

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 148

Introduced by Schumacher, 22.

Read first time January 09, 2017

Committee:

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;

28 (16) State means any state, territory, or possession of the United
29 States as well as the District of Columbia and Puerto Rico; and

30 (17) Viatical settlement contract means an agreement for the
31 purchase, sale, assignment, transfer, devise, or bequest of all or any

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

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

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

21 8-1102 (1) It shall be unlawful for any person, in connection with
22 the offer, sale, or purchase of any security, directly or indirectly:

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

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

28 (c) To engage in any act, practice, or course of business which
29 operates or would operate as a fraud or deceit upon any person.

30 (2) It shall be unlawful for any person who receives any
31 consideration from another person primarily for advising the other person

1 as to the value of securities or their purchase or sale, whether through
2 the issuance of analyses or reports or otherwise:

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

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

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

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

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

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

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

29 (b) Unless the investment advisory contract prohibits in writing the
30 assignment of the contract by the investment adviser or investment
31 adviser representative without the consent of the other party to the

1 contract; and

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

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

22 (5) It shall be unlawful for any investment adviser or investment
23 adviser representative to take or have custody of any securities or funds
24 of any client if:

25 (a) The director by rule and τ regulation τ or order prohibits the
26 taking or custody; or

27 (b) In the absence of any rule and τ regulation τ or order by the
28 director, the investment adviser or investment adviser representative
29 fails to notify the director that he or she has or may have custody.

30 (6) The director may by rule and τ regulation τ or order adopt and
31 promulgate exemptions from subdivisions (2)(c), (3)(a), (3)(b), and (3)

1 (c) of this section when the exemptions are consistent with the public
2 interest and are within the purposes fairly intended by the Securities
3 Act of Nebraska.

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

6 8-1103 (1) It shall be unlawful for any person to transact business
7 in this state as a broker-dealer, issuer-dealer, or agent, except in
8 certain transactions exempt under section 8-1111, unless he or she is
9 registered under the Securities Act of Nebraska. It shall be unlawful for
10 any broker-dealer to employ an agent for purposes of effecting or
11 attempting to effect transactions in this state unless the agent is
12 registered. It shall be unlawful for an issuer to employ an agent unless
13 the issuer is registered as an issuer-dealer and unless the agent is
14 registered. The registration of an agent shall not be effective unless
15 the agent is employed by a broker-dealer or issuer-dealer registered
16 under the act. When the agent begins or terminates employment with a
17 registered broker-dealer or issuer-dealer, the broker-dealer or issuer-
18 dealer shall promptly notify the director.

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

22 (b) Except with respect to federal covered advisers whose only
23 clients are those described in subdivision (7)(g)(i) of section 8-1101,
24 it shall be unlawful for any federal covered adviser to conduct advisory
25 business in this state unless such person files with the director the
26 documents which are filed with the Securities and Exchange Commission, as
27 the director may by rule and regulation or order require, a consent to
28 service of process, and payment of the a two-hundred-dollar filing fee
29 prescribed in subsection (6) of this section prior to acting as a federal
30 covered adviser in this state.

31 (c)(i) It shall be unlawful for any investment adviser required to

1 be registered under the Securities Act of Nebraska to employ an
2 investment adviser representative unless the investment adviser
3 representative is registered under the act.

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

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

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

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

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

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

9 (d) Any injunction or administrative order or conviction of a
10 misdemeanor involving a security or any aspect of the securities business
11 and any conviction of a felony;

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

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

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

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

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

25 (ii) That an issuer-dealer and its agents pass an examination
26 prescribed and administered by the department ~~Department of Banking and~~
27 ~~Finance~~. Such examination shall be administered upon request and upon
28 payment of an examination fee of five dollars. Any applicant for issuer-
29 dealer registration who has satisfactorily passed any other examination
30 approved by the director shall be exempted from this requirement upon
31 furnishing evidence of satisfactory completion of such examination to the

1 director;

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

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

28 (v) That an investment adviser have such minimum net capital as the
29 director may by rule and regulation or order require, subject to the
30 limitations of section 222 of the Investment Advisers Act of 1940, which
31 may include different requirements for those investment advisers who

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

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

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

26 (5) Registration of a broker-dealer, issuer-dealer, agent,
27 investment adviser, or investment adviser representative may be renewed
28 by filing with the director or with a registration depository designated
29 by the director prior to the expiration date such information as the
30 director by rule and 7 regulation₇ or order may require to indicate any
31 material change in the information contained in the original application

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

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

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

25 (b) All the records of a registered broker-dealer, issuer-dealer, or
26 investment adviser shall be subject at any time or from time to time to
27 such reasonable periodic, special, or other examinations by
28 representatives of the director, within or without this state, as the
29 director deems necessary or appropriate in the public interest or for the
30 protection of investors and advisory clients. For the purpose of avoiding
31 unnecessary duplication of examinations, the director, insofar as he or

1 she deems it practicable in administering this subsection, may cooperate
2 with the securities administrators of other states, the Securities and
3 Exchange Commission, and any national securities exchange or national
4 securities association registered under the Securities Exchange Act of
5 1934. Costs of such examinations shall be borne by the registrant.

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

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

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

27 (9)(a) The director may by order deny, suspend, or revoke
28 registration of any broker-dealer, issuer-dealer, agent, investment
29 adviser, or investment adviser representative or bar, censure, or impose
30 a fine pursuant to subsection (4) of section 8-1108.01 on any registrant
31 or any partner, limited liability company member, officer, director, or

1 person occupying a similar status or performing similar functions of a
2 partner, limited liability company member, officer, or director for a
3 registrant from employment with any broker-dealer, issuer-dealer, or
4 investment adviser if he or she finds that the order is in the public
5 interest and that the applicant or registrant or, in the case of a
6 broker-dealer, issuer-dealer, or investment adviser, any partner, limited
7 liability company member, officer, director, person occupying a similar
8 status or performing similar functions of a partner, limited liability
9 company member, officer, or director, or person directly or indirectly
10 controlling the broker-dealer, issuer-dealer, or investment adviser:

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

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

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

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

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

29 (vi) Is the subject of an adjudication or determination, after
30 notice and opportunity for hearing, within the past ten years by a
31 securities or commodities agency or administrator of another state or a

1 court of competent jurisdiction that the person has willfully violated
2 the Securities Act of 1933, the Securities Exchange Act of 1934, the
3 Investment Advisers Act of 1940, the Investment Company Act of 1940, the
4 Commodity Exchange Act, or the securities or commodities law of any other
5 state;

6 (vii) Has engaged in dishonest or unethical practices in the
7 securities or commodities business;

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

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

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

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

25 (xii) Has been denied the right to do business in the securities
26 industry, or the person's respective authority to do business in an
27 investment-related industry has been revoked by any other state, federal,
28 or foreign governmental agency or self-regulatory organization for cause,
29 or the person has been the subject of a final order in a criminal, civil,
30 injunctive, or administrative action for securities, commodities, or
31 fraud-related violations of the law of any state, federal, or foreign

1 governmental unit; ~~or~~ -

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

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

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

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

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

24 (ii) ~~(c)(i)~~ The director may not institute a proceeding under this
25 section on the basis of a final judicial or administrative order made
26 known to him or her by the applicant prior to the effective date of the
27 registration unless the proceeding is instituted within the next ninety
28 days following registration. For purposes of this subdivision, a final
29 judicial or administrative order does not include an order that is stayed
30 or subject to further review or appeal. This subdivision shall not apply
31 to renewed registrations.

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

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

27 (b) If an applicant for registration does not complete the
28 registration application and fails to respond to a notice or notices from
29 the department to correct the deficiency or deficiencies for a period of
30 one hundred twenty days or more after the date the department sends the
31 initial notice to correct the deficiency, the department may deem the

1 registration application as abandoned and may issue a notice of
2 abandonment of the registration application to the applicant in lieu of
3 proceedings to deny the application.

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

14 Sec. 5. Section 8-1106, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 8-1106 (1) Any security for which a registration statement has been
17 filed under the Securities Act of 1933 in connection with the same
18 offering may be registered by coordination.

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

24 (a) One copy of the prospectus filed under the Securities Act of
25 1933 together with all amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

20 8-1107 (1) Any security may be registered by qualification.

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

26 (a) With respect to the issuer and any significant subsidiary, its
27 name, address, and form of organization, the state or foreign
28 jurisdiction and date of its organization, the general character and
29 location of its business, and a description of its physical properties
30 and equipment;

31 (b) With respect to every director and officer of the issuer, or

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

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

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

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

27 (f) The kind and amount of securities to be offered, the amount to
28 be offered in this state, the proposed offering price and any variation
29 therefrom at which any portion of the offering is to be made to any
30 persons except as underwriting and selling discounts and commissions, the
31 estimated aggregate underwriting and selling discounts or commissions and

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

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

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

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

28 (i) ~~(j)~~ Any adverse order, judgment or decree previously entered in
29 connection with the offering by any court or the Securities and Exchange
30 Commission, and a description of any pending litigation or proceeding to
31 which the issuer is a party and which materially affects its business or

1 assets including any such litigation or proceeding known to be
2 contemplated by governmental authorities;

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

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

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

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

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

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

28 (o) A copy of any prospectus or circular intended as of the
29 effective date to be used in connection with the offering.

30 (3) In the case of a nonissuer distribution, information may not be
31 required under this section unless it is known to the person filing the

1 registration statement or to the persons on whose behalf the distribution
2 is to be made, or can be furnished by them without unreasonable effort or
3 expense.

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

21 Sec. 7. Section 8-1108, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 8-1108 (1) A registration statement may be filed by the issuer, by
24 any other person on whose behalf the offering is to be made, or by a
25 registered broker-dealer. Any document filed under the Securities Act of
26 Nebraska ~~or a predecessor act~~ within five years preceding the filing of a
27 registration statement may be incorporated by reference in the
28 registration statement to the extent that the document is currently
29 accurate. The director may by rule and regulation or order permit the
30 omission of any item of information or document from any registration
31 statement.

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

25 (3) For the registration of securities by coordination or
26 qualification, there shall be paid to the director a registration fee of
27 one-tenth of one percent of the aggregate offering price of the
28 securities which are to be offered in this state, but the fee shall in no
29 case be less than one hundred dollars. When a registration statement is
30 withdrawn before the effective date or a preeffective stop order is
31 entered under section 8-1109, the director shall retain one hundred

1 dollars of the fee. Any issuer who sells securities in this state in
2 excess of the aggregate amount of securities registered may, at the
3 discretion of the director and while such registration is still
4 effective, apply to register the excess securities sold to persons within
5 this state by paying a registration fee of three-tenths of one percent
6 for the difference between the initial fee paid and the fee required in
7 this subsection. Registration of the excess securities, if granted, shall
8 be effective retroactively to the date of the existing registration.

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

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

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

26 Sec. 8. Section 8-1108.01, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 8-1108.01 (1) Whenever it appears to the director that the sale of
29 any security is subject to registration under the Securities Act of
30 Nebraska and is being offered or has been offered for sale without such
31 registration, he or she may order the issuer or offerer of such security

1 to cease and desist from the further offer or sale of such security
2 unless and until it has been registered under the act.

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

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

13 (4) The director may, after giving reasonable notice and an
14 opportunity for a hearing under this section, impose a fine not to exceed
15 twenty-five thousand dollars per violation, in addition to costs of the
16 investigation, upon a person found to have engaged in any act or practice
17 which would constitute a violation of the act or any rule and ~~7~~
18 regulation~~7~~ or order ~~issued~~ under the act, except that the director shall
19 not impose a fine upon any person in connection with a transaction made
20 pursuant to subdivision (23) of section 8-1111 for any statement of a
21 material fact made or for an omission of a material fact required to be
22 stated or necessary to make the statement made not misleading unless such
23 statement or omission was made with the intent to defraud or mislead. The
24 fine and costs shall be in addition to all other penalties imposed by the
25 laws of this state. The director shall collect the fines and costs and
26 remit them to the State Treasurer. The State Treasurer shall credit the
27 costs to the Securities Act Cash Fund and distribute the fines in
28 accordance with Article VII, section 5, of the Constitution of Nebraska.
29 Imposition of any fine and payment of costs under this subsection may be
30 appealed pursuant to section 8-1119. If a person fails to pay the fine or
31 costs of the investigation referred to in this subsection, a lien in the

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

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

22 Sec. 9. Section 8-1109, Revised Statutes Cumulative Supplement,
23 2016, is amended to read:

24 8-1109 The director may issue a stop order denying effectiveness to,
25 or suspending or revoking the effectiveness of, a registration statement
26 to register securities by coordination if he or she finds that the order
27 is in the public interest and that:

28 (1) Any such registration statement registering securities, as of
29 its effective date or as of any earlier date in the case of an order
30 denying effectiveness, is incomplete in any material respect or contains
31 any statement which was, in the light of the circumstances under which it

1 was made, false or misleading with respect to any material fact;

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

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

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

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

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

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

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

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

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

11 8-1109.01 The director may issue an order denying effectiveness to,
12 or suspend or revoke the effectiveness of, a registration statement to
13 register securities by qualification if he or she finds that the
14 conditions in subdivision (1) of section 8-1109, or if he or she finds
15 that any of the following conditions exist:

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

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

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

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

28 (5) The offering has been or would be made with unreasonable amounts
29 of underwriters' or sellers' discounts, commissions, or other
30 compensation, or promoters' profits or participation, or unreasonable
31 amounts or kinds of options. However, in an application to register the

1 securities for a holding company which is organized for one of its
2 purposes to acquire or start an insurance company, the total commissions,
3 organization and promotion expenses shall not exceed ten percent of the
4 money paid upon stock subscriptions;

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

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

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

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

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

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

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

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

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

31 8-1109.02 Upon the entry of an order denying effectiveness to or

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

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

23 8-1110 Sections 8-1104 to 8-1109 shall not apply to any of the
24 following securities:

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

29 (2) Any security issued or guaranteed by Canada, any Canadian
30 province, any political subdivision of any such province, any agency or
31 corporate or other instrumentality of one or more of the foregoing, or

1 any other foreign government with which the United States currently
2 maintains diplomatic relations, if the security is recognized as a valid
3 obligation by the issuer or guarantor;

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

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

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

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

18 (c) Any put or a call option contract, a warrant, or a subscription
19 right on or with respect to securities described in subdivisions (a) or
20 (b) of this subsection;

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

27 (e) Any offer or sale of the underlying security in connection with
28 the offer, sale, or exercise of an option or other security that was
29 exempt when the option or other security was written or issued;

30 (f) Any option or a derivative security designated by the Securities
31 and Exchange Commission under Section 9(b) of the Securities Exchange Act

1 of 1934;

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

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

23 ~~(c) The director may adopt and promulgate rules and regulations~~
24 ~~which, after notice to such exchange or market system and an opportunity~~
25 ~~to be heard, remove any such exchange or market system from the exemption~~
26 ~~stated in subdivision (5)(a) of this section if the director finds that~~
27 ~~the listing requirements or market surveillance of such exchange or~~
28 ~~market system is such that the continued availability of such exemption~~
29 ~~for such exchange or market system is not in the public interest and that~~
30 ~~removal is necessary for the protection of investors;~~

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

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

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

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

15 (d) The issuer has had consolidated net income, without taking into
16 account extraordinary items and the cumulative effect of accounting
17 changes, of at least one million dollars in four of its last five fiscal
18 years, including its last fiscal year, and if the offering is of
19 interest-bearing securities the issuer has had for its last fiscal year
20 net income before deduction for income taxes and depreciation of at least
21 one and one-half times the issuer's annual interest expense, taking into
22 account the proposed offering and the intended use of the proceeds.
23 However, if the issuer of the securities is a finance company which has
24 liquid assets of at least one hundred five percent of its liabilities,
25 other than deferred income taxes, deferred investment tax credit, capital
26 stock, and surplus, at the end of its last five fiscal years, the net
27 income requirement before deduction for interest expense shall be one and
28 one-fourth times its annual interest expense. For purposes of this
29 subdivision: (i) Last fiscal year means the most recent year for which
30 audited financial statements are available, if such statements cover a
31 fiscal period ending not more than fifteen months from the commencement

1 of the offering; (ii) finance company means a company engaged primarily
2 in the business of wholesale, retail, installment, mortgage, commercial,
3 industrial, or consumer financing, banking, or factoring; and (iii)
4 liquid assets means (A) cash, (B) receivables payable on demand or not
5 more than twelve months following the close of the company's last fiscal
6 year less applicable reserves and unearned income, and (C) readily
7 marketable securities less applicable reserves and unearned income;

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

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

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

28 (8) Any security issued by any person organized and operated not for
29 private profit but exclusively for religious, educational, benevolent,
30 charitable, fraternal, social, athletic, or reformatory purposes, as a
31 chamber of commerce, or as a trade or professional association.

1 Sec. 13. Section 8-1111, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 8-1111 Except as provided in this section, sections 8-1103 to 8-1109
4 shall not apply to any of the following transactions:

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

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

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

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

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

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

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

28 (B) The names of the issuer's officers and the names of the issuer's
29 directors, if any, or, in the case of a non-United-States issuer, the
30 corporate equivalents of such persons in the issuer's country of
31 domicile;

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

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

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

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

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

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

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

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

31 (ii) The security is senior in rank to the common stock of the

1 issuer both as to payment of dividends or interest and upon dissolution
2 or liquidation of the issuer and such security has been outstanding at
3 least three years and the issuer or any predecessor has not defaulted
4 within the current fiscal year or the three immediately preceding fiscal
5 years in the payment of any dividend, interest, principal, or sinking
6 fund installment on the security when due and payable;

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

25 (3) Any nonissuer transaction effected by or through a registered
26 agent of a registered broker-dealer pursuant to an unsolicited order or
27 offer to buy, but the director may by rule and ~~or~~ regulation or order
28 require that the customer acknowledge upon a specified form that the sale
29 was unsolicited and that a signed copy of each such form be preserved by
30 the broker-dealer for a specified period;

31 (4) Any transaction between the issuer or other person on whose

1 behalf the offering is made and an underwriter or among underwriters;

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

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

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

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

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

22 (ii) An insurance company;

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

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

26 (v) A broker-dealer;

27 (vi) A corporation with total assets in excess of five million
28 dollars, not formed for the specific purpose of acquiring the securities
29 offered;

30 (vii) A Massachusetts or similar business trust with total assets in
31 excess of five million dollars, not formed for the specific purpose of

1 acquiring the securities offered;

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

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

10 (x) Any entity in which all of the equity owners are individuals who
11 are individual accredited investors as defined in subdivision (b) of this
12 subsection;

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

15 (xii) An individual accredited investor.

16 ~~(b) (8) Any offer or sale to a bank, savings institution, trust~~
17 ~~company, insurance company, investment company as defined in the~~
18 ~~Investment Company Act of 1940, pension or profit-sharing trust, or other~~
19 ~~financial institution or institutional buyer, to an individual accredited~~
20 ~~investor, or to a broker-dealer, whether the purchaser is acting for~~
21 ~~itself or in some fiduciary capacity. For purposes of this subsection,~~
22 ~~individual accredited investor subdivision, the term "individual~~
23 ~~accredited investor" means (i) (a) any director, executive officer, or~~
24 ~~general partner of the issuer of the securities being offered or sold, or~~
25 ~~any director, executive officer, or general partner of a general partner~~
26 ~~of that issuer, (ii) (b) any manager of a limited liability company that~~
27 ~~is the issuer of the securities being offered or sold, (iii) (c) any~~
28 ~~natural person whose individual net worth, or joint net worth with that~~
29 ~~person's spouse, at the time of his or her purchase, exceeds one million~~
30 ~~dollars, excluding the value of the primary residence of such person, or~~
31 ~~(iv) (d) any natural person who had an individual income in excess of two~~

1 hundred thousand dollars in each of the two most recent years or joint
2 income with that person's spouse in excess of three hundred thousand
3 dollars in each of those years and has a reasonable expectation of
4 reaching the same income level in the current year;

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

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

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

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

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

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

27 (14) Any transaction incident to a right of conversion or a
28 statutory or judicially approved reclassification, recapitalization,
29 reorganization, quasi-reorganization, stock split, reverse stock split,
30 merger, consolidation, or sale of assets;

31 (15) Any transaction involving the issuance for cash of any evidence

1 of ownership interest or indebtedness by a an agricultural cooperative
2 formed as a corporation under section 21-1301 or 21-1401 or a limited
3 cooperative association formed under the Nebraska Limited Cooperative
4 Association Act if the issuer has first filed a notice of intention to
5 issue with the director and the director has not by order, mailed to the
6 issuer by certified or registered mail within ten business days after
7 receipt thereof, disallowed the exemption;

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

31 (17) Any security issued in connection with an employees' stock

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

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

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

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

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

26 (18) Any interest in a common trust fund or similar fund maintained
27 by a bank or trust company organized and supervised under the laws of any
28 state or a bank organized under the laws of the United States for the
29 collective investment and reinvestment of funds contributed to such
30 common trust fund or similar fund by the bank or trust company in its
31 capacity as trustee, personal representative, administrator, or guardian

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

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

15 (20) Any transaction in this state not involving a public offering
16 by a Nebraska issuer selling solely to Nebraska residents, when (a) any
17 such transaction is effected in accordance with rules and regulations of
18 ~~adopted and promulgated by~~ the director relating to this section when the
19 director finds in adopting and promulgating such rules and regulations
20 that the applicability of sections 8-1104 to 8-1107 is not necessary or
21 appropriate in the public interest or for the protection of investors,
22 (b) no commission or remuneration is paid directly or indirectly for
23 soliciting any prospective buyer, except to a registered agent of a
24 registered broker-dealer or registered issuer-dealer, (c) a notice
25 generally describing the terms of the transaction and containing a
26 representation that the conditions of this exemption are met is filed by
27 the seller with the director no later than twenty days prior to any sales
28 for which this exemption is claimed, except that failure to give such
29 notice may be cured by an order issued by the director in his or her
30 discretion, (d) a filing fee of two hundred dollars is paid at the time
31 of filing the notice, and (e) there is no general or public advertising

1 or solicitation;

2 (21) Any transaction by a person who is an organization described in
3 section 501(c)(3) of the Internal Revenue Code as defined in section
4 49-801.01 involving an offering of interests in a fund described in
5 section 3(c)(10)(B) of the Investment Company Act of 1940 solely to
6 persons who are organizations described in section 501(c)(3) of the
7 Internal Revenue Code as defined in section 49-801.01 when (a) there is
8 no general or public advertising or solicitation, (b) a notice generally
9 describing the terms of the transaction and containing a representation
10 that the conditions of this exemption are met is filed by the seller with
11 the director within thirty days after the first sale for which this
12 exemption is claimed, except that failure to give such notice may be
13 cured by an order issued by the director in his or her discretion, and
14 (c) any such transaction is effected by a trustee, director, officer,
15 employee, or volunteer of the seller who is either a volunteer or is
16 engaged in the overall fundraising activities of a charitable
17 organization and receives no commission or other special compensation
18 based on the number or the value of interests sold in the fund;

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

22 (a) Sales of such securities are made only to the following
23 purchasers:

24 (i) A natural person who, either individually or jointly with the
25 person's spouse, (A) has a minimum net worth of two hundred fifty
26 thousand dollars and had taxable income in excess of one hundred twenty-
27 five thousand dollars in each of the two most recent years and has a
28 reasonable expectation of reaching the same income level in the current
29 year or (B) has a minimum net worth of five hundred thousand dollars. Net
30 worth shall be determined exclusive of home, home furnishings, and
31 automobiles;

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

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

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

16 (b) The amount of the investment of any purchaser, except a
17 purchaser described in subdivision (a)(ii) of this subdivision, does not
18 exceed five percent of the net worth, as determined by this subdivision,
19 of that purchaser;

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

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

27 (A) The name, principal business and mailing addresses, and
28 telephone number of the issuer;

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

31 (C) A description of the issuer's type of business organization and

1 the state in which the issuer is organized or incorporated;

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

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

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

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

1 pleading nolo contendere by any such person to, any felony or misdemeanor
2 involving a security, commodity, franchise, insurance, real estate, or
3 loan, or any aspect of the securities, commodities, franchise, insurance,
4 real estate, or lending business, or involving dishonesty, fraud, deceit,
5 embezzlement, fraudulent conversion, or misappropriation of property, or
6 (IV) holding any such person liable in a civil action involving breach of
7 a fiduciary duty, fraud, deceit, embezzlement, fraudulent conversion, or
8 misappropriation of property. This subdivision does not apply to any
9 order, judgment, or decree that has been vacated or overturned or is more
10 than ten years old;

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

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

24 (J) A statement that the purchaser should consult with his or her
25 tax advisor regarding the tax consequences of the purchase of the
26 viatical settlement contract or any fractionalized or pooled interest
27 therein; and

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

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

1 (A) The name, address, and telephone number of the issuing insurance
2 company and the name, address, and telephone number of the state or
3 foreign country regulator of the insurance company;

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

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

7 (D) If a group insurance policy, the name, address, and telephone
8 number of the group and, if applicable, the material terms and conditions
9 of converting the policy to an individual policy, including the amount of
10 increased premiums;

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

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

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

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

19 (I) The name, address, and telephone number of the person who will
20 be the insurance policyowner and the person who will be responsible for
21 paying premiums;

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

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

26 (e) The purchaser may rescind or cancel the purchase for any reason
27 by giving written notice of rescission or cancellation to the issuer or
28 the issuer's agent within (i) fifteen calendar days after the date the
29 purchaser remits the required consideration or receives the disclosure
30 required under subdivision (d)(i) of this subdivision and (ii) five
31 business days after the date the purchaser receives the disclosure

1 required by subdivision (d)(ii) of this subdivision. No specific form is
2 required for the rescission or cancellation. The notice is effective when
3 personally delivered, deposited in the United States mail, or deposited
4 with a commercial courier or delivery service. The issuer shall refund
5 all the purchaser's money within seven calendar days after receiving the
6 notice of rescission or cancellation;

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

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

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

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

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

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

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

8 (a) The proceeds from all sales of securities by the issuer in any
9 two-year period do not exceed seven ~~two~~ hundred fifty thousand dollars
10 and at least eighty percent of the proceeds are used in Nebraska;

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

14 (c) The issuer, any partner or limited liability company member of
15 the issuer, any officer, director, or any person occupying a similar
16 status of the issuer, any person performing similar functions for the
17 issuer, or any person holding a direct or indirect ownership interest in
18 the issuer or in any way a beneficial interest in such sale of securities
19 of the issuer, has not been:

20 (i) Found by a final order of any state or federal administrative
21 agency or a court of competent jurisdiction to have violated any
22 provision of the Securities Act of Nebraska or a similar act of any other
23 state or of the United States;

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

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

1 (iv) Temporarily or preliminarily restrained or enjoined by a court
2 of competent jurisdiction from engaging in or continuing any conduct or
3 practice in connection with the purchase or sale of any security or
4 involving the making of any false filing with any state or with the
5 Securities and Exchange Commission;

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

8 (A) The name, address, telephone number, and email address of the
9 issuer;

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

12 (C) The amount of the offering; and

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

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

19 (e) Prior to payment of consideration for the securities, the
20 offeree receives a written disclosure statement containing (i) a
21 description of the proposed use of the proceeds of the offering; (ii) the
22 name of each partner or limited liability company member of the issuer,
23 officer, director, or person occupying a similar status of the issuer or
24 performing similar functions for the issuer; and (iii) the financial
25 condition of the issuer;

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

28 (i) Has received the written disclosure statement;

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

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

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

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

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

10 (ii) The transaction meets the requirements of the federal exemption
11 for intrastate offerings in section 3(a)(11) of the Securities Act of
12 1933, ~~15 U.S.C. 77c(a)(11)~~, and Rule 147 adopted under the Securities Act
13 of 1933, or complies with Rule 147A adopted under the Securities Act of
14 1933 , ~~17 C.F.R. 230.147~~;

15 (iii) Except as provided in subdivision (c) of this subdivision, the
16 sum of all cash and other consideration to be received for all sales of
17 the security in reliance on the exemption under this subdivision,
18 excluding sales to any accredited investor, does not exceed the following
19 amount:

20 (A) If the issuer has not undergone, and made available to each
21 prospective investor and the director the documentation resulting from, a
22 financial audit of its most recently completed fiscal year that complies
23 with generally accepted accounting principles, one million dollars, less
24 the aggregate amount received for all sales of securities by the issuer
25 within the twelve months before the first offer or sale made in reliance
26 on the exemption under this subdivision; or

27 (B) If the issuer has undergone, and made available to each
28 prospective investor and the director the documentation resulting from, a
29 financial audit of its most recently completed fiscal year that complies
30 with generally accepted accounting principles, two million dollars, less
31 the aggregate amount received for all sales of securities by the issuer

1 within the twelve months before the first offer or sale made in reliance
2 on the exemption under this subdivision;

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

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

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

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

14 (C) Provide the director a copy of the disclosure document to be
15 provided to prospective investors under subdivision (a)(xi) of this
16 subdivision;

17 (D) Provide the director a copy of an escrow agreement with a bank,
18 regulated trust company, savings bank, savings and loan association, or
19 credit union authorized to do business in Nebraska in which the issuer
20 will deposit the investor funds or cause the investor funds to be
21 deposited. The bank, regulated trust company, savings bank, savings and
22 loan association, or credit union in which the investor funds are
23 deposited is only responsible to act at the direction of the party
24 establishing the escrow agreement and does not have any duty or
25 liability, contractual or otherwise, to any investor or other person;

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

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

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

8 (vii) The issuer informs all prospective purchasers of securities
9 offered under an exemption under this subdivision that the securities
10 have not been registered under federal or state securities law and that
11 the securities are subject to limitations on resale. The issuer shall
12 display the following legend conspicuously on the cover page of the
13 disclosure document:

14 IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN
15 EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE
16 MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY
17 ANY FEDERAL OR STATE SECURITIES COMMISSION, DEPARTMENT, OR DIVISION OR
18 OTHER REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE
19 NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT.
20 ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE
21 SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND
22 MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION_(e) OF
23 SEC RULE 147 OR SUBSECTION (e) OF RULE 147A ADOPTED ~~(17 C.F.R.~~
24 ~~230.147(e))~~ AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, ~~AS AMENDED,~~
25 AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR
26 EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED
27 TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD
28 OF TIME.;

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

31 I understand and acknowledge that I am investing in a high-risk,

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

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

19 (x) All payments for purchase of securities offered under an
20 exemption under this subdivision are directed to and held by the
21 financial institution specified in subdivision (a)(v)(D) of this
22 subdivision. The director may request from the financial institutions
23 information necessary to ensure compliance with this section. This
24 information is not a public record and is not available for public
25 inspection;

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

30 (A) A description of the company, its type of entity, the address
31 and telephone number of its principal office, its history, its business

1 plan, and the intended use of the offering proceeds, including any
2 amounts to be paid, as compensation or otherwise, to any owner, executive
3 officer, director, managing member, or other person occupying a similar
4 status or performing similar functions on behalf of the issuer;

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

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

11 (D) The terms and conditions of the securities being offered and of
12 any outstanding securities of the company; the minimum and maximum amount
13 of securities being offered, if any; either the percentage ownership of
14 the company represented by the offered securities or the valuation of the
15 company implied by the price of the offered securities; the price per
16 share, unit, or interest of the securities being offered; any
17 restrictions on transfer of the securities being offered; and a
18 disclosure of any anticipated future issuance of securities that might
19 dilute the value of securities being offered;

20 (E) The identity of any person who has been or will be retained by
21 the issuer to assist the issuer in conducting the offering and sale of
22 the securities, including any portal operator but excluding persons
23 acting solely as accountants or attorneys and employees whose primary job
24 responsibilities involve the operating business of the issuer rather than
25 assisting the issuer in raising capital;

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

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

31 (H) The names and addresses of each portal operator that will be

1 offering or selling the issuer's securities under an exemption under this
2 subdivision;

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

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

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

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

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

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

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

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

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

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

31 (II) It does not solicit purchases, sales, or offers to buy the

1 securities offered or displayed on the funding portal;

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

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

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

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

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

18 (VIII) Neither the portal operator, nor any director, executive
19 officer, general partner, managing member, or other person with
20 management authority over the portal operator, has been subject to any
21 conviction, order, judgment, decree, or other action specified in Rule
22 506(d)(1) adopted under the Securities Act of 1933, ~~17 C.F.R. 230.506(d)~~
23 ~~(1)~~, that would disqualify an issuer under Rule 506(d) adopted under the
24 Securities Act of 1933, ~~17 C.F.R. 230.506(d)~~, from claiming an exemption
25 specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act
26 of 1933, ~~17 C.F.R. 230.506(a) to 17 C.F.R. 230.506(c)~~. However, this
27 subdivision does not apply if both of the following are met:

28 (1) On a showing of good cause and without prejudice to any other
29 action by the director, the director determines that it is not necessary
30 under the circumstances that an exemption is denied; and

31 (2) The portal operator establishes that it made a factual inquiry

1 into whether any disqualification existed under this subdivision but did
2 not know, and in the exercise of reasonable care, could not have known,
3 that a disqualification existed under this subdivision. The nature and
4 scope of the requisite inquiry will vary based on the circumstances of
5 the issuer and the other offering participants;

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

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

14 (F) The issuer and the portal operator must maintain records of all
15 offers and sales of securities effected through the funding portal and
16 must provide ready access to the records to the department ~~Department of~~
17 ~~Banking and Finance~~, upon request. The records of a portal operator under
18 this subdivision are subject to the reasonable periodic, special, or
19 other audits or inspections by a representative of the director, in or
20 outside Nebraska, as the director considers necessary or appropriate in
21 the public interest and for the protection of investors. An audit or
22 inspection may be made at any time and without prior notice. The director
23 may copy, and remove for audit or inspection copies of, all records the
24 director reasonably considers necessary or appropriate to conduct the
25 audit or inspection. The director may assess a reasonable charge for
26 conducting an audit or inspection under this subdivision;

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

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

31 (I) The portal operator may not be an investor in any Nebraska

1 offering under this subdivision.

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

15 (i) Compensation received by each director and executive officer,
16 including cash compensation earned since the previous report and on an
17 annual basis and any bonuses, stock options, other rights to receive
18 securities of the issuer or any affiliate of the issuer, or other
19 compensation received; and

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

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

28 (d) The exemption under this subdivision may not be used in
29 conjunction with any other exemption under the Securities Act of
30 Nebraska, except for offers and sales to individuals identified in the
31 disclosure document, during the immediately preceding twelve-month

1 period.

2 (e) The exemption under this subdivision does not apply if an issuer
3 or any director, executive officer, general partner, managing member, or
4 other person with management authority over the issuer, has been subject
5 to any conviction, order, judgment, decree, or other action specified in
6 Rule 506(d)(1) adopted under the Securities Act of 1933, ~~17 C.F.R.~~
7 ~~230.506(d)(1)~~, that would disqualify an issuer under Rule 506(d) adopted
8 under the Securities Act of 1933, ~~17 C.F.R. 230.506(d)~~, from claiming an
9 exemption specified in Rule 506(a) to Rule 506(c) adopted under the
10 Securities Act of 1933, ~~17 C.F.R. 230.506(a) to 17 C.F.R. 230.506(c)~~.
11 However, this subdivision does not apply if both of the following are
12 met:

13 (i) On a showing of good cause and without prejudice to any other
14 action by the director, the director determines that it is not necessary
15 under the circumstances that an exemption is denied; and

16 (ii) The issuer establishes that it made a factual inquiry into
17 whether any disqualification existed under this subdivision but did not
18 know, and in the exercise of reasonable care, could not have known, that
19 a disqualification existed under this subdivision. The nature and scope
20 of the requisite inquiry will vary based on the circumstances of the
21 issuer and the other offering participants.

22 (f) For purposes of this subdivision:

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

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

1 (iii) Individual accredited investor means (A) any director,
2 executive officer, or general partner of the issuer of the securities
3 being offered or sold, or any director, executive officer, or general
4 partner of a general partner of that issuer, (B) any manager of a limited
5 liability company that is the issuer of the securities being offered or
6 sold, (C) any natural person whose individual net worth, or joint net
7 worth with that person's spouse, at the time of his or her purchase,
8 exceeds one million dollars, excluding the value of the primary residence
9 of such person, or (D) any natural person who had an individual income in
10 excess of two hundred thousand dollars in each of the two most recent
11 years or joint income with that person's spouse in excess of three
12 hundred thousand dollars in each of those years and has a reasonable
13 expectation of reaching the same income level in the current year; and

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

18 ~~The director may by order deny or revoke the exemption specified in~~
19 ~~subdivision (2) of this section with respect to a specific security. Upon~~
20 ~~the entry of such an order, the director shall promptly notify all~~
21 ~~registered broker-dealers that it has been entered and of the reasons~~
22 ~~therefor and that within fifteen business days of the receipt of a~~
23 ~~written request the matter will be set down for hearing. If no hearing is~~
24 ~~requested within fifteen business days of the issuance of the order and~~
25 ~~none is ordered by the director, the order shall automatically become a~~
26 ~~final order and shall remain in effect until it is modified or vacated by~~
27 ~~the director. If a hearing is requested or ordered, the director, after~~
28 ~~notice of and opportunity for hearing to all interested persons, shall~~
29 ~~enter his or her written findings of fact and conclusions of law and may~~
30 ~~affirm, modify, or vacate the order. No such order may operate~~
31 ~~retroactively. No person may be considered to have violated the~~

1 ~~provisions of the Securities Act of Nebraska by reason of any offer or~~
2 ~~sale effected after the entry of any such order if he or she sustains the~~
3 ~~burden of proof that he or she did not know and in the exercise of~~
4 ~~reasonable care could not have known of the order. In any proceeding~~
5 ~~under the act, the burden of proving an exemption from a definition shall~~
6 ~~be upon the person claiming it.~~

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

9 8-1115 (1) The director in his or her discretion (a) may make such
10 public or private investigations within or without this state as he or
11 she deems necessary to determine whether any registration should be
12 granted, denied, or revoked or whether any person has violated or is
13 about to violate the Securities Act of Nebraska or any rule and
14 regulation or order under the act or to aid in the enforcement of the
15 act or in the adopting and promulgating of rules and regulations and
16 the prescribing of forms under the act, (b) may require or permit any
17 person to file a statement in writing, under oath or otherwise as the
18 director may determine, as to all the facts and circumstances concerning
19 the matter to be investigated, and (c) may publish information concerning
20 any violation of the act or any rule and regulation or order under the
21 act. In the discretion of the director, the actual expense of any such
22 investigation may be charged to the applicant or person who is the
23 subject of the investigation.

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

30 (3) At the request of an administrator responsible for enforcement
31 of the securities laws of another state, the director may issue subpoenas

1 to compel the attendance of any person or require the production of
2 records in this state if the alleged violation being investigated would
3 be a violation of the Securities Act of Nebraska if the activities had
4 occurred in this state.

5 (4) In case of contumacy by or refusal to obey a subpoena issued to
6 any person, any court of competent jurisdiction, upon application by the
7 director, may issue to such person an order requiring him or her to
8 appear before the director, or the officer designated by the director,
9 there to produce documentary evidence if so ordered or to give evidence
10 touching the matter under investigation or in question. Any failure to
11 obey the order of the court may be punished by the court as a contempt of
12 court.

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

15 8-1116 Whenever it appears to the director that any person has
16 engaged or is about to engage in any act or practice constituting a
17 violation of any provision of the Securities Act of Nebraska or any rule
18 and regulation or order under the act, the director may in his or her
19 discretion bring an action in any court of competent jurisdiction to
20 enjoin any such acts or practices and to enforce compliance with the
21 Securities Act of Nebraska or any rule and regulation or order under the
22 act. Upon a proper showing, a permanent or temporary injunction,
23 restraining order, or writ of mandamus shall be granted and a receiver or
24 conservator may be appointed for the defendant's assets. Upon a proper
25 showing by the director, the court may invoke its equitable powers under
26 the law and issue an order of rescission, restitution, or disgorgement,
27 an order freezing assets, an order requiring an accounting, or a writ of
28 attachment or writ of general or specific execution, directed to any
29 person who has engaged in or is engaging in any act constituting a
30 violation of any provision of the Securities Act of Nebraska or any rule
31 and regulation or order under the act , ~~any rule and regulation adopted~~

1 ~~and promulgated under the act, or any order of the director issued~~
2 ~~thereunder.~~ The director shall ~~may~~ not be required to post a bond.

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

5 8-1117 (1) Any person who willfully violates any provision of the
6 Securities Act of Nebraska except section 8-1113, or who willfully
7 violates any rule and regulation or order under the act, or who willfully
8 violates the provisions of section 8-1113 knowing the statement made to
9 be false or misleading in any material respect is ~~shall be~~ guilty of a
10 Class IV felony. No indictment may be returned or information filed under
11 the act more than five years after the alleged violation.

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

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

20 Sec. 17. Section 8-1118, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 8-1118 (1) Any person who offers or sells a security in violation of
23 section 8-1104 or offers or sells a security by means of any untrue
24 statement of a material fact or any omission to state a material fact
25 necessary in order to make the statements made in the light of the
26 circumstances under which they are made not misleading, the buyer not
27 knowing of the untruth or omission, and who does not sustain the burden
28 of proof that he or she did not know and in the exercise of reasonable
29 care could not have known of the untruth or omission, shall be liable to
30 the person buying the security from him or her, who may sue either at law
31 or in equity to recover the consideration paid for the security, together

1 with interest at six percent per annum from the date of payment, costs,
2 and reasonable attorney's fees, less the amount of any income received on
3 the security, upon the tender of the security, or for damages if he or
4 she no longer owns the security, except that in actions brought based on
5 a transaction exempt from registration under subdivision (23) of section
6 8-1111, no person shall be liable for any statement of a material fact
7 made or for an omission of a material fact required to be stated or
8 necessary to make the statement made not misleading unless such statement
9 or omission was made with the intent to defraud or mislead, with the
10 burden of proof in such cases being on the claimant. Damages shall be the
11 amount that would be recoverable upon a tender less (a) the value of the
12 security when the buyer disposed of it and (b) interest at six percent
13 per annum from the date of disposition.

14 (2) Any investment adviser who provides investment adviser services
15 to another person which results in a willful violation of subsection (2),
16 (3), or (4) of section 8-1102, subsection (2) of section 8-1103, or
17 section 8-1114 or any investment adviser who employs any device, scheme,
18 or artifice to defraud such person or engages in any act, practice, or
19 course of business which operates or would operate as a fraud or deceit
20 on such person shall be liable to such person. Such person may sue either
21 at law or in equity to recover the consideration paid for the investment
22 adviser services and any loss due to such investment adviser services,
23 together with interest at six percent per annum from the date of payment
24 of the consideration plus costs and reasonable attorney's fees, less the
25 amount of any income received from such investment adviser services and
26 any other economic benefit.

27 (3) Every person who directly or indirectly controls a person liable
28 under subsections (1) and (2) of this section, including every partner,
29 limited liability company member, officer, director, or person occupying
30 a similar status or performing similar functions of a partner, limited
31 liability company member, officer, or director, or employee of such

1 person who materially aids in the conduct giving rise to liability, and
2 every broker-dealer, issuer-dealer, agent, investment adviser, or
3 investment adviser representative who materially aids in such conduct
4 shall be liable jointly and severally with and to the same extent as such
5 person, unless able to sustain the burden of proof that he or she did not
6 know, and in the exercise of reasonable care could not have known, of the
7 existence of the facts by reason of which the liability is alleged to
8 exist. There shall be contribution as in cases of contract among the
9 several persons so liable.

10 (4) Any tender specified in this section may be made at any time
11 before entry of judgment. Every cause of action under the Securities Act
12 of Nebraska shall survive the death of any person who might have been a
13 plaintiff or defendant. No person may sue under this section more than
14 three years after the contract of sale or the rendering of investment
15 advice. No person may sue under this section (a) if the buyer received a
16 written offer, before an action is commenced ~~suit~~ and at a time when he
17 or she owned the security, to refund the consideration paid together with
18 interest at six percent per annum from the date of payment, less the
19 amount of any income received on the security, and the buyer failed to
20 accept the offer within thirty days of its receipt, or (b) if the buyer
21 received such an offer before an action is commenced ~~suit~~ and at a time
22 when he or she did not own the security, unless the buyer rejected the
23 offer in writing within thirty days of its receipt.

24 (5) No person who has made or engaged in the performance of any
25 contract in violation of any provision of the act or any rule and
26 regulation or order under the act, or who has acquired any purported
27 right under any such contract with knowledge of the facts by reason of
28 which its making or performance was in violation, may base any action
29 ~~suit~~ on the contract. Any condition, stipulation, or provision binding
30 any person acquiring any security or receiving any investment advice to
31 waive compliance with any provision of the act or any rule and regulation

1 or order under the act shall be void.

2 Sec. 18. Section 8-1120, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 8-1120 (1) Except as otherwise provided in this section, the
5 Securities Act of Nebraska shall be administered by the Director of
6 Banking and Finance who may employ such deputies, examiners, assistants,
7 or counsel as may be reasonably necessary for the purpose thereof. The
8 employment of any person for the administration of the act is subject to
9 section 49-1499.07 and who may designate one of such assistants as an
10 assistant director. The director may delegate to a deputy ~~such assistant~~
11 director or counsel any powers, authority, and duties imposed upon or
12 granted to the director under the act, such as may be lawfully delegated
13 under the common law or the statutes of this state. The director may also
14 employ special counsel with respect to any investigation conducted by him
15 or her under the act or with respect to any litigation to which the
16 director is a party under the act. ~~, except that~~

17 (2) A security issued by and representing an interest in or a debt
18 of, or guaranteed by, any insurance company shall be registered, pursuant
19 to the provisions of sections 8-1104 to 8-1109, with the Director of
20 Insurance who shall as to such registrations administer and enforce the
21 act, and as pertains to the administration and enforcement of such
22 registration of such securities all references in the act to director
23 shall mean the Director of Insurance.

24 (3)(a) ~~(2)(a)~~ It shall be unlawful for the director or any of his or
25 her ~~officers or~~ employees to use for personal benefit any information
26 which is filed with or obtained by the director and which is not made
27 public. Neither the director nor any of his or her ~~officers or~~ employees
28 shall disclose any confidential information except among themselves, when
29 necessary or appropriate in a proceeding, examination, or investigation
30 under the act, or as authorized in subdivision (3)(b) ~~(2)(b)~~ of this
31 subsection. No provision of the act shall either create or derogate from

1 any privilege which exists at common law or otherwise when documentary or
2 other evidence is sought under a subpoena directed to the director or any
3 of his or her ~~officers or~~ employees.

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

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

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

14 (ii) For purposes of this subdivision, foreign state means any state
15 of the United States, other than the State of Nebraska, any territory of
16 the United States, including Puerto Rico, Guam, American Samoa, the Trust
17 Territory of the Pacific Islands, or the Virgin Islands, and the District
18 of Columbia.

19 ~~(4) (3)~~ The director may adopt and promulgate ~~from time to time~~
20 ~~make, amend, and rescind~~ such rules and regulations and prescribe forms
21 ~~as are necessary~~ to carry out the act. No rule and regulation may be
22 adopted and promulgated or form may be prescribed ~~made~~ unless the
23 director finds that the action is necessary or appropriate in the public
24 interest or for the protection of investors and consistent with the
25 purposes fairly intended by the policy and provisions of the act.

26 In adopting and promulgating ~~prescribing~~ rules and regulations and
27 prescribing forms the director may cooperate with the securities
28 administrators of the other states and the Securities and Exchange
29 Commission with a view to effectuating the policy of the Securities Act
30 of Nebraska to achieve maximum uniformity in the form and content of
31 registration statements, applications, and reports wherever practicable.

1 All rules and regulations and forms of the director shall be published
2 and made available to any person upon request.

3 ~~(5)~~ (4) No provision of the act imposing any liability shall apply
4 to any act done or omitted in good faith in conformity with any rule and
5 regulation, form, or order of the director, notwithstanding that the rule
6 and regulation or form may later be amended or rescinded or be determined
7 by judicial or other authority to be invalid for any reason.

8 ~~(6)~~ (5) Every hearing in an administrative proceeding shall be
9 public unless the director in his or her discretion grants a request
10 joined in by all the respondents that the hearing be conducted privately.

11 ~~(7)~~ (6) The Securities Act Cash Fund is created. All filing fees,
12 registration fees, and all other fees and all money collected by or paid
13 to the director under any of the provisions of the act shall be remitted
14 to the State Treasurer for credit to the fund, except that registration
15 fees collected by or paid to the Director of Insurance pursuant to the
16 provisions of the act shall be credited to the Department of Insurance
17 Cash Fund. The Securities Act Cash Fund shall be used for the purpose of
18 administering and enforcing the provisions of the act, except that
19 transfers may be made to the General Fund at the direction of the
20 Legislature. Any money in the Securities Act Cash Fund available for
21 investment shall be invested by the state investment officer pursuant to
22 the Nebraska Capital Expansion Act and the Nebraska State Funds
23 Investment Act.

24 ~~(7)(a) The State Treasurer, at the direction of the budget~~
25 ~~administrator of the budget division of the Department of Administrative~~
26 ~~Services, shall transfer one million two hundred fifty thousand dollars~~
27 ~~from the Securities Act Cash Fund to the Affordable Housing Trust Fund on~~
28 ~~or before September 1, 2013, and the State Treasurer, at the direction of~~
29 ~~the budget administrator of the budget division of the Department of~~
30 ~~Administrative Services, shall transfer one million two hundred fifty~~
31 ~~thousand dollars from the Securities Act Cash Fund to the Affordable~~

1 ~~Housing Trust Fund on or before September 1, 2014.~~

2 ~~(b) The State Treasurer, at the direction of the budget~~
3 ~~administrator of the budget division of the Department of Administrative~~
4 ~~Services, shall transfer two hundred fifty thousand dollars from the~~
5 ~~Securities Act Cash Fund to the Homeless Shelter Assistance Trust Fund on~~
6 ~~or before September 1, 2013, and the State Treasurer, at the direction of~~
7 ~~the budget administrator of the budget division of the Department of~~
8 ~~Administrative Services, shall transfer two hundred fifty thousand~~
9 ~~dollars from the Securities Act Cash Fund to the Homeless Shelter~~
10 ~~Assistance Trust Fund on or before September 1, 2014.~~

11 ~~(c) The State Treasurer, at the direction of the budget~~
12 ~~administrator of the budget division of the Department of Administrative~~
13 ~~Services, shall transfer five hundred thousand dollars from the~~
14 ~~Securities Act Cash Fund to the Legal Aid and Services Fund on or before~~
15 ~~September 1, 2013, and the State Treasurer, at the direction of the~~
16 ~~budget administrator of the budget division of the Department of~~
17 ~~Administrative Services, shall transfer five hundred thousand dollars~~
18 ~~from the Securities Act Cash Fund to the Legal Aid and Services Fund on~~
19 ~~or before September 1, 2014.~~

20 (8) A document is filed when it is received by the director. The
21 director shall keep a register of all applications for registration and
22 registration statements which are or have ever been effective under the
23 Securities Act of Nebraska and all denial, suspension, or revocation
24 orders which have ever been entered under the act. The register shall be
25 open for public inspection. The information contained in or filed with
26 any registration statement, application, or report may be made available
27 to the public under such conditions as the director may prescribe.

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

31 (10) (9) Upon request and at such reasonable charges as he or she

1 shall prescribe, the director shall furnish to any person photostatic or
2 other copies, certified under his or her seal of office if requested, of
3 any entry in the register or any document which is a matter of public
4 record. In any proceeding or prosecution under the act, any copy so
5 certified shall be prima facie evidence of the contents of the entry or
6 document certified.

7 (11) ~~(10)~~ The director in his or her discretion may honor requests
8 from interested persons for interpretative opinions.

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

11 8-1122.01 The federal limits on the registration of securities,
12 dealers, brokers, broker-dealers, agents, and investment advisers as
13 provided in the federal Philanthropy Protection Act of 1995, Public Law
14 104-62, shall not apply in Nebraska and are hereby rejected by the State
15 of Nebraska pursuant to section 6(c) of such act. The State of Nebraska
16 elects to retain the authority to require or not require such
17 registration under the Securities Act of Nebraska and to retain the
18 authority to have such registration requirements apply in all
19 administrative and judicial actions commenced after July 15, 1998.

20 Sec. 20. Section 8-1123, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 8-1123 Sections 8-1101 to 8-1123 and section 2 of this act shall be
23 known and may be cited as the Securities Act of Nebraska.

24 Sec. 21. Original sections 8-1102, 8-1103, 8-1107, 8-1109.01,
25 8-1109.02, 8-1110, 8-1115, 8-1116, 8-1117, 8-1122.01, and 8-1123, Reissue
26 Revised Statutes of Nebraska, and sections 8-1101, 8-1106, 8-1108,
27 8-1108.01, 8-1109, 8-1111, 8-1118, and 8-1120, Revised Statutes
28 Cumulative Supplement, 2016, are repealed.