or proceeding under the act  
5 ~~Securities Act of Nebraska~~, the director or any person ~~officer~~ designated  
6 by him or her may administer oaths and affirmations, subpoena witnesses,  
7 compel their attendance, take evidence, and require the production of any  
8 books, papers, correspondence, memoranda, agreements, or other documents  
9 or records which the director deems relevant or material to the inquiry.

10 (3) At the request of an administrator responsible for enforcement  
11 of the securities laws of another state, the director may issue subpoenas  
12 to compel the attendance of any person or require the production of  
13 records in this state if the alleged violation being investigated would  
14 be a violation of the Securities Act of Nebraska if the activities had  
15 occurred in this state.

16 (4) In case of contumacy by or refusal to obey a subpoena issued to  
17 any person, any court of competent jurisdiction, upon application by the  
18 director, may issue to such person an order requiring him or her to  
19 appear before the director, or the officer designated by the director,  
20 there to produce documentary evidence if so ordered or to give evidence  
21 touching the matter under investigation or in question. Any failure to  
22 obey the order of the court may be punished by the court as a contempt of  
23 court.

24 Sec. 15. Section 8-1116, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 8-1116 Whenever it appears to the director that any person has  
27 engaged or is about to engage in any act or practice constituting a  
28 violation of any provision of the Securities Act of Nebraska or any rule  
29 and regulation or order under the act, the director may in his or her  
30 discretion bring an action in any court of competent jurisdiction to  
31 enjoin any such acts or practices and to enforce compliance with the

1 Securities Act of Nebraska or any rule and regulation or order under the  
2 act. Upon a proper showing, a permanent or temporary injunction,  
3 restraining order, or writ of mandamus shall be granted and a receiver or  
4 conservator may be appointed for the defendant's assets. Upon a proper  
5 showing by the director, the court may invoke its equitable powers under  
6 the law and issue an order of rescission, restitution, or disgorgement,  
7 an order freezing assets, an order requiring an accounting, or a writ of  
8 attachment or writ of general or specific execution, directed to any  
9 person who has engaged in or is engaging in any act constituting a  
10 violation of any provision of the Securities Act of Nebraska or any rule  
11 and regulation or order under the act , ~~any rule and regulation adopted~~  
12 ~~and promulgated under the act, or any order of the director issued~~  
13 ~~thereunder~~. The director shall ~~may~~ not be required to post a bond.

14 Sec. 16. Section 8-1117, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 8-1117 (1) Any person who willfully violates any provision of the  
17 Securities Act of Nebraska except section 8-1113, or who willfully  
18 violates any rule and regulation or order under the act, or who willfully  
19 violates the provisions of section 8-1113 knowing the statement made to  
20 be false or misleading in any material respect is ~~shall be~~ guilty of a  
21 Class IV felony. No indictment may be returned or information filed under  
22 the act more than five years after the alleged violation.

23 (2) The director may refer such evidence as may be available  
24 concerning violations of the act or ~~of~~ any rule and regulation or order  
25 under the act to the Attorney General or the proper county attorney, who  
26 may in his or her discretion, with or without such a reference, institute  
27 the appropriate criminal proceedings under the act.

28 (3) Nothing in the act shall limit the power of the state to punish  
29 any person for any conduct which constitutes a crime by statute or at  
30 common law.

31 Sec. 17. Section 8-1118, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2 8-1118 (1) Any person who offers or sells a security in violation of  
3 section 8-1104 or offers or sells a security by means of any untrue  
4 statement of a material fact or any omission to state a material fact  
5 necessary in order to make the statements made in the light of the  
6 circumstances under which they are made not misleading, the buyer not  
7 knowing of the untruth or omission, and who does not sustain the burden  
8 of proof that he or she did not know and in the exercise of reasonable  
9 care could not have known of the untruth or omission, shall be liable to  
10 the person buying the security from him or her, who may sue either at law  
11 or in equity to recover the consideration paid for the security, together  
12 with interest at six percent per annum from the date of payment, costs,  
13 and reasonable attorney's fees, less the amount of any income received on  
14 the security, upon the tender of the security, or for damages if he or  
15 she no longer owns the security, except that in actions brought based on  
16 a transaction exempt from registration under subdivision (23) of section  
17 8-1111, no person shall be liable for any statement of a material fact  
18 made or for an omission of a material fact required to be stated or  
19 necessary to make the statement made not misleading unless such statement  
20 or omission was made with the intent to defraud or mislead, with the  
21 burden of proof in such cases being on the claimant. Damages shall be the  
22 amount that would be recoverable upon a tender less (a) the value of the  
23 security when the buyer disposed of it and (b) interest at six percent  
24 per annum from the date of disposition.

25 (2) Any investment adviser who provides investment adviser services  
26 to another person which results in a willful violation of subsection (2),  
27 (3), or (4) of section 8-1102, subsection (2) of section 8-1103, or  
28 section 8-1114 or any investment adviser who employs any device, scheme,  
29 or artifice to defraud such person or engages in any act, practice, or  
30 course of business which operates or would operate as a fraud or deceit  
31 on such person shall be liable to such person. Such person may sue either

1 at law or in equity to recover the consideration paid for the investment  
2 adviser services and any loss due to such investment adviser services,  
3 together with interest at six percent per annum from the date of payment  
4 of the consideration plus costs and reasonable attorney's fees, less the  
5 amount of any income received from such investment adviser services and  
6 any other economic benefit.

7 (3) Every person who directly or indirectly controls a person liable  
8 under subsections (1) and (2) of this section, including every partner,  
9 limited liability company member, officer, director, or person occupying  
10 a similar status or performing similar functions of a partner, limited  
11 liability company member, officer, or director, or employee of such  
12 person who materially aids in the conduct giving rise to liability, and  
13 every broker-dealer, issuer-dealer, agent, investment adviser, or  
14 investment adviser representative who materially aids in such conduct  
15 shall be liable jointly and severally with and to the same extent as such  
16 person, unless able to sustain the burden of proof that he or she did not  
17 know, and in the exercise of reasonable care could not have known, of the  
18 existence of the facts by reason of which the liability is alleged to  
19 exist. There shall be contribution as in cases of contract among the  
20 several persons so liable.

21 (4) Any tender specified in this section may be made at any time  
22 before entry of judgment. Every cause of action under the Securities Act  
23 of Nebraska shall survive the death of any person who might have been a  
24 plaintiff or defendant. No person may sue under this section more than  
25 three years after the contract of sale or the rendering of investment  
26 advice. No person may sue under this section (a) if the buyer received a  
27 written offer, before an action is commenced ~~suit~~ and at a time when he  
28 or she owned the security, to refund the consideration paid together with  
29 interest at six percent per annum from the date of payment, less the  
30 amount of any income received on the security, and the buyer failed to  
31 accept the offer within thirty days of its receipt, or (b) if the buyer

1 received such an offer before an action is commenced ~~suit~~ and at a time  
2 when he or she did not own the security, unless the buyer rejected the  
3 offer in writing within thirty days of its receipt.

4 (5) No person who has made or engaged in the performance of any  
5 contract in violation of any provision of the act or any rule and  
6 regulation or order under the act, or who has acquired any purported  
7 right under any such contract with knowledge of the facts by reason of  
8 which its making or performance was in violation, may base any action  
9 ~~suit~~ on the contract. Any condition, stipulation, or provision binding  
10 any person acquiring any security or receiving any investment advice to  
11 waive compliance with any provision of the act or any rule and regulation  
12 or order under the act shall be void.

13 Sec. 18. Section 8-1120, Revised Statutes Cumulative Supplement,  
14 2016, is amended to read:

15 8-1120 (1) Except as otherwise provided in this section, the  
16 Securities Act of Nebraska shall be administered by the Director of  
17 Banking and Finance who may employ such deputies, examiners, assistants,  
18 or counsel as may be reasonably necessary for the purpose thereof. The  
19 employment of any person for the administration of the act is subject to  
20 section 49-1499.07 ~~and who may designate one of such assistants as an~~  
21 ~~assistant director.~~ The director may delegate to a deputy ~~such assistant~~  
22 director or counsel any powers, authority, and duties imposed upon or  
23 granted to the director under the act, such as may be lawfully delegated  
24 under the common law or the statutes of this state. The director may also  
25 employ special counsel with respect to any investigation conducted by him  
26 or her under the act or with respect to any litigation to which the  
27 director is a party under the act, ~~except that~~

28 (2) A security issued by and representing an interest in or a debt  
29 of, or guaranteed by, any insurance company shall be registered, pursuant  
30 to the provisions of sections 8-1104 to 8-1109, with the Director of  
31 Insurance who shall as to such registrations administer and enforce the

1 act, and as pertains to the administration and enforcement of such  
2 registration of such securities all references in the act to director  
3 shall mean the Director of Insurance.

4 ~~(3)(a)~~ ~~(2)(a)~~ It shall be unlawful for the director or any of his or  
5 her ~~officers~~ or employees to use for personal benefit any information  
6 which is filed with or obtained by the director and which is not made  
7 public. Neither the director nor any of his or her ~~officers~~ or employees  
8 shall disclose any confidential information except among themselves, when  
9 necessary or appropriate in a proceeding, examination, or investigation  
10 under the act, or as authorized in subdivision ~~(3)(b)~~ ~~(2)(b)~~ of this  
11 subsection. No provision of the act shall either create or derogate from  
12 any privilege which exists at common law or otherwise when documentary or  
13 other evidence is sought under a subpoena directed to the director or any  
14 of his or her ~~officers~~ or employees.

15 (b)(i) In administering the act, the director may also:

16 (A) Enter into agreements or relationships with other government  
17 officials, including, but not limited to, the securities administrator of  
18 a foreign state and the Securities and Exchange Commission, or self-  
19 regulatory organizations, to share resources, standardized or uniform  
20 methods or procedures, and documents, records, and information; or

21 (B) Accept and rely on examination or investigation reports made by  
22 other government officials, including, but not limited to, the securities  
23 administrator of a foreign state and the Securities and Exchange  
24 Commission, or self-regulatory organizations.

25 (ii) For purposes of this subdivision, foreign state means any state  
26 of the United States, other than the State of Nebraska, any territory of  
27 the United States, including Puerto Rico, Guam, American Samoa, the Trust  
28 Territory of the Pacific Islands, or the Virgin Islands, and the District  
29 of Columbia.

30 ~~(4)~~ ~~(3)~~ The director may adopt and promulgate ~~from time to time~~  
31 ~~make, amend, and rescind such rules and regulations and prescribe forms~~

1 ~~as are necessary~~ to carry out the act. No rule and regulation may be  
2 adopted and promulgated or form may be prescribed ~~made~~ unless the  
3 director finds that the action is necessary or appropriate in the public  
4 interest or for the protection of investors and consistent with the  
5 purposes fairly intended by the policy and provisions of the act.

6 In adopting and promulgating ~~prescribing~~ rules and regulations and  
7 prescribing forms the director may cooperate with the securities  
8 administrators of the other states and the Securities and Exchange  
9 Commission with a view to effectuating the policy of the Securities Act  
10 of Nebraska to achieve maximum uniformity in the form and content of  
11 registration statements, applications, and reports wherever practicable.  
12 All rules and regulations and forms of the director shall be published  
13 and made available to any person upon request.

14 (5) ~~(4)~~ No provision of the act imposing any liability shall apply  
15 to any act done or omitted in good faith in conformity with any rule and  
16 regulation, form, or order of the director, notwithstanding that the rule  
17 and regulation or form may later be amended or rescinded or be determined  
18 by judicial or other authority to be invalid for any reason.

19 (6) ~~(5)~~ Every hearing in an administrative proceeding shall be  
20 public unless the director in his or her discretion grants a request  
21 joined in by all the respondents that the hearing be conducted privately.

22 (7) ~~(6)~~ The Securities Act Cash Fund is created. All filing fees,  
23 registration fees, and all other fees and all money collected by or paid  
24 to the director under any of the provisions of the act shall be remitted  
25 to the State Treasurer for credit to the fund, except that registration  
26 fees collected by or paid to the Director of Insurance pursuant to the  
27 provisions of the act shall be credited to the Department of Insurance  
28 Cash Fund. The Securities Act Cash Fund shall be used for the purpose of  
29 administering and enforcing the provisions of the act, except that  
30 transfers may be made to the General Fund at the direction of the  
31 Legislature. Any money in the Securities Act Cash Fund available for

1 investment shall be invested by the state investment officer pursuant to  
2 the Nebraska Capital Expansion Act and the Nebraska State Funds  
3 Investment Act.

4 ~~(7)(a) The State Treasurer, at the direction of the budget~~  
5 ~~administrator of the budget division of the Department of Administrative~~  
6 ~~Services, shall transfer one million two hundred fifty thousand dollars~~  
7 ~~from the Securities Act Cash Fund to the Affordable Housing Trust Fund on~~  
8 ~~or before September 1, 2013, and the State Treasurer, at the direction of~~  
9 ~~the budget administrator of the budget division of the Department of~~  
10 ~~Administrative Services, shall transfer one million two hundred fifty~~  
11 ~~thousand dollars from the Securities Act Cash Fund to the Affordable~~  
12 ~~Housing Trust Fund on or before September 1, 2014.~~

13 ~~(b) The State Treasurer, at the direction of the budget~~  
14 ~~administrator of the budget division of the Department of Administrative~~  
15 ~~Services, shall transfer two hundred fifty thousand dollars from the~~  
16 ~~Securities Act Cash Fund to the Homeless Shelter Assistance Trust Fund on~~  
17 ~~or before September 1, 2013, and the State Treasurer, at the direction of~~  
18 ~~the budget administrator of the budget division of the Department of~~  
19 ~~Administrative Services, shall transfer two hundred fifty thousand~~  
20 ~~dollars from the Securities Act Cash Fund to the Homeless Shelter~~  
21 ~~Assistance Trust Fund on or before September 1, 2014.~~

22 ~~(c) The State Treasurer, at the direction of the budget~~  
23 ~~administrator of the budget division of the Department of Administrative~~  
24 ~~Services, shall transfer five hundred thousand dollars from the~~  
25 ~~Securities Act Cash Fund to the Legal Aid and Services Fund on or before~~  
26 ~~September 1, 2013, and the State Treasurer, at the direction of the~~  
27 ~~budget administrator of the budget division of the Department of~~  
28 ~~Administrative Services, shall transfer five hundred thousand dollars~~  
29 ~~from the Securities Act Cash Fund to the Legal Aid and Services Fund on~~  
30 ~~or before September 1, 2014.~~

31 (8) A document is filed when it is received by the director. The

1 director shall keep a register of all applications for registration and  
2 registration statements which are or have ever been effective under the  
3 Securities Act of Nebraska and all denial, suspension, or revocation  
4 orders which have ever been entered under the act. The register shall be  
5 open for public inspection. The information contained in or filed with  
6 any registration statement, application, or report may be made available  
7 to the public under such conditions as the director may prescribe.

8 (9) The director may, by rule and regulation or order, authorize or  
9 require the filing of any document required to be filed under the act by  
10 electronic or other means, processes, or systems.

11 (10) ~~(9)~~ Upon request and at such reasonable charges as he or she  
12 shall prescribe, the director shall furnish to any person photostatic or  
13 other copies, certified under his or her seal of office if requested, of  
14 any entry in the register or any document which is a matter of public  
15 record. In any proceeding or prosecution under the act, any copy so  
16 certified shall be prima facie evidence of the contents of the entry or  
17 document certified.

18 (11) ~~(10)~~ The director in his or her discretion may honor requests  
19 from interested persons for interpretative opinions.

20 Sec. 19. Section 8-1122.01, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 8-1122.01 The federal limits on the registration of securities,  
23 dealers, brokers, broker-dealers, agents, and investment advisers as  
24 provided in the federal Philanthropy Protection Act of 1995, Public Law  
25 104-62, shall not apply in Nebraska and are hereby rejected by the State  
26 of Nebraska pursuant to section 6(c) of such act. The State of Nebraska  
27 elects to retain the authority to require or not require such  
28 registration under the Securities Act of Nebraska and to retain the  
29 authority to have such registration requirements apply in all  
30 administrative and judicial actions commenced after July 15, 1998.

31 Sec. 20. Section 8-1123, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 8-1123 Sections 8-1101 to 8-1123 and section 2 of this act shall be  
3 known and may be cited as the Securities Act of Nebraska.

4 Sec. 21. Original sections 8-1102, 8-1103, 8-1107, 8-1109.01,  
5 8-1109.02, 8-1110, 8-1115, 8-1116, 8-1117, 8-1122.01, and 8-1123, Reissue  
6 Revised Statutes of Nebraska, and sections 8-1101, 8-1106, 8-1108,  
7 8-1108.01, 8-1109, 8-1111, 8-1118, and 8-1120, Revised Statutes  
8 Cumulative Supplement, 2016, are repealed.