

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 214

Introduced by Slama, 1.

Read first time January 10, 2023

Committee:

1 A BILL FOR AN ACT relating to banking and finance; to amend sections
2 8-135, 8-141, 8-143.01, 8-157.01, 8-183.04, 8-1,140, 8-318, 8-355,
3 8-1101, 8-1101.01, 8-1704, 8-1707, 8-2724, 8-2903, 8-3005, 8-3007,
4 21-17,115, 45-191.01, 45-191.04, 45-735, 45-1002, 45-1003, and
5 45-1006, Reissue Revised Statutes of Nebraska, sections 59-1722,
6 69-2103, 69-2104, and 69-2112, Revised Statutes Cumulative
7 Supplement, 2022, and section 4A-108, Uniform Commercial Code,
8 Revised Statutes Cumulative Supplement, 2022; to adopt updates to
9 federal law relating to banking and finance; to change provisions
10 relating to the Nebraska Installment Loan Act and loan brokerage
11 agreements; to provide for rules and regulations; to define and
12 redefine terms; to harmonize provisions; to repeal the original
13 sections; and to declare an emergency.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-135, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-135 (1) All persons, regardless of age, may become depositors in
4 any bank and shall be subject to the same duties and liabilities
5 respecting their deposits. Whenever a deposit is accepted by any bank in
6 the name of any person, regardless of age, the deposit may be withdrawn
7 by the depositor by any of the following methods:

8 (a) Check or other instrument in writing. The check or other
9 instrument in writing constitutes a receipt or acquittance if the check
10 or other instrument in writing is signed by the depositor and constitutes
11 a valid release and discharge to the bank for all payments so made; or

12 (b) Electronic means through:

13 (i) Preauthorized direct withdrawal;

14 (ii) An automatic teller machine;

15 (iii) A debit card;

16 (iv) A transfer by telephone;

17 (v) A network, including the Internet; or

18 (vi) Any electronic terminal, computer, magnetic tape, or other
19 electronic means.

20 (2) All persons, individually or with others and regardless of age,
21 may enter into an agreement with a bank for the lease of a safe deposit
22 box and shall be bound by the terms of the agreement.

23 (3) This section shall not be construed to affect the rights,
24 liabilities, or responsibilities of participants in an electronic fund
25 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
26 et seq., as such act existed on January 1, 2023 ~~2022~~, and shall not
27 affect the legal relationships between a minor and any person other than
28 the bank.

29 Sec. 2. Section 8-141, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 8-141 (1) No bank shall directly or indirectly loan to any single

1 corporation, limited liability company, firm, or individual, including in
2 such loans all loans made to the several members or shareholders of such
3 corporation, limited liability company, or firm, for the use and benefit
4 of such corporation, limited liability company, firm, or individual, more
5 than twenty-five percent of the paid-up capital, surplus, and capital
6 notes and debentures or fifteen percent of the unimpaired capital and
7 unimpaired surplus of such bank, whichever is greater. Such limitations
8 shall be subject to the following exceptions:

9 (a) Obligations of any person, partnership, limited liability
10 company, association, or corporation in the form of notes or drafts
11 secured by shipping documents or instruments transferring or securing
12 title covering livestock or giving a lien on livestock, when the market
13 value of the livestock securing the obligation is not at any time less
14 than one hundred fifteen percent of the face amount of the notes covered
15 by such documents, shall be subject under this section to a limitation of
16 ten percent of such capital, surplus, and capital notes and debentures or
17 ten percent of such unimpaired capital and unimpaired surplus, whichever
18 is greater, in addition to such twenty-five percent of such capital and
19 surplus or such fifteen percent of such unimpaired capital and unimpaired
20 surplus;

21 (b) Obligations of any person, partnership, limited liability
22 company, association, or corporation secured by not less than a like
23 amount of bonds or notes of the United States issued since April 24,
24 1917, or certificates of indebtedness of the United States, treasury
25 bills of the United States, or obligations fully guaranteed both as to
26 principal and interest by the United States shall be subject under this
27 section to a limitation of ten percent of such capital, surplus, and
28 capital notes and debentures or ten percent of such unimpaired capital
29 and unimpaired surplus, whichever is greater, in addition to such twenty-
30 five percent of such capital and surplus or such fifteen percent of such
31 unimpaired capital and unimpaired surplus;

1 (c) Obligations of any person, partnership, limited liability
2 company, association, or corporation which are secured by negotiable
3 warehouse receipts in an amount not less than one hundred fifteen percent
4 of the face amount of the note or notes secured by such documents shall
5 be subject under this section to a limitation of ten percent of such
6 capital, surplus, and capital notes and debentures or ten percent of such
7 unimpaired capital and unimpaired surplus, whichever is greater, in
8 addition to such twenty-five percent of such capital and surplus or such
9 fifteen percent of such unimpaired capital and unimpaired surplus; or

10 (d) Obligations of any person, partnership, limited liability
11 company, association, or corporation which are secured by readily
12 marketable collateral having a market value, as determined by reliable
13 and continuously available price quotations, in an amount at least equal
14 to the face amount of the note or notes secured by such collateral, shall
15 be subject under this section to a limitation of ten percent of such
16 capital, surplus, and capital notes and debentures or ten percent of such
17 unimpaired capital and unimpaired surplus, whichever is greater, in
18 addition to such twenty-five percent of such capital and surplus or such
19 fifteen percent of such unimpaired capital and unimpaired surplus.

20 (2)(a) For purposes of this section, the discounting of bills of
21 exchange, drawn in good faith against actually existing values, and the
22 discounting of commercial paper actually owned by the persons negotiating
23 the bills of exchange or commercial paper shall not be considered as the
24 lending of money.

25 (b) Loans or obligations shall not be subject to any limitation
26 under this section, based upon such capital and surplus or such
27 unimpaired capital and unimpaired surplus, to the extent that such
28 capital and surplus or such unimpaired capital and unimpaired surplus are
29 secured or covered by guaranties, or by commitments or agreements to take
30 over or to purchase such capital and surplus or such unimpaired capital
31 and unimpaired surplus, made by any federal reserve bank or by the United

1 States Government or any authorized agency thereof, including any
2 corporation wholly owned directly or indirectly by the United States, or
3 general obligations of any state of the United States or any political
4 subdivision of the state. The phrase general obligation of any state or
5 any political subdivision of the state means an obligation supported by
6 the full faith and credit of an obligor possessing general powers of
7 taxation, including property taxation, but does not include municipal
8 revenue bonds and sanitary and improvement district warrants which are
9 subject to the limitations set forth in this section.

10 (c) Any bank may subscribe to, invest in, purchase, and own single-
11 family mortgages secured by the Federal Housing Administration or the
12 United States Department of Veterans Affairs and mortgage-backed
13 certificates of the Government National Mortgage Association which are
14 guaranteed as to payment of principal and interest by the Government
15 National Mortgage Association. Such mortgages and certificates shall not
16 be subject under this section to any limitation based upon such capital
17 and surplus or such unimpaired capital and unimpaired surplus.

18 (d) Obligations representing loans to any national banking
19 association or to any banking institution organized under the laws of any
20 state, when such loans are approved by the director by rule and
21 regulation or otherwise, shall not be subject under this section to any
22 limitation based upon such capital and surplus or such unimpaired capital
23 and unimpaired surplus.

24 (e) Loans or extensions of credit secured by a segregated deposit
25 account in the lending bank shall not be subject under this section to
26 any limitation based on such capital and surplus or such unimpaired
27 capital and unimpaired surplus. The director may adopt and promulgate
28 rules and regulations governing the terms and conditions of such security
29 interest and segregated deposit account.

30 (f) For the purpose of determining lending limits, partnerships
31 shall not be treated as separate entities. Each individual shall be

1 charged with his or her personal debt plus the debt of every partnership
2 in which he or she is a partner, except that for purposes of this section
3 (a) an individual shall only be charged with the debt of any limited
4 partnership in which he or she is a partner to the extent that the terms
5 of the limited partnership agreement provide that such individual is to
6 be held liable for the debts or actions of such limited partnership and
7 (b) no individual shall be charged with the debt of any general
8 partnership in which he or she is a partner beyond the extent to which
9 (i) his or her liability for such partnership debt is limited by the
10 terms of a contract or other written agreement between the bank and such
11 individual and (ii) any personal debt of such individual is incurred for
12 the use and benefit of such general partnership.

13 (3) A loan made within lending limits at the initial time the loan
14 was made may be renewed, extended, or serviced without regard to changes
15 in the lending limit of a bank following the initial extension of the
16 loan if (a) the renewal, extension, or servicing of the loan does not
17 result in the extension of funds beyond the initial amount of the loan or
18 (b) the accrued interest on the loan is not added to the original amount
19 of the loan in the process of renewal, extension, or servicing.

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

1 life insurance contracts, in the aggregate from all life insurance
2 companies, shall not apply to any contract purchased prior to April 5,
3 1994.

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

11 (6) For purposes of this section:

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

18 (b) Loan includes:

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

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

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

29 (c) Unimpaired capital and unimpaired surplus means:

30 (i) For qualifying banks that have elected to use the community bank
31 leverage ratio framework, as set forth under the Capital Adequacy

1 Standards of the appropriate federal banking agency:

2 (A) The bank's tier 1 capital as reported according to the capital
3 guidelines of the appropriate federal banking agency; and

4 (B) The bank's allowance for loan and lease losses or allowance for
5 credit losses, as applicable, as reported in the most recent consolidated
6 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
7 existed on January 1, 2023 ~~2022~~; and

8 (ii) For all other banks:

9 (A) The bank's tier 1 and tier 2 capital included in the bank's
10 risk-based capital under the capital guidelines of the appropriate
11 federal banking agency, based on the bank's most recent consolidated
12 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
13 existed on January 1, 2023 ~~2022~~; and

14 (B) The balance of the bank's allowance for loan and lease losses
15 not included in the bank's tier 2 capital for purposes of the calculation
16 of risk-based capital by the appropriate federal banking agency, based on
17 the bank's most recent consolidated report of condition filed under 12
18 U.S.C. 1817(a)(3), as such section existed on January 1, 2023 ~~2022~~.

19 (7) Notwithstanding the provisions of section 8-1,140, the director
20 may, by order, deny or limit the inclusion of goodwill in the calculation
21 of a bank's unimpaired capital and unimpaired surplus or in the
22 calculation of a bank's paid-up capital and surplus.

23 Sec. 3. Section 8-143.01, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 8-143.01 (1) No bank shall extend credit to any of its executive
26 officers, directors, or principal shareholders or to any related interest
27 of such persons in an amount that, when aggregated with the amount of all
28 other extensions of credit by the bank to that person and to all related
29 interests of that person, exceeds the higher of twenty-five thousand
30 dollars or five percent of the bank's unimpaired capital and unimpaired
31 surplus unless (a) the extension of credit has been approved in advance

1 by a majority vote of the entire board of directors of the bank, a record
2 of which shall be made and kept as a part of the records of such bank,
3 and (b) the interested party has abstained from participating directly or
4 indirectly in such vote.

5 (2) No bank shall extend credit to any of its executive officers,
6 directors, or principal shareholders or to any related interest of such
7 persons in an amount that, when aggregated with the amount of all other
8 extensions of credit by the bank to that person and to all related
9 interests of that person, exceeds five hundred thousand dollars except by
10 complying with the requirements of subdivisions (1)(a) and (b) of this
11 section.

12 (3) No bank shall extend credit to any of its executive officers,
13 and no such executive officer shall borrow from or otherwise become
14 indebted to his or her bank, except in the amounts and for the purposes
15 set forth in subsection (4) of this section.

16 (4) A bank shall be authorized to extend credit to any of its
17 executive officers:

18 (a) In any amount to finance the education of such executive
19 officer's children;

20 (b)(i) In any amount to finance or refinance the purchase,
21 construction, maintenance, or improvement of a residence of such
22 executive officer if the extension of credit is secured by a first lien
23 on the residence and the residence is owned or is expected to be owned
24 after the extension of credit by the executive officer and (ii) in the
25 case of a refinancing, only the amount of the refinancing used to repay
26 the original extension of credit, together with the closing costs of the
27 refinancing, and any additional amount thereof used for any of the
28 purposes enumerated in this subdivision are included within this category
29 of credit;

30 (c) In any amount if the extension of credit is (i) secured by a
31 perfected security interest in bonds, notes, certificates of

1 indebtedness, or treasury bills of the United States or in other such
2 obligations fully guaranteed as to principal and interest by the United
3 States, (ii) secured by unconditional takeout commitments or guarantees
4 of any department, agency, bureau, board, commission, or establishment of
5 the United States or any corporation wholly owned directly or indirectly
6 by the United States, or (iii) secured by a perfected security interest
7 in a segregated deposit account in the lending bank; or

8 (d) For any other purpose not specified in subdivisions (a), (b),
9 and (c) of this subsection if the aggregate amount of such other
10 extensions of credit to such executive officer does not exceed, at any
11 one time, the greater of two and one-half percent of the bank's
12 unimpaired capital and unimpaired surplus or twenty-five thousand
13 dollars, but in no event greater than one hundred thousand dollars or the
14 amount of the bank's lending limit as prescribed in section 8-141,
15 whichever is less.

16 (5)(a) Except as provided in subdivision (b) or (c) of this
17 subsection, any executive officer shall make, on an annual basis, a
18 written report to the board of directors of the bank of which he or she
19 is an executive officer stating the date and amount of all loans or
20 indebtedness on which he or she is a borrower, cosigner, or guarantor,
21 the security therefor, and the purpose for which the proceeds have been
22 or are to be used.

23 (b) Except as provided in subdivision (c) of this subsection, in
24 lieu of the reports required by subdivision (a) of this subsection, the
25 board of directors of a bank may obtain a credit report from a recognized
26 credit agency, on an annual basis, for any or all of its executive
27 officers.

28 (c) Subdivisions (a) and (b) of this subsection do not apply to any
29 executive officer if such officer is excluded by a resolution of the
30 board of directors or by the bylaws of the bank from participating in the
31 major policymaking functions of the bank and does not actually

1 participate in the major policymaking functions of the bank.

2 (6) No bank shall extend credit to any of its executive officers,
3 directors, or principal shareholders or to any related interest of such
4 persons in an amount that, when aggregated with the amount of all other
5 extensions of credit by the bank to that person and to all related
6 interests of that person, exceeds the lending limit of the bank as
7 prescribed in section 8-141.

8 (7)(a) Except as provided in subdivision (b) of this subsection, no
9 bank shall extend credit to any of its executive officers, directors, or
10 principal shareholders or to any related interest of such persons unless
11 the extension of credit (i) is made on substantially the same terms,
12 including interest rates and collateral, as, and following credit-
13 underwriting procedures that are not less stringent than, those
14 prevailing at the time for comparable transactions by the bank with other
15 persons that are not covered by this section and who are not employed by
16 the bank and (ii) does not involve more than the normal risk of repayment
17 or present other unfavorable features.

18 (b) Nothing in subdivision (a) of this subsection shall prohibit any
19 extension of credit made by a bank pursuant to a benefit or compensation
20 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation
21 existed on January 1, 2023 ~~2022~~.

22 (8) For purposes of this section:

23 (a) Executive officer means a person who participates or has
24 authority to participate, other than in the capacity of director, in the
25 major policymaking functions of the bank, whether or not the officer has
26 an official title, the title designates such officer as an assistant, or
27 such officer is serving without salary or other compensation. Executive
28 officer includes the chairperson of the board of directors, the
29 president, all vice presidents, the cashier, the corporate secretary, and
30 the treasurer, unless the executive officer is excluded by a resolution
31 of the board of directors or by the bylaws of the bank from

1 participating, other than in the capacity of director, in the major
2 policymaking functions of the bank, and the executive officer does not
3 actually participate in such functions. A manager or assistant manager of
4 a branch of a bank shall not be considered to be an executive officer
5 unless such individual participates or is authorized to participate in
6 the major policymaking functions of the bank; and

7 (b) Unimpaired capital and unimpaired surplus means the sum of:

8 (i) The total equity capital of the bank reported on its most recent
9 consolidated report of condition filed under section 8-166;

10 (ii) Any subordinated notes and debentures approved as an addition
11 to the bank's capital structure by the appropriate federal banking
12 agency; and

13 (iii) Any valuation reserves created by charges to the bank's income
14 reported on its most recent consolidated report of condition filed under
15 section 8-166.

16 (9) Any executive officer, director, or principal shareholder of a
17 bank or any other person who intentionally violates this section or who
18 aids, abets, or assists in a violation of this section is guilty of a
19 Class IV felony.

20 (10) The Director of Banking and Finance may adopt and promulgate
21 rules and regulations to carry out this section, including rules and
22 regulations defining or further defining terms used in this section,
23 consistent with the provisions of 12 U.S.C. 84 and implementing
24 Regulation O as such section and regulation existed on January 1, 2023
25 2022.

26 Sec. 4. Section 8-157.01, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 8-157.01 (1) Any establishing financial institution may establish
29 and maintain any number of automatic teller machines at which all banking
30 transactions, defined as receiving deposits of every kind and nature and
31 crediting such to customer accounts, cashing checks and cash withdrawals,

1 transferring funds from checking accounts to savings accounts,
2 transferring funds from savings accounts to checking accounts,
3 transferring funds from either checking accounts and savings accounts to
4 accounts of other customers, transferring payments from customer accounts
5 into accounts maintained by other customers of the financial institution
6 or the financial institution, including preauthorized draft authority,
7 preauthorized loans, and credit transactions, receiving payments payable
8 at the financial institution or otherwise, account balance inquiry, and
9 any other transaction incidental to the business of the financial
10 institution or which will provide a benefit to the financial
11 institution's customers or the general public, may be conducted. Any
12 automatic teller machine owned by a nonfinancial institution third party
13 shall be sponsored by an establishing financial institution. Neither such
14 automatic teller machines nor the transactions conducted thereat shall be
15 construed as the establishment of a branch or as branch banking.

16 (2) Any financial institution may become a user financial
17 institution by agreeing to pay the establishing financial institution the
18 automatic teller machine usage fee. Such agreement shall be implied by
19 the use of such automatic teller machines.

20 (3)(a)(i) All automatic teller machines shall be made available on a
21 nondiscriminating basis for use by Nebraska customers of a user financial
22 institution and (ii) all Nebraska automatic teller machine transactions
23 initiated by Nebraska customers of a user financial institution shall be
24 made on a nondiscriminating basis.

25 (b) It shall not be deemed discrimination if (i) an automatic teller
26 machine does not offer the same transaction services as other automatic
27 teller machines, (ii) there are no automatic teller machine usage fees
28 charged between affiliate financial institutions for the use of automatic
29 teller machines, (iii) the automatic teller machine usage fees of an
30 establishing financial institution that authorizes and directly or
31 indirectly routes Nebraska automatic teller machine transactions to

1 multiple switches, all of which comply with the requirements of
2 subdivision (3)(d) of this section, differ solely based upon the fees
3 established by the switches, (iv) automatic teller machine usage fees
4 differ based upon whether the transaction initiated at an automatic
5 teller machine is subject to a surcharge or provided on a surcharge-free
6 basis, or (v) the automatic teller machines established or sponsored by
7 an establishing financial institution are made available for use by
8 Nebraska customers of any user financial institution which agrees to pay
9 the automatic teller machine usage fee and which conforms to the
10 operating rules and technical standards established by the switch to
11 which a Nebraska automatic teller machine transaction is directly or
12 indirectly routed.

13 (c) The director, upon notice and after a hearing, may terminate or
14 suspend the use of any automatic teller machine if he or she determines
15 that the automatic teller machine is not made available on a
16 nondiscriminating basis or that Nebraska automatic teller machine
17 transactions initiated at such automatic teller machine are not made on a
18 nondiscriminating basis.

19 (d) A switch (i) shall provide to all financial institutions that
20 have a main office or approved branch located in the State of Nebraska
21 and that conform to the operating rules and technical standards
22 established by the switch an equal opportunity to participate in the
23 switch for the use of and access thereto; (ii) shall be capable of
24 operating to accept and route Nebraska automatic teller machine
25 transactions, whether receiving data from an automatic teller machine, an
26 establishing financial institution, or a data processing center; and
27 (iii) shall be capable of being directly or indirectly connected to every
28 data processing center for any automatic teller machine.

29 (e) The director, upon notice and after a hearing, may terminate or
30 suspend the operation of any switch with respect to all Nebraska
31 automatic teller machine transactions if he or she determines that the

1 switch is not being operated in the manner required under subdivision (3)
2 (d) of this section.

3 (f) Subject to the requirement for a financial institution to comply
4 with this subsection, no user financial institution or establishing
5 financial institution shall be required to become a member of any
6 particular switch.

7 (4) Any consumer initiating an electronic funds transfer at an
8 automatic teller machine for which an automatic teller machine surcharge
9 will be imposed shall receive notice in accordance with the provisions of
10 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
11 2023 ~~2022~~. Such notice shall appear on the screen of the automatic teller
12 machine or appear on a paper notice issued from such machine after the
13 transaction is initiated and before the consumer is irrevocably committed
14 to completing the transaction.

15 (5) A point-of-sale terminal may be established at any point within
16 this state by a financial institution, a group of two or more financial
17 institutions, or a combination of a financial institution or financial
18 institutions and a third party or parties. Such parties may contract with
19 a seller of goods and services or any other third party for the operation
20 of point-of-sale terminals.

21 (6) A seller of goods and services or any other third party on whose
22 premises one or more point-of-sale terminals are established shall not
23 be, solely by virtue of such establishment, a financial institution and
24 shall not be subject to the laws governing, or other requirements imposed
25 on, financial institutions, except for the requirement that it faithfully
26 perform its obligations in connection with any transaction originated at
27 any point-of-sale terminal on its premises.

28 (7) Nothing in this section shall be construed to prohibit nonbank
29 employees from assisting in transactions originated at automatic teller
30 machines or point-of-sale terminals, and such assistance shall not be
31 deemed to be engaging in the business of banking.

1 (8)(a) Annually by September 1, any entity operating as a switch in
2 Nebraska shall file a notice with the department setting forth its name,
3 address, and contact information for an officer authorized to answer
4 inquiries related to its operations in Nebraska.

5 (b) Any entity intending to operate in Nebraska as a switch shall
6 file a notice with the department setting forth its name, address, and
7 contact information for an officer authorized to answer inquiries related
8 to its operations in Nebraska. Such notice shall be filed at least thirty
9 days prior to the date on which the switch commences operations, and
10 thereafter annually by September 1.

11 (9) Nothing in this section prohibits ordinary clearinghouse
12 transactions between financial institutions.

13 (10) Nothing in this section shall prevent any financial institution
14 which has a main chartered office or an approved branch located in the
15 State of Nebraska from participating in a national automatic teller
16 machine program to allow its customers to use automatic teller machines
17 located outside of the State of Nebraska which are established by out-of-
18 state financial institutions or foreign financial institutions or to
19 allow customers of out-of-state financial institutions or foreign
20 financial institutions to use its automatic teller machines. Such
21 participation and any automatic teller machine usage fees charged or
22 received pursuant to the national automatic teller machine program or
23 usage fees charged for the use of its automatic teller machines by
24 customers of out-of-state financial institutions or foreign financial
25 institutions shall not be considered for purposes of determining (a) if
26 an automatic teller machine has been made available or Nebraska automatic
27 teller machine transactions have been made on a nondiscriminating basis
28 for use by Nebraska customers of a user financial institution or (b) if a
29 switch complies with subdivision (3)(d) of this section.

30 (11) An agreement to operate or share an automatic teller machine
31 may not prohibit, limit, or restrict the right of the operator or owner

1 of the automatic teller machine to charge a customer conducting a
2 transaction using an account from a foreign financial institution an
3 access fee or surcharge not otherwise prohibited under state or federal
4 law.

5 (12) Switch fees shall not be subject to this section or be
6 regulated by the department.

7 (13) Nothing in this section shall prevent a group of two or more
8 credit unions, each of which has a main chartered office or an approved
9 branch located in the State of Nebraska, from participating in a credit
10 union service organization organized on or before January 1, 2015, for
11 the purpose of owning automatic teller machines, provided that all
12 participating credit unions have an ownership interest in the credit
13 union service organization and that the credit union service organization
14 has an ownership interest in each of the participating credit unions'
15 automatic teller machines. Such participation and any automatic teller
16 machine usage fees associated with Nebraska automatic teller machine
17 transactions initiated by customers of participating credit unions at
18 such automatic teller machines shall not be considered for purposes of
19 determining if such automatic teller machines have been made available on
20 a nondiscriminating basis or if Nebraska automatic teller machine
21 transactions initiated at such automatic teller machines have been made
22 on a nondiscriminating basis, provided that all Nebraska automatic teller
23 machine transactions initiated by customers of participating credit
24 unions result in the same automatic teller machine usage fees for
25 essentially the same service routed over the same switch.

26 (14) Nebraska automatic teller machine usage fees and any agreements
27 relating to Nebraska automatic teller machine usage fees shall comply
28 with subsection (3) of this section.

29 (15) For purposes of this section:

30 (a) Access means the ability to utilize an automatic teller machine
31 or a point-of-sale terminal to conduct permitted banking transactions or

1 purchase goods and services electronically;

2 (b) Account means a checking account, a savings account, a share
3 account, or any other customer asset account held by a financial
4 institution. Such an account may also include a line of credit which a
5 financial institution has agreed to extend to its customer;

6 (c) Affiliate financial institution means any financial institution
7 which is a subsidiary of the same bank holding company;

8 (d) Automatic teller machine usage fee means any per transaction fee
9 established by a switch or otherwise established on behalf of an
10 establishing financial institution and collected from the user financial
11 institution and paid to the establishing financial institution for the
12 use of the automatic teller machine. An automatic teller machine usage
13 fee shall not include switch fees;

14 (e) Electronic funds transfer means any transfer of funds, other
15 than a transaction originated by check, draft, or similar paper
16 instrument, that is initiated through a point-of-sale terminal, an
17 automatic teller machine, or a personal terminal for the purpose of
18 ordering, instructing, or authorizing a financial institution to debit or
19 credit an account;

20 (f) Essentially the same service means the same Nebraska automatic
21 teller machine transaction offered by an establishing financial
22 institution irrespective of the user financial institution, the Nebraska
23 customer of which initiates the Nebraska automatic teller machine
24 transaction. A Nebraska automatic teller machine transaction that is
25 subject to a surcharge is not essentially the same service as the same
26 banking transaction for which a surcharge is not imposed;

27 (g) Establishing financial institution means any financial
28 institution which has a main chartered office or approved branch located
29 in the State of Nebraska that establishes or sponsors an automatic teller
30 machine or any out-of-state financial institution that establishes or
31 sponsors an automatic teller machine;

1 (h) Financial institution means a bank, savings bank, building and
2 loan association, savings and loan association, or credit union, whether
3 chartered by the department, the United States, or a foreign state
4 agency; any other similar organization which is covered by federal
5 deposit insurance; or a subsidiary of any such entity;

6 (i) Foreign financial institution means a financial institution
7 located outside the United States;

8 (j) Nebraska automatic teller machine transaction means a banking
9 transaction as defined in subsection (1) of this section which is (i)
10 initiated at an automatic teller machine established in whole or in part
11 or sponsored by an establishing financial institution, (ii) for an
12 account of a Nebraska customer of a user financial institution, and (iii)
13 processed through a switch regardless of whether it is routed directly or
14 indirectly from an automatic teller machine;

15 (k) Personal terminal means a personal computer and telephone,
16 wherever located, operated by a customer of a financial institution for
17 the purpose of initiating a transaction affecting an account of the
18 customer;

19 (l) Sponsoring an automatic teller machine means the acceptance of
20 responsibility by an establishing financial institution for compliance
21 with all provisions of law governing automatic teller machines and
22 Nebraska automatic teller machine transactions in connection with an
23 automatic teller machine owned by a nonfinancial institution third party;

24 (m) Switch fee means a fee established by a switch and assessed to a
25 user financial institution or to an establishing financial institution
26 other than an automatic teller machine usage fee; and

27 (n) User financial institution means any financial institution which
28 has a main chartered office or approved branch located in the State of
29 Nebraska which avails itself of and provides its customers with automatic
30 teller machine services.

31 Sec. 5. Section 8-183.04, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 8-183.04 (1) Notwithstanding any other provision of the Nebraska
3 Banking Act or any other Nebraska law, a state or federal savings
4 association which was formed and in operation as a mutual savings
5 association as of July 15, 1998, may elect to retain its mutual form of
6 corporate organization upon conversion to a state bank.

7 (2) All references to shareholders or stockholders for state banks
8 shall be deemed to be references to members for such a converted savings
9 association.

10 (3) The amount and type of capital required for such a converted
11 savings association shall be as required for federal mutual savings
12 associations in 12 C.F.R. 5.21, as such regulation existed on January 1,
13 2023 ~~2022~~, except that if at any time the department determines that the
14 capital of such a converted savings association is impaired, the director
15 may require the members to make up the capital impairment.

16 (4) The director may adopt and promulgate rules and regulations
17 governing such converted mutual savings associations. In adopting and
18 promulgating such rules and regulations, the director may consider the
19 provisions of sections 8-301 to 8-384 governing savings associations in
20 mutual form of corporate organization.

21 Sec. 6. Section 8-1,140, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 8-1,140 Notwithstanding any of the other provisions of the Nebraska
24 Banking Act or any other Nebraska statute, any bank incorporated under
25 the laws of this state and organized under the provisions of the act, or
26 under the laws of this state as they existed prior to May 9, 1933, shall
27 directly, or indirectly through a department, a subsidiary, or
28 subsidiaries, have all the rights, powers, privileges, benefits, and
29 immunities which may be exercised as of January 1, 2023 ~~2022~~, by a
30 federally chartered bank doing business in Nebraska, including the
31 exercise of all powers and activities that are permitted for a financial

1 subsidiary of a federally chartered bank. Such rights, powers,
2 privileges, benefits, and immunities shall not relieve such bank from
3 payment of state taxes assessed under any applicable laws of this state.

4 Sec. 7. Section 8-318, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 8-318 (1)(a) Shares of stock in any association, or in any federal
7 savings and loan association incorporated under the provisions of the
8 federal Home Owners' Loan Act, with its principal office and place of
9 business in this state, may be subscribed for, held, transferred,
10 surrendered, withdrawn, and forfeited and payments thereon received and
11 receipted for by any person, regardless of age, in the same manner and
12 with the same binding effect as though such person were of the age of
13 majority, except that a minor or his or her estate shall not be bound on
14 his or her subscription to stock except to the extent of payments
15 actually made thereon.

16 (b) Whenever a share account is accepted by any building and loan
17 association in the name of any person, regardless of age, the deposit may
18 be withdrawn by the shareholder by any of the following methods:

19 (i) Check or other instrument in writing. The check or other
20 instrument in writing constitutes a receipt or acquittance if the check
21 or other instrument in writing is signed by the shareholder and
22 constitutes a valid release in discharge to the building and loan
23 association for all payments so made; or

24 (ii) Electronic means through:

25 (A) Preauthorized direct withdrawal;

26 (B) An automatic teller machine;

27 (C) A debit card;

28 (D) A transfer by telephone;

29 (E) A network, including the Internet; or

30 (F) Any electronic terminal, computer, magnetic tape, or other
31 electronic means.

1 (c) This section shall not be construed to affect the rights,
2 liabilities, or responsibilities of participants in an electronic fund
3 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
4 et seq., as it existed on January 1, ~~2023~~ 2022, and shall not affect the
5 legal relationships between a minor and any person other than the
6 building and loan association.

7 (2) All trustees, guardians, personal representatives,
8 administrators, and conservators appointed by the courts of this state
9 may invest and reinvest in, acquire, make withdrawals in whole or in
10 part, hold, transfer, or make new or additional investments in or
11 transfers of shares of stock in any (a) building and loan association
12 organized under the laws of the State of Nebraska or (b) federal savings
13 and loan association incorporated under the provisions of the federal
14 Home Owners' Loan Act, having its principal office and place of business
15 in this state, without an order of approval from any court.

16 (3) Trustees created solely by the terms of a trust instrument may
17 invest in, acquire, hold, and transfer such shares, and make withdrawals,
18 in whole or in part, therefrom, without any order of court, unless
19 expressly limited, restricted, or prohibited therefrom by the terms of
20 such trust instrument.

21 (4) All building and loan associations referred to in this section
22 are qualified to act as trustee or custodian within the provisions of the
23 federal Self-Employed Individuals Tax Retirement Act of 1962, as amended,
24 or under the terms and provisions of section 408(a) of the Internal
25 Revenue Code, if the provisions of such retirement plan require the funds
26 of such trust or custodianship to be invested exclusively in shares or
27 accounts in the association or in other associations. If any such
28 retirement plan, within the judgment of the association, constitutes a
29 qualified plan under the federal Self-Employed Individuals Tax Retirement
30 Act of 1962, or under the terms and provisions of section 408(a) of the
31 Internal Revenue Code, and the regulations promulgated thereunder at the

1 time the trust was established and accepted by the association, is
2 subsequently determined not to be such a qualified plan or subsequently
3 ceases to be such a qualified plan, in whole or in part, the association
4 may continue to act as trustee of any deposits theretofore made under
5 such plan and to dispose of the same in accordance with the directions of
6 the member and beneficiaries thereof. No association, in respect to
7 savings made under this section, shall be required to segregate such
8 savings from other assets of the association. The association shall keep
9 appropriate records showing in proper detail all transactions engaged in
10 under the authority of this section.

11 Sec. 8. Section 8-355, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
14 or any other Nebraska statute, except as provided in section 8-345.02,
15 any association incorporated under the laws of the State of Nebraska and
16 organized under the provisions of such article shall have all the rights,
17 powers, privileges, benefits, and immunities which may be exercised as of
18 January 1, 2023 ~~2022~~, by a federal savings and loan association doing
19 business in Nebraska. Such rights, powers, privileges, benefits, and
20 immunities shall not relieve such association from payment of state taxes
21 assessed under any applicable laws of this state.

22 Sec. 9. Section 8-1101, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-1101 For purposes of the Securities Act of Nebraska, unless the
25 context otherwise requires:

26 (1) Agent means any individual other than a broker-dealer who
27 represents a broker-dealer or issuer in effecting or attempting to effect
28 sales of securities, but agent does not include an individual who
29 represents (a) an issuer in (i) effecting a transaction in a security
30 exempted by subdivision (6), (7), or (8) of section 8-1110, (ii)
31 effecting certain transactions exempted by section 8-1111, (iii)

1 effecting transactions in a federal covered security as described in
2 section 18(b)(3) of the Securities Act of 1933, or (iv) effecting
3 transactions with existing employees, limited liability company members,
4 partners, or directors of the issuer or any of its subsidiaries if no
5 commission or other remuneration is paid or given directly or indirectly
6 for soliciting any person in this state or (b) a broker-dealer in
7 effecting transactions described in section 15(h)(2) of the Securities
8 Exchange Act of 1934. A partner, limited liability company member,
9 officer, or director of a broker-dealer is an agent only if he or she
10 otherwise comes within this definition;

11 (2) Broker-dealer means any person engaged in the business of
12 effecting transactions in securities for the account of others or for his
13 or her own account. Broker-dealer does not include (a) an issuer-dealer,
14 agent, bank, savings institution, or trust company, (b) an issuer
15 effecting a transaction in its own security exempted by subdivision (5)
16 (a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a
17 federal covered security pursuant to section 18(b)(1) of the Securities
18 Act of 1933, (c) a person who has no place of business in this state if
19 he or she effects transactions in this state exclusively with or through
20 the issuers of the securities involved in the transactions, other broker-
21 dealers, or banks, savings institutions, credit unions, trust companies,
22 insurance companies, investment companies as defined in the Investment
23 Company Act of 1940, pension or profit-sharing trusts, or other financial
24 institutions or institutional buyers, whether acting for themselves or as
25 trustees, (d) a person who has no place of business in this state if
26 during any period of twelve consecutive months he or she does not direct
27 more than five offers to sell or to buy into this state in any manner to
28 persons other than those specified in subdivision (2)(c) of this section,
29 or (e) a person who is a resident of Canada and who has no office or
30 other physical presence in Nebraska if the following conditions are
31 satisfied: (i) The person must be registered with, or be a member of, a

1 securities self-regulatory organization in Canada or a stock exchange in
2 Canada; (ii) the person must maintain, in good standing, its provisional
3 or territorial registration or membership in a securities self-regulatory
4 organization in Canada, or stock exchange in Canada; (iii) the person
5 effects, or attempts to effect, (A) a transaction with or for a Canadian
6 client who is temporarily present in this state and with whom the
7 Canadian broker-dealer had a bona fide customer relationship before the
8 client entered this state or (B) a transaction with or for a Canadian
9 client in a self-directed tax advantaged retirement plan in Canada of
10 which that client is the holder or contributor; and (iv) the person
11 complies with all provisions of the Securities Act of Nebraska relating
12 to the disclosure of material information in connection with the
13 transaction;

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

17 (4) Federal covered adviser means a person who is registered under
18 section 203 of the Investment Advisers Act of 1940;

19 (5) Federal covered security means any security described as a
20 covered security under section 18(b) of the Securities Act of 1933 or
21 rules and regulations under the act;

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

24 (7) Investment adviser means any person who for compensation engages
25 in the business of advising others, either directly or through
26 publications or writings, as to the value of securities or as to the
27 advisability of investing in, purchasing, or selling securities or who
28 for compensation and as a part of a regular business issues or
29 promulgates analyses or reports concerning securities. Investment adviser
30 also includes financial planners and other persons who, as an integral
31 component of other financially related services, provide the foregoing

1 investment advisory services to others for compensation and as part of a
2 business or who hold themselves out as providing the foregoing investment
3 advisory services to others for compensation. Investment adviser does not
4 include (a) an investment adviser representative, (b) a bank, savings
5 institution, or trust company, (c) a lawyer, accountant, engineer, or
6 teacher whose performance of these services is solely incidental to the
7 practice of his or her profession, (d) a broker-dealer or its agent whose
8 performance of these services is solely incidental to its business as a
9 broker-dealer and who receives no special compensation for them, (e) an
10 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,
11 newsletter, news magazine, or business or financial publication or
12 service, whether communicated in hard copy form, by electronic means, or
13 otherwise which does not consist of the rendering of advice on the basis
14 of the specific investment situation of each client, (g) a person who has
15 no place of business in this state if (i) his or her only clients in this
16 state are other investment advisers, federal covered advisers, broker-
17 dealers, banks, savings institutions, credit unions, trust companies,
18 insurance companies, investment companies as defined in the Investment
19 Company Act of 1940, pension or profit-sharing trusts, or other financial
20 institutions or institutional buyers, whether acting for themselves or as
21 trustees, or (ii) during the preceding twelve-month period, he or she has
22 had five or fewer clients who are residents of this state other than
23 those persons specified in subdivision (g)(i) of this subdivision, (h)
24 any person that is a federal covered adviser or is excluded from the
25 definition of investment adviser under section 202 of the Investment
26 Adviser Act of 1940, or (i) such other persons not within the intent of
27 this subdivision as the director may by rule and regulation or order
28 designate;

29 (8) Investment adviser representative means any partner, limited
30 liability company member, officer, or director or any person occupying a
31 similar status or performing similar functions of a partner, limited

1 liability company member, officer, or director or other individual,
2 except clerical or ministerial personnel, who is employed by or
3 associated with an investment adviser that is registered or required to
4 be registered under the Securities Act of Nebraska or who has a place of
5 business located in this state and is employed by or associated with a
6 federal covered adviser, and who (a) makes any recommendations or
7 otherwise renders advice regarding securities, (b) manages accounts or
8 portfolios of clients, (c) determines which recommendation or advice
9 regarding securities should be given, (d) solicits, offers, or negotiates
10 for the sale of or sells investment advisory services, or (e) supervises
11 employees who perform any of the foregoing;

12 (9) Issuer means any person who issues or proposes to issue any
13 security, except that (a) with respect to certificates of deposit,
14 voting-trust certificates, or collateral-trust certificates or with
15 respect to certificates of interest or shares in an unincorporated
16 investment trust not having a board of directors, or persons performing
17 similar functions, or of the fixed, restricted management, or unit type,
18 the term issuer means the person or persons performing the acts and
19 assuming the duties of depositor or manager pursuant to the provisions of
20 the trust or other agreement or instrument under which the security is
21 issued and (b) with respect to a fractional or pooled interest in a
22 viatical settlement contract, issuer means the person who creates, for
23 the purpose of sale, the fractional or pooled interest. In the case of a
24 viatical settlement contract that is not fractionalized or pooled, issuer
25 means the person effecting a transaction with a purchaser of such
26 contract;

27 (10) Issuer-dealer means (a) any issuer located in the State of
28 Nebraska or (b) any issuer which registered its securities by
29 qualification who proposes to sell to the public of the State of Nebraska
30 the securities that it issues without the benefit of another registered
31 broker-dealer. Such securities shall have been approved for sale in the

1 State of Nebraska pursuant to section 8-1104;

2 (11) Nonissuer means not directly or indirectly for the benefit of
3 the issuer;

4 (12) Person means an individual, a corporation, a partnership, a
5 limited liability company, an association, a joint-stock company, a trust
6 in which the interests of the beneficiaries are evidenced by a security,
7 an unincorporated organization, a government, or a political subdivision
8 of a government;

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

23 (14) Securities Act of 1933, Securities Exchange Act of 1934,
24 Investment Advisers Act of 1940, Investment Company Act of 1940,
25 Commodity Exchange Act, and the federal Interstate Land Sales Full
26 Disclosure Act means the acts as they existed on January 1, 2023 ~~2022~~;

27 (15) Security means any note, stock, treasury stock, bond,
28 debenture, units of beneficial interest in a real estate trust, evidence
29 of indebtedness, certificate of interest or participation in any profit-
30 sharing agreement, collateral-trust certificate, preorganization
31 certificate or subscription, transferable share, investment contract,

1 viatical settlement contract or any fractional or pooled interest in such
2 contract, membership interest in any limited liability company organized
3 under Nebraska law or any other jurisdiction unless otherwise excluded
4 from this definition, voting-trust certificate, certificate of deposit
5 for a security, certificate of interest or participation in an oil, gas,
6 or mining title or lease or in payments out of production under such a
7 title or lease, in general any interest or instrument commonly known as a
8 security, or any certificate of interest or participation in, temporary
9 or interim certificate for, guarantee of, or warrant or right to
10 subscribe to or purchase any of the foregoing. Security does not include
11 any insurance or endowment policy or annuity contract issued by an
12 insurance company. Security also does not include a membership interest
13 in a limited liability company when all of the following exist: (a) The
14 member enters into a written commitment to be engaged actively and
15 directly in the management of the limited liability company; and (b) all
16 members of the limited liability company are actively engaged in the
17 management of the limited liability company. For the limited purposes of
18 determining professional malpractice insurance premiums, a security
19 issued through a transaction that is exempted pursuant to subdivision
20 (23) of section 8-1111 shall not be considered a security;

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

23 (17) Viatical settlement contract means an agreement for the
24 purchase, sale, assignment, transfer, devise, or bequest of all or any
25 portion of the death benefit or ownership of a life insurance policy or
26 contract for consideration which is less than the expected death benefit
27 of the life insurance policy or contract. Viatical settlement contract
28 does not include (a) the assignment, transfer, sale, devise, or bequest
29 of a death benefit of a life insurance policy or contract made by the
30 viator to an insurance company or to a viatical settlement provider or
31 broker licensed pursuant to the Viatical Settlements Act, (b) the

1 assignment of a life insurance policy or contract to a bank, savings
2 bank, savings and loan association, credit union, or other licensed
3 lending institution as collateral for a loan, or (c) the exercise of
4 accelerated benefits pursuant to the terms of a life insurance policy or
5 contract and consistent with applicable law.

6 Sec. 10. Section 8-1101.01, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 8-1101.01 For purposes of the Securities Act of Nebraska:

9 (1) Federal rules and regulations adopted under the Investment
10 Advisors Act of 1940 or the Securities Act of 1933 means such rules and
11 regulations as they existed on January 1, 2023 ~~2022~~; and

12 (2) Fair practice or ethical rules or standards promulgated by the
13 Securities and Exchange Commission, the Financial Industry Regulatory
14 Authority, or a self-regulatory organization approved by the Securities
15 and Exchange Commission means such practice, rules, or standards as they
16 existed on January 1, 2023 ~~2022~~.

17 Sec. 11. Section 8-1704, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 8-1704 CFTC rule shall mean any rule, regulation, or order of the
20 Commodity Futures Trading Commission in effect on January 1, 2023 ~~2022~~.

21 Sec. 12. Section 8-1707, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 8-1707 Commodity Exchange Act shall mean the act of Congress known
24 as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2023
25 ~~2022~~.

26 Sec. 13. Section 8-2724, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 8-2724 (1) The requirement for a license under the Nebraska Money
29 Transmitters Act does not apply to:

30 (a) The United States or any department, agency, or instrumentality
31 thereof;

1 (b) Any post office of the United States Postal Service;

2 (c) A state or any political subdivision thereof;

3 (d)(i) Banks, credit unions, digital asset depository institutions
4 as defined in section 8-3003, building and loan associations, savings and
5 loan associations, savings banks, or mutual banks organized under the
6 laws of any state or the United States;

7 (ii) Subsidiaries of the institutions listed in subdivision (d)(i)
8 of this subsection;

9 (iii) Bank holding companies which have a banking subsidiary located
10 in Nebraska and whose debt securities have an investment grade rating by
11 a national rating agency; or

12 (iv) Authorized delegates of the institutions and entities listed in
13 subdivision (d)(i), (ii), or (iii) of this subsection, except that
14 authorized delegates that are not banks, credit unions, building and loan
15 associations, savings and loan associations, savings banks, mutual banks,
16 subsidiaries of any of the foregoing, or bank holding companies shall
17 comply with all requirements imposed upon authorized delegates under the
18 act;

19 (e) The provision of electronic transfer of government benefits for
20 any federal, state, or county governmental agency, as defined in Consumer
21 Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such
22 regulation existed on January 1, ~~2023~~ 2022, by a contractor for and on
23 behalf of the United States or any department, agency, or instrumentality
24 thereof or any state or any political subdivision thereof;

25 (f) An operator of a payment system only to the extent that the
26 payment system provides processing, clearing, or settlement services
27 between or among persons who are all exempt under this section in
28 connection with wire transfers, credit card transactions, debit card
29 transactions, automated clearinghouse transfers, or similar fund
30 transfers; or

31 (g) A person, firm, corporation, or association licensed in this

1 state and acting within this state within the scope of a license:

2 (i) As a collection agency pursuant to the Collection Agency Act;

3 (ii) As a credit services organization pursuant to the Credit
4 Services Organization Act; or

5 (iii) To engage in the debt management business pursuant to sections
6 69-1201 to 69-1217.

7 (2) An authorized delegate of a licensee or of an exempt entity,
8 acting within the scope of its authority conferred by a written contract
9 as described in section 8-2739, is not required to obtain a license under
10 the Nebraska Money Transmitters Act, except that such an authorized
11 delegate shall comply with the other provisions of the act which apply to
12 money transmission transactions.

13 Sec. 14. Section 8-2903, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 8-2903 (1) When a financial institution, or an employee of a
16 financial institution, reasonably believes, or has received information
17 from the department or a law enforcement agency demonstrating that it is
18 reasonable to believe, that financial exploitation of a vulnerable adult
19 or senior adult may have occurred, may have been attempted, is occurring,
20 or is being attempted, the financial institution may, but is not required
21 to:

22 (a) Delay or refuse a transaction with or involving the vulnerable
23 adult or senior adult;

24 (b) Delay or refuse to permit the withdrawal or disbursement of
25 funds contained in the vulnerable adult's or senior adult's account;

26 (c) Prevent a change in ownership of the vulnerable adult's or
27 senior adult's account;

28 (d) Prevent a transfer of funds from the vulnerable adult's or
29 senior adult's account to an account owned wholly or partially by another
30 person;

31 (e) Refuse to comply with instructions given to the financial

1 institution by an agent or a person acting for or with an agent under a
2 power of attorney signed or purported to have been signed by the
3 vulnerable adult or senior adult; or

4 (f) Prevent the designation or change the designation of
5 beneficiaries to receive any property, benefit, or contract rights for a
6 vulnerable adult or senior adult at death.

7 (2) A financial institution is not required to act under subsection
8 (1) of this section when provided with information alleging that
9 financial exploitation may have occurred, may have been attempted, is
10 occurring, or is being attempted, but may use the financial institution's
11 discretion to determine whether or not to act under subsection (1) of
12 this section based on the information available to the financial
13 institution at the time.

14 (3)(a)(i) A financial institution may notify any third party
15 reasonably associated with a vulnerable adult or senior adult if the
16 financial institution reasonably believes that the financial exploitation
17 of a vulnerable adult or senior adult may have occurred, may have been
18 attempted, is occurring, or is being attempted.

19 (ii) A third party reasonably associated with a vulnerable adult or
20 senior adult includes, but is not limited to, the following: (A) A
21 parent, spouse, adult child, sibling, or other known family member or
22 close associate of a vulnerable adult or senior adult; (B) an authorized
23 contact provided by a vulnerable adult or senior adult to the financial
24 institution; (C) a co-owner, additional authorized signatory, or
25 beneficiary on a vulnerable adult's or a senior adult's account; (D) an
26 attorney in fact, trustee, conservator, guardian, or other fiduciary who
27 has been selected by a vulnerable adult or senior adult, a court, or a
28 third party to manage some or all of the financial affairs of the
29 vulnerable adult or senior adult; and (E) an attorney known to represent
30 or have represented the vulnerable adult or senior adult.

31 (b) A financial institution may choose not to notify any third party

1 reasonably associated with a vulnerable adult or senior adult of
2 suspected financial exploitation of the vulnerable adult or senior adult
3 if the financial institution reasonably believes the third party is, may
4 be, or may have been engaged in the financial exploitation of the
5 vulnerable adult or senior adult or if requested to refrain from making a
6 notification by a law enforcement agency, if such notification could
7 interfere with a law enforcement investigation.

8 (c) Nothing in this subsection shall prevent a financial institution
9 from notifying the department or a law enforcement agency, if the
10 financial institution reasonably believes that the financial exploitation
11 of a vulnerable adult or senior adult may have occurred, may have been
12 attempted, is occurring, or is being attempted.

13 (4) The authority granted the financial institution under subsection
14 (1) of this section expires upon the sooner of: (a) Thirty business days
15 after the date on which the financial institution first acted under
16 subsection (1) of this section; (b) when the financial institution is
17 satisfied that the transaction or act will not result in financial
18 exploitation of the vulnerable adult or senior adult; or (c) upon
19 termination by an order of a court of competent jurisdiction.

20 (5) Unless otherwise directed by order of a court of competent
21 jurisdiction, a financial institution may extend the duration under
22 subsection (4) of this section based on a reasonable belief that the
23 financial exploitation of a vulnerable adult or senior adult may continue
24 to occur or continue to be attempted.

25 (6) A financial institution and its bank holding company, if any,
26 and any employees, agents, officers, and directors of the financial
27 institution and its bank holding company, if any, shall be immune from
28 any civil, criminal, or administrative liability that may otherwise exist
29 (a) for delaying or refusing to execute a transaction, withdrawal, or
30 disbursement, or for not delaying or refusing to execute such
31 transaction, withdrawal, or disbursement under this section and (b) for

1 actions taken in furtherance of determinations made under subsections (1)
2 through (5) of this section.

3 (7)(a) Notwithstanding any other law to the contrary, the refusal by
4 a financial institution to engage in a transaction as authorized under
5 subsection (1) of this section shall not constitute the wrongful dishonor
6 of an item under section 4-402, Uniform Commercial Code.

7 (b) Notwithstanding any other law to the contrary, a reasonable
8 belief that payment of a check will facilitate the financial exploitation
9 of a vulnerable adult or senior adult shall constitute reasonable grounds
10 to doubt the collectability of the item for purposes of the federal Check
11 Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal
12 Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R.
13 part 229, as such acts and part existed on January 1, 2023 ~~2022~~.

14 Sec. 15. Section 8-3005, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 8-3005 (1)(a) A digital asset depository may:

17 (i) Make contracts as a corporation under Nebraska law;

18 (ii) Sue and be sued;

19 (iii) Receive notes as permitted by federal law;

20 (iv) Carry on a nonlending digital asset banking business for
21 customers, consistent with subdivision (2)(b) of this section;

22 (v) Provide payment services upon the request of a customer; and

23 (vi) Make an application to become a member bank of the federal
24 reserve system.

25 (b) A digital asset depository shall maintain its main office and
26 the primary office of its chief executive officer in Nebraska.

27 (c) As otherwise authorized by this section, a digital asset
28 depository may conduct business with customers outside this state.

29 (2)(a) A digital asset depository institution, consistent with the
30 Nebraska Financial Innovation Act, shall be organized as a corporation
31 under the Nebraska Model Business Corporation Act to exercise the powers

1 set forth in subsection (1) of this section.

2 (b) A digital asset depository institution shall not accept demand
3 deposits of United States currency or United States currency that may be
4 accessed or withdrawn by check or similar means for payment to third
5 parties and except as otherwise provided in this subsection, a digital
6 asset depository institution shall not make any ~~consumer~~ loans to
7 consumers for personal, property or household purposes, mortgage loans,
8 or commercial loans of any fiat currency including, but not limited to,
9 United States currency, including the provision of temporary credit
10 relating to overdrafts. Notwithstanding this prohibition against fiat
11 currency lending by a digital asset depository institution, a digital
12 asset depository institution may facilitate the provision of digital
13 asset business services resulting from the interaction of customers with
14 centralized finance or decentralized finance platforms including, but not
15 limited to, controllable electronic record exchange, staking,
16 controllable electronic record lending, and controllable electronic
17 record borrowing. A digital asset depository institution may purchase
18 debt obligations specified by subdivision (2)(c) of section 8-3009.

19 (c) Subject to the laws of the host state, a digital asset
20 depository institution may open a branch in another state in the manner
21 set forth in section 8-157 or 8-2303. A digital asset depository
22 institution, including any branch of the digital asset depository
23 institution, may only accept digital asset deposits or provide other
24 digital asset business services under the Nebraska Financial Innovation
25 Act to individual customers or a customer that is a legal entity other
26 than a natural person engaged in a bona fide business which is lawful
27 under the laws of Nebraska, the laws of the host state if the entity is
28 headquartered in another state, and federal law.

29 (3) The deposit limitations of subdivision (2)(a)(ii) of section
30 8-157 shall not apply to a digital asset depository.

31 (4) Any United States currency coming into an account established by

1 a customer of a digital asset depository institution shall be held in a
2 financial institution, the deposits of which are insured by the Federal
3 Deposit Insurance Corporation, which maintained a main-chartered office
4 in this state, any branch thereof in this state, or any branch of the
5 financial institution which maintained the main-chartered office in this
6 state prior to becoming a branch of such financial institution.

7 (5) A digital asset depository institution shall establish and
8 maintain programs for compliance with the federal Bank Secrecy Act, in
9 accordance with 12 C.F.R. 208.63, as the act and rule existed on January
10 1, ~~2023~~ 2022.

11 (6) A digital asset depository shall help meet the digital financial
12 needs of the communities in which it operates, consistent with safe and
13 sound operations, and shall maintain and update a public file and on any
14 Internet website it maintains containing specific information about its
15 efforts to meet community needs, including:

16 (a) The collection and reporting of data;

17 (b) Its policies and procedures for accepting and responding to
18 consumer complaints; and

19 (c) Its efforts to assist with financial literacy or personal
20 finance programs to increase knowledge and skills of Nebraska students in
21 areas such as budgeting, credit, checking and savings accounts, loans,
22 stocks, and insurance.

23 Sec. 16. Section 8-3007, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 8-3007 (1) No customer shall open or maintain an account with a
26 digital asset depository or otherwise receive any services from the
27 digital asset depository unless the customer meets the criteria of this
28 subsection. A customer shall:

29 (a) Make sufficient evidence available to the digital asset
30 depository to enable compliance with anti-money laundering, customer
31 identification, and beneficial ownership requirements, as determined by

1 the federal Bank Secrecy Act guidance and the policies and practices of
2 the institution; and

3 (b) If the customer is a legal entity other than a natural person:

4 (i) Be in good standing with the jurisdiction in the United States
5 in which it is incorporated or organized; and

6 (ii) Be engaged in a business that is lawful and bona fide in
7 Nebraska, in the host state, if applicable, and under federal law
8 consistent with subsection (3) of this section.

9 (2) A customer which meets the criteria of subsection (1) of this
10 section may be issued a digital asset depository account and otherwise
11 receive services from the digital asset depository, contingent on the
12 availability of sufficient insurance under subsection (5) of section
13 8-3023.

14 (3) Consistent with subdivisions (1)(a)(iv) and (v) of section
15 8-3005, and in addition to any requirements specified by federal law, a
16 digital asset depository shall require that any potential customer that
17 is a legal entity other than a natural person provide reasonable evidence
18 that the entity is engaged in a business that is lawful and bona fide in
19 Nebraska, in the host state, and under federal law or is likely to open a
20 lawful, bona fide business within a federal Bank Secrecy Act compliant
21 timeframe, as the act existed on January 1, 2023 2022. For purposes of
22 this subsection, reasonable evidence includes business entity filings,
23 articles of incorporation or organization, bylaws, operating agreements,
24 business plans, promotional materials, financing agreements, or other
25 evidence.

26 Sec. 17. Section 21-17,115, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 21-17,115 Notwithstanding any of the other provisions of the Credit
29 Union Act or any other Nebraska statute, any credit union incorporated
30 under the laws of the State of Nebraska and organized under the
31 provisions of the act shall have all the rights, powers, privileges,

1 benefits, and immunities which may be exercised as of January 1, 2023
2 ~~2022~~, by a federal credit union doing business in Nebraska on the
3 condition that such rights, powers, privileges, benefits, and immunities
4 shall not relieve such credit union from payment of state taxes assessed
5 under any applicable laws of this state.

6 Sec. 18. Section 45-191.01, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 45-191.01 (1) Prior to a borrower signing a loan brokerage
9 agreement, the loan broker shall give the borrower a written disclosure
10 statement. The cover sheet of the disclosure statement shall have
11 printed, in at least ten-point boldface capital letters, the title
12 DISCLOSURES REQUIRED BY NEBRASKA LAW. The following statement, printed in
13 at least ten-point type, shall appear under the title:

14 THE STATE OF NEBRASKA HAS NOT REVIEWED AND DOES NOT APPROVE,
15 RECOMMEND, ENDORSE, OR SPONSOR ANY LOAN BROKERAGE AGREEMENT. THE
16 INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT HAS NOT BEEN VERIFIED
17 BY THE STATE. IF YOU HAVE QUESTIONS, SEEK LEGAL ADVICE BEFORE YOU SIGN A
18 LOAN BROKERAGE AGREEMENT.

19 Only the title and the statement shall appear on the cover sheet.

20 (2) The body of the disclosure statement shall contain the following
21 information:

22 (a) The name, street address, and telephone number of the loan
23 broker, the names under which the loan broker does, has done, or intends
24 to do business, the name and street address of any parent or affiliated
25 company, and the electronic mail and Internet address of the loan broker,
26 ~~if any~~;

27 (b) A statement as to whether the loan broker does business as an
28 individual, a partnership, a corporation, or another organizational form,
29 including identification of the state of incorporation or formation;

30 (c) How long the loan broker has done business;

31 (d) The number of loan brokerage agreements the loan broker has

1 entered into in the previous twelve months;

2 (e) The number of loans the loan broker has obtained for borrowers
3 in the previous twelve months;

4 (f) A description of the services the loan broker agrees to perform
5 for the borrower;

6 (g) The conditions under which the borrower is obligated to pay the
7 loan broker. This disclosure shall be in boldface type;

8 (h) The names, titles, and principal occupations for the past five
9 years of all officers, directors, or persons occupying similar positions
10 responsible for the loan broker's business activities;

11 (i) A statement whether the loan broker or any person identified in
12 subdivision (h) of this subsection:

13 (i) Has been convicted of a felony or misdemeanor or pleaded nolo
14 contendere to a felony or misdemeanor charge if such felony or
15 misdemeanor involved fraud, embezzlement, fraudulent conversion, or
16 misappropriation of property;

17 (ii) Has been held liable in a civil action by final judgment or
18 consented to the entry of a stipulated judgment if the civil action
19 alleged fraud, embezzlement, fraudulent conversion, or misappropriation
20 of property or the use of untrue or misleading representations in an
21 attempt to sell or dispose of real or personal property or the use of
22 unfair, unlawful, or deceptive business practices; or

23 (iii) Is subject to any currently effective injunction or
24 restrictive order relating to business activity as the result of an
25 action brought by a public agency or department including, but not
26 limited to, action affecting any vocational license; and

27 (j) Any other information the director requires.

28 Sec. 19. Section 45-191.04, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 45-191.04 (1) A loan brokerage agreement shall be in writing and
31 shall be signed by the loan broker and the borrower. The loan broker

1 shall furnish the borrower a copy of such signed loan brokerage agreement
2 at the time the borrower signs it.

3 (2) The borrower has the right to cancel a loan brokerage agreement
4 for any reason at any time within five business days after the date the
5 parties sign the agreement. The loan brokerage agreement shall set forth
6 the borrower's right to cancel and the procedures to be followed when an
7 agreement is canceled.

8 (3) A loan brokerage agreement shall set forth in at least ten-point
9 type, or handwriting of at least equivalent size, the following:

10 (a) The terms and conditions of payment;

11 (b) A full and detailed description of the acts or services the loan
12 broker will undertake to perform for the borrower;

13 (c) The loan broker's principal business address, telephone number,
14 and electronic mail and Internet address, ~~if any,~~ and the name, address,
15 telephone number, and electronic mail and Internet address, if any, of
16 its agent in the State of Nebraska authorized to receive service of
17 process;

18 (d) The business form of the loan broker, whether a corporation,
19 partnership, limited liability company, or otherwise; and

20 (e) The following notice of the borrower's right to cancel the loan
21 brokerage agreement pursuant to this section:

22 "You have five business days in which you may cancel this agreement
23 for any reason by mailing or delivering written notice to the loan
24 broker. The five business days shall expire on (last
25 date to mail or deliver notice), and notice of cancellation should be
26 mailed to (loan broker's name
27 and business street address). If you choose to mail your notice, it must
28 be placed in the United States mail properly addressed, first-class
29 postage prepaid, and postmarked before midnight of the above date. If you
30 choose to deliver your notice to the loan broker directly, it must be
31 delivered to the loan broker by the end of the normal business day on the

1 above date. Within five business days after receipt of the notice of
2 cancellation, the loan broker shall return to you all sums paid by you to
3 the loan broker pursuant to this agreement."

4 The notice shall be set forth immediately above the place at which
5 the borrower signs the loan brokerage agreement.

6 Sec. 20. Section 45-735, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 45-735 (1) A mortgage loan originator shall be an employee or
9 independent agent of a single licensed mortgage banker, registrant, or
10 installment loan company that shall directly supervise, control, and
11 maintain responsibility for the acts and omissions of the mortgage loan
12 originator.

13 (2)(a) {2} A mortgage loan originator shall not engage in mortgage
14 loan origination activities at any location that is not a main office
15 location of a licensed mortgage banker, registrant, or installment loan
16 company or a branch office of a licensed mortgage banker or registrant.
17 The licensed mortgage banker, registrant, or installment loan company
18 shall designate the location or locations at which each mortgage loan
19 originator is originating residential mortgage loans.

20 (b) The department may adopt and promulgate rules, regulations, and
21 orders to authorize and regulate the use of remote work arrangements
22 conducted outside of a main office location or branch office by employees
23 or agents, including mortgage loan originators, of licensed mortgage
24 bankers, registrants, or installment loan companies.

25 (3) Any licensed mortgage banker, registrant, or installment loan
26 company who engages an independent agent as a mortgage loan originator
27 shall maintain a written agency contract with such mortgage loan
28 originator. Such written agency contract shall provide that the mortgage
29 loan originator is originating loans exclusively for the licensed
30 mortgage banker, registrant, or installment loan company.

31 (4) A licensed mortgage banker, registrant, or installment loan

1 company that has hired a licensed mortgage loan originator as an employee
2 or entered into an independent agent agreement with such licensed
3 mortgage loan originator shall provide notification to the department as
4 soon as reasonably possible after entering into such relationship, along
5 with a fee of fifty dollars. The employing entity shall not allow the
6 mortgage loan originator to conduct such activity in this state prior to
7 such notification to the department and confirmation that the department
8 has received notice of the termination of the mortgage loan originator's
9 prior employment.

10 (5) A licensed mortgage banker, registrant, or installment loan
11 company shall notify the department no later than ten days after the
12 termination, whether voluntary or involuntary, of a mortgage loan
13 originator unless the mortgage loan originator has previously notified
14 the department of the termination.

15 Sec. 21. Section 45-1002, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 45-1002 (1) For purposes of the Nebraska Installment Loan Act:

18 (a) Applicant means a person applying for a license under the act;

19 (b) Breach of security of the system means unauthorized acquisition
20 of data that compromises the security, confidentiality, or integrity of
21 the information maintained by the Nationwide Mortgage Licensing System
22 and Registry, its affiliates, or its subsidiaries;

23 (c) Consumer means an individual who is a resident of Nebraska and
24 who seeks to obtain, obtains, or has obtained a loan that is to be used
25 primarily for personal, family, or household purposes;

26 (d) ~~(e)~~ Department means the Department of Banking and Finance;

27 (e) ~~(d)~~ Debt cancellation contract means a loan term or contractual
28 arrangement modifying loan terms under which a financial institution or
29 licensee agrees to cancel all or part of a borrower's obligation to repay
30 an extension of credit from the financial institution or licensee upon
31 the occurrence of a specified event. The debt cancellation contract may

1 be separate from or a part of other loan documents. The term debt
2 cancellation contract does not include loan payment deferral arrangements
3 in which the triggering event is the borrower's unilateral election to
4 defer repayment or the financial institution's or licensee's unilateral
5 decision to allow a deferral of repayment;

6 (f) ~~(e)~~ Debt suspension contract means a loan term or contractual
7 arrangement modifying loan terms under which a financial institution or
8 licensee agrees to suspend all or part of a borrower's obligation to
9 repay an extension of credit from the financial institution or licensee
10 upon the occurrence of a specified event. The debt suspension contract
11 may be separate from or a part of other loan documents. The term debt
12 suspension contract does not include loan payment deferral arrangements
13 in which the triggering event is the borrower's unilateral election to
14 defer repayment or the financial institution's or licensee's unilateral
15 decision to allow a deferral of repayment;

16 (g) ~~(f)~~ Director means the Director of Banking and Finance;

17 (h) ~~(g)~~ Financial institution has the same meaning as in section
18 8-101.03;

19 (i) ~~(h)~~ Guaranteed asset protection waiver means a waiver that is
20 offered, sold, or provided in accordance with the Guaranteed Asset
21 Protection Waiver Act;

22 (j) ~~(i)~~ Licensee means any person who obtains a license under the
23 Nebraska Installment Loan Act;

24 (k) Loan means a loan or any extension of credit to a consumer
25 originated or made with an interest rate greater than the maximum
26 interest rate allowed under section 45-101.03 and a principal balance of
27 less than twenty-five thousand dollars;

28 (l)(i) ~~(j)(i)~~ Mortgage loan originator means an individual who for
29 compensation or gain (A) takes a residential mortgage loan application or
30 (B) offers or negotiates terms of a residential mortgage loan.

31 (ii) Mortgage loan originator does not include (A) any individual

1 who is not otherwise described in subdivision (i)(A) of this subdivision
2 and who performs purely administrative or clerical tasks on behalf of a
3 person who is described in subdivision (i) of this subdivision, (B) a
4 person or entity that only performs real estate brokerage activities and
5 is licensed or registered in accordance with applicable state law, unless
6 the person or entity is compensated by a lender, a mortgage broker, or
7 other mortgage loan originator or by any agent of such lender, mortgage
8 broker, or other mortgage loan originator, or (C) a person or entity
9 solely involved in extensions of credit relating to time-share programs
10 as defined in section 76-1702;

11 (m) ~~(k)~~ Nationwide Mortgage Licensing System and Registry means a
12 licensing system developed and maintained by the Conference of State Bank
13 Supervisors and the American Association of Residential Mortgage
14 Regulators for the licensing and registration of mortgage loan
15 originators, mortgage bankers, installment loan companies, and other
16 state-regulated financial services entities and industries;

17 (n) ~~(l)~~ Person means individual, partnership, limited liability
18 company, association, financial institution, trust, corporation, and any
19 other legal entity; and

20 (o) ~~(m)~~ Real property means an owner-occupied single-family, two-
21 family, three-family, or four-family dwelling which is located in this
22 state, which is occupied, used, or intended to be occupied or used for
23 residential purposes, and which is, or is intended to be, permanently
24 affixed to the land.

25 (2) Except as provided in subsection (3) of section 45-1017 and
26 subsection (4) of section 45-1019, no revenue arising under the Nebraska
27 Installment Loan Act shall inure to any school fund of the State of
28 Nebraska or any of its governmental subdivisions.

29 ~~(3) Loan, when used in the Nebraska Installment Loan Act, does not~~
30 ~~include any loan made by a person who is not a licensee on which the~~
31 ~~interest does not exceed the maximum rate permitted by section 45-101.03.~~

1 (3) {4} Nothing in the Nebraska Installment Loan Act applies to any
2 loan made by a person who is not a licensee if the interest on the loan
3 does not exceed the maximum rate permitted by section 45-101.03.

4 Sec. 22. Section 45-1003, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 45-1003 (1) Except as provided in subsection (2) of this section,
7 no ~~no~~ financial institution is eligible for a license or to make loans
8 under the Nebraska Installment Loan Act.

9 (2) The Nebraska Installment Loan Act applies to each loan made by a
10 financial institution if, at or after the time the loan is made, such
11 loan is marketed, owned in whole or in part, held, acquired, serviced, or
12 otherwise participated in by a person that is not a financial
13 institution. A license shall be required for the person that is not a
14 financial institution to conduct such loan activity.

15 Sec. 23. Section 45-1006, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 45-1006 (1) When an application for an original installment loan
18 license has been accepted by the director as substantially complete,
19 notice of the filing of the application shall be published by the
20 department three successive weeks in a legal newspaper published in or of
21 general circulation in the county where the applicant proposes to operate
22 the business of lending money. A public hearing shall be held on each
23 application except as provided in subsection (2) of this section. The
24 date for hearing shall not be less than thirty days after the last
25 publication. Written protest against the issuance of the license may be
26 filed with the department by any person not less than five days before
27 the date set for hearing. The director, in his or her discretion, may
28 grant a continuance. The costs of the hearing shall be paid by the
29 applicant. The director may deny any application for license after
30 hearing. The director shall, in his or her discretion, make examination
31 and inspection concerning the propriety of the issuance of a license to

1 any applicant. The cost of such examination and inspection shall be paid
2 by the applicant.

3 (2) The director may waive the hearing requirements of subsection
4 (1) of this section if (a) the applicant (i) does not originate loans
5 under the Nebraska Installment Loan Act or (ii) has held, and operated
6 under, a license to engage in the business of lending money in Nebraska
7 pursuant to the Nebraska Installment Loan Act for at least one calendar
8 year immediately prior to the filing of the application, (b) no written
9 protest against the issuance of the license has been filed with the
10 department within fifteen days after publication of a notice of the
11 filing of the application one time in a newspaper of general circulation
12 in the county where the applicant proposes to operate the business of
13 lending money, and (c) in the judgment of the director, the experience,
14 character, and general fitness of the applicant warrant the belief that
15 the applicant will comply with the Nebraska Installment Loan Act.

16 (3) The expense of any publication made pursuant to this section
17 shall be paid by the applicant.

18 Sec. 24. Section 59-1722, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 59-1722 (1) Any transaction involving the sale of a franchise as
21 defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1,
22 2023 ~~2022~~, shall be exempt from the Seller-Assisted Marketing Plan Act,
23 except that such transactions shall be subject to subdivision (1)(d) of
24 section 59-1757, those provisions regulating or prescribing the use of
25 the phrase buy-back or secured investment or similar phrases as set forth
26 in sections 59-1726 to 59-1728 and 59-1751, and all sections which
27 provide for their enforcement. The exemption shall only apply if:

28 (a) The franchise is offered and sold in compliance with the
29 requirements of 16 C.F.R. part 436, Disclosure Requirements and
30 Prohibitions Concerning Franchising, as such part existed on January 1,
31 2023 ~~2022~~;

1 (b) Before placing any advertisement in a Nebraska-based
2 publication, offering for sale to any prospective purchaser in Nebraska,
3 or making any representations in connection with such offer or sale to
4 any prospective purchaser in Nebraska, the seller files a notice with the
5 Department of Banking and Finance which contains (i) the name, address,
6 and telephone number of the seller and the name under which the seller
7 intends to do business and (ii) a brief description of the plan offered
8 by the seller; and

9 (c) The seller pays a filing fee of one hundred dollars.

10 (2) The department may request a copy of the disclosure document
11 upon receipt of a written complaint or inquiry regarding the seller or
12 upon a reasonable belief that a violation of the Seller-Assisted
13 Marketing Plan Act has occurred or may occur. The seller shall provide
14 such copy within ten business days of receipt of the request.

15 (3) All funds collected by the department under this section shall
16 be remitted to the State Treasurer for credit to the Securities Act Cash
17 Fund.

18 (4) The Director of Banking and Finance may by order deny or revoke
19 an exemption specified in this section with respect to a particular
20 offering of one or more business opportunities if the director finds that
21 such an order is in the public interest or is necessary for the
22 protection of purchasers. An order shall not be entered without
23 appropriate prior notice to all interested parties, an opportunity for
24 hearing, and written findings of fact and conclusions of law. If the
25 public interest or the protection of purchasers so requires, the director
26 may by order summarily deny or revoke an exemption specified in this
27 section pending final determination of any proceedings under this
28 section. An order under this section shall not operate retroactively.

29 Sec. 25. Section 69-2103, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

1 (1) Advertisement means a commercial message in any medium that
2 aids, promotes, or assists directly or indirectly a consumer rental
3 purchase agreement but does not include in-store merchandising aids such
4 as window signs and ceiling banners;

5 (2) Cash price means the price at which the lessor would have sold
6 the property to the consumer for cash on the date of the consumer rental
7 purchase agreement for the property;

8 (3) Consumer means a natural person who rents property under a
9 consumer rental purchase agreement;

10 (4) Consumer rental purchase agreement means an agreement which is
11 for the use of property by a consumer primarily for personal, family, or
12 household purposes, which is for an initial period of four months or
13 less, whether or not there is any obligation beyond the initial period,
14 which is automatically renewable with each payment, and which permits the
15 consumer to become the owner of the property. A consumer rental purchase
16 agreement in compliance with the act shall not be construed to be a lease
17 or agreement which constitutes a credit sale as defined in 12 C.F.R.
18 1026.2(a)(16), as such regulation existed on January 1, 2023 ~~2022~~, and 15
19 U.S.C. 1602(h), as such section existed on January 1, 2023 ~~2022~~, or a
20 lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2,
21 as such regulation existed on January 1, 2023 ~~2022~~. Consumer rental
22 purchase agreement does not include:

23 (a) Any lease for agricultural, business, or commercial purposes;

24 (b) Any lease made to an organization;

25 (c) A lease or agreement which constitutes an installment sale or
26 installment contract as defined in section 45-335;

27 (d) A security interest as defined in subdivision (35) of section
28 1-201, Uniform Commercial Code; and

29 (e) A home solicitation sale as defined in section 69-1601;

30 (5) Consummation means the occurrence of an event which causes a
31 consumer to become contractually obligated on a consumer rental purchase

1 agreement;

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

3 (7) Lease payment means a payment to be made by the consumer for the
4 right of possession and use of the property for a specific lease period
5 but does not include taxes imposed on such payment;

6 (8) Lease period means a week, month, or other specific period of
7 time, during which the consumer has the right to possess and use the
8 property after paying the lease payment and applicable taxes for such
9 period;

10 (9) Lessor means a person who in the ordinary course of business
11 operates a commercial outlet which regularly leases, offers to lease, or
12 arranges for the leasing of property under a consumer rental purchase
13 agreement;

14 (10) Property means any property that is not real property under the
15 laws of this state when made available for a consumer rental purchase
16 agreement; and

17 (11) Total of payments to acquire ownership means the total of all
18 charges imposed by the lessor and payable by the consumer as a condition
19 of acquiring ownership of the property. Total of payments to acquire
20 ownership includes lease payments and any initial nonrefundable
21 administrative fee or required delivery charge but does not include
22 taxes, late charges, reinstatement fees, or charges for optional products
23 or services.

24 Sec. 26. Section 69-2104, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 69-2104 (1) Before entering into any consumer rental purchase
27 agreement, the lessor shall disclose to the consumer the following items
28 as applicable:

29 (a) A brief description of the leased property sufficient to
30 identify the property to the consumer and lessor;

31 (b) The number, amount, and timing of all payments included in the

1 total of payments to acquire ownership;

2 (c) The total of payments to acquire ownership;

3 (d) A statement that the consumer will not own the property until
4 the consumer has paid the total of payments to acquire ownership plus
5 applicable taxes;

6 (e) A statement that the total of payments to acquire ownership does
7 not include other charges such as taxes, late charges, reinstatement
8 fees, or charges for optional products or services the consumer may have
9 elected to purchase and that the consumer should see the rental purchase
10 agreement for an explanation of these charges;

11 (f) A statement that the consumer is responsible for the fair market
12 value, remaining rent, early purchase option amount, or cost of repair of
13 the property, whichever is less, if it is lost, stolen, damaged, or
14 destroyed;

15 (g) A statement indicating whether the property is new or used. A
16 statement that indicates that new property is used shall not be a
17 violation of the Consumer Rental Purchase Agreement Act;

18 (h) A statement of the cash price of the property. When the
19 agreement involves a lease for two or more items, a statement of the
20 aggregate cash price of all items shall satisfy the requirement of this
21 subdivision;

22 (i) The total amount of the initial payments required to be paid
23 before consummation of the agreement or delivery of the property,
24 whichever occurs later, and an itemization of the components of the
25 initial payment, including any initial nonrefundable administrative fee
26 or delivery charge, lease payment, taxes, or fee or charge for optional
27 products or services;

28 (j) A statement clearly summarizing the terms of the consumer's
29 options to purchase, including a statement that at any time after the
30 first periodic payment is made the consumer may acquire ownership of the
31 property by tendering an amount which may not exceed fifty-five percent

1 of the difference between the total of payments to acquire ownership and
2 the total of lease payments the consumer has paid on the property at that
3 time;

4 (k) A statement identifying the party responsible for maintaining or
5 servicing the property while it is being leased, together with a
6 description of that responsibility and a statement that if any part of a
7 manufacturer's warranty covers the leased property at the time the
8 consumer acquires ownership of the property, such warranty shall be
9 transferred to the consumer if allowed by the terms of the warranty; and

10 (1) The date of the transaction and the names of the lessor and the
11 consumer.

12 (2) With respect to matters specifically governed by the federal
13 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
14 existed on January 1, 2023 ~~2022~~, compliance with such act shall satisfy
15 the requirements of this section.

16 (3) Subsection (1) of this section shall not apply to a lessor who
17 complies with the disclosure requirements of the federal Consumer Credit
18 Protection Act, 15 U.S.C. 1667a, as such section existed on January 1,
19 2023 ~~2022~~, with respect to a consumer rental purchase agreement entered
20 into with a consumer.

21 Sec. 27. Section 69-2112, Revised Statutes Cumulative Supplement,
22 2022, is amended to read:

23 69-2112 (1) Any advertisement for a consumer rental purchase
24 agreement which refers to or states the amount of any payment or the
25 right to acquire ownership for any specific item shall also state clearly
26 and conspicuously the following if applicable:

27 (a) That the transaction advertised is a consumer rental purchase
28 agreement;

29 (b) The total of payments to acquire ownership; and

30 (c) That the consumer acquires no ownership rights until the total
31 of payments to acquire ownership is paid.

1 (2) Any owner or employee of any medium in which an advertisement
2 appears or through which it is disseminated shall not be liable under
3 this section.

4 (3) Subsection (1) of this section shall not apply to an
5 advertisement which does not refer to a specific item of property, which
6 does not refer to or state the amount of any payment, or which is
7 published in the yellow pages of a telephone directory or any similar
8 directory of business.

9 (4) With respect to matters specifically governed by the federal
10 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
11 existed on January 1, 2023 ~~2022~~, compliance with such act shall satisfy
12 the requirements of this section.

13 Sec. 28. Section 4A-108, Uniform Commercial Code, Revised Statutes
14 Cumulative Supplement, 2022, is amended to read:

15 4A-108 Relationship to federal Electronic Fund Transfer Act.

16 (a) Except as provided in subsection (b), this article does not
17 apply to a funds transfer any part of which is governed by the federal
18 Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed
19 on January 1, 2023 ~~2022~~.

20 (b) This article applies to a funds transfer that is a remittance
21 transfer as defined in the federal Electronic Fund Transfer Act, 15
22 U.S.C. 1693o-1, as such section existed on January 1, 2023 ~~2022~~, unless
23 the remittance transfer is an electronic fund transfer as defined in the
24 federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section
25 existed on January 1, 2023 ~~2022~~.

26 (c) In a funds transfer to which this article applies, in the event
27 of an inconsistency between an applicable provision of this article and
28 an applicable provision of the federal Electronic Fund Transfer Act, the
29 provision of the federal Electronic Fund Transfer Act governs to the
30 extent of the inconsistency.

31 Sec. 29. Original sections 8-135, 8-141, 8-143.01, 8-157.01,

1 8-183.04, 8-1,140, 8-318, 8-355, 8-1101, 8-1101.01, 8-1704, 8-1707,
2 8-2724, 8-2903, 8-3005, 8-3007, 21-17,115, 45-191.01, 45-191.04, 45-735,
3 45-1002, 45-1003, and 45-1006, Reissue Revised Statutes of Nebraska,
4 sections 59-1722, 69-2103, 69-2104, and 69-2112, Revised Statutes
5 Cumulative Supplement, 2022, and section 4A-108, Uniform Commercial Code,
6 Revised Statutes Cumulative Supplement, 2022, are repealed.

7 Sec. 30. Since an emergency exists, this act takes effect when
8 passed and approved according to law.