

Senate Bill No. 310—Senator Ford (by request)

CHAPTER.....

AN ACT relating to financial institutions; revising certain notice requirements for financial institutions which operate electronic terminals; authorizing a bank chartered by this State to engage in a derivative transaction under certain circumstances; providing that the total outstanding loans of such a bank include any credit exposure of the bank arising from certain transactions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Federal law requires an operator of an automated teller machine who imposes a certain fee on any customer to provide notice of the fee to the consumer at the time the service is provided. (15 U.S.C. § 1693b(d)(3)(a)) Previously, federal law required the operator to: (1) post the notice of the fee in a prominent and conspicuous location on or at the automated teller machine; and (2) provide the notice electronically on the screen of the automated teller machine or on a paper notice issued from the machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction. Congress recently enacted legislation which repealed the requirement that an operator of an automated teller machine post the notice on or at an automated teller machine. (Pub. L. No. 112-216) **Section 3** of this bill similarly amends existing state law to delete the requirement that a financial institution operating an electronic terminal must disclose the fee on a sign posted on or in clear view of the electronic terminal. (NRS 660.052)

Federal law authorizes a state bank which is insured by the Federal Deposit Insurance Corporation to engage in a derivative transaction only if the state law governing the lending limits of the bank takes into consideration the credit exposure of the bank arising from derivative transactions. (12 U.S.C. § 1828(y)) **Section 4** of this bill authorizes a bank chartered by this State to engage in a derivative transaction with the consent and written approval of the Commissioner of Financial Institutions. **Section 5** of this bill provides that the total outstanding loans of such a bank, for the purposes of calculating the lending limit of the bank, must include the credit exposure of the bank arising from certain transactions, including derivative transactions.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 657 of NRS is hereby amended by adding thereto a new section to read as follows:

“Derivative transaction” has the meaning ascribed to it in 12 U.S.C. § 84(b)(3).



Sec. 2. NRS 657.005 is hereby amended to read as follows:

657.005 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 657.016 to 657.085, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 660.052 is hereby amended to read as follows:

660.052 1. A financial institution operating an electronic terminal may charge a transaction fee to the customer using the electronic terminal if the transaction fee is disclosed †:

~~—(a) On a sign posted on or in clear view of the electronic terminal; and~~

~~—(b) Electronically~~ *electronically* during the course of the transaction so as to permit the customer to cancel the transaction without incurring the transaction fee.

2. For each transaction processed by an electronic terminal, except for a transaction involving a negotiable instrument that is its own receipt, the electronic terminal must, at the time of the transaction, make available to the customer a machine processed or handwritten record of each transaction. The record must include:

(a) The amount of the transaction. A fee for the transaction may be included in this amount if the electronic terminal is owned or operated by a person other than the financial institution that holds the customer's account if the fee is disclosed on the record of the transaction and ~~{on a sign posted on or in clear view of the electronic terminal.}~~ *pursuant to subsection 1.*

(b) The date of the transaction.

(c) The type of transaction and the type of account to or from which money is transferred. Codes may be used for this purpose if they are explained on the record of the transaction.

(d) A number or code that identifies the customer, the customer's account number or the device used to access the electronic terminal.

(e) The location of the electronic terminal, or a number or code identifying that location.

(f) The name of each third party to or from whom money is transferred, if the name provided by the customer can be reproduced by the electronic terminal on the record of the transaction. A code may be used for this purpose only if it is explained on the record of the transaction.

Sec. 4. NRS 662.015 is hereby amended to read as follows:

662.015 1. In addition to the powers conferred by law upon private corporations and limited-liability companies, a bank may:



(a) Exercise by its board of directors, managers or authorized officers and agents, subject to law, all powers necessary to carry on the business of banking by:

(1) Discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of indebtedness;

(2) Receiving deposits;

(3) Buying and selling exchange, coin and bullion; and

(4) Loaning money on personal security or real and personal property.

↳ At the time of making loans, banks may take and receive interest or discounts in advance.

(b) Adopt regulations for its own government not inconsistent with the Constitution and laws of this State.

(c) Issue, advise and confirm letters of credit authorizing the beneficiaries to draw upon the bank or its correspondents.

(d) Receive money for transmission.

(e) Establish and become a member of a clearinghouse association and pledge assets required for its qualification.

(f) Exercise any authority and perform all acts that a national bank may exercise or perform, **including, without limitation, engaging in a derivative transaction**, with the consent and written approval of the Commissioner. The Commissioner may, by regulation, waive or modify a requirement of Nevada law if the corresponding requirement for national banks is eliminated or modified.

(g) Provide for the performance of the services of a bank service corporation, such as data processing and bookkeeping, subject to any regulations adopted by the Commissioner.

(h) Unless otherwise specifically prohibited by federal law, sell annuities if licensed by the Commissioner of Insurance.

2. A bank may purchase, hold and convey real property:

(a) As is necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and for future site expansion. This investment must not exceed, except as otherwise provided in this section, 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures. The Commissioner may authorize any bank located in a city whose population is 15,000 or more to invest more than 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures, in its banking offices, furniture and fixtures.

(b) As is mortgaged to it in good faith by way of security for loans made or money due to the bank.

(c) As is permitted by NRS 662.103.



3. This section does not prohibit any bank from holding, developing or disposing of any real property it may acquire through the collection of debts due it. Except as otherwise provided in subsection 4, real property acquired through the collection of debts due it may not be held for longer than 5 years. It must be sold at private or public sale within 30 days thereafter.

4. A bank may request and the Commissioner may grant an extension of the period described in subsection 3 of not more than 5 years. The Commissioner shall not grant a bank more than one extension of the period prescribed in subsection 3 for any real property held by the bank.

Sec. 5. NRS 662.145 is hereby amended to read as follows:

662.145 1. Subject to the limitations set forth in NRS 662.155, the total outstanding loans of any bank to any person, company, corporation or firm may not at any time exceed 25 percent of the stockholders' or members' equity of the bank, actually paid in. *For the purposes of this section, the total outstanding loans of any bank include any credit exposure to a person, company, corporation or firm arising from a derivative transaction, repurchase agreement, reverse-repurchase agreement, securities lending transaction or securities borrowing transaction between the bank and the person, company, corporation or firm.* The discount of bills of exchange drawn in good faith against actual existing values, as collateral security, and a discount or purchase of commercial or business paper, actually owned by the persons, must not be considered as money loaned.

2. Neither the limitation on loans by banks contained in this section nor any other similar limitations contained in any law of this state relating to banks or banking apply to any loan or loans made by any bank to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or to purchase made by any Federal Reserve Bank or by the United States or any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned, directly or indirectly, by the United States.

3. The Commissioner may establish limitations on loans made by a bank to its directors, officers or employees and may establish requirements for the reporting of these loans.

4. The Commissioner may adopt regulations necessary to carry out the provisions of this section.

Sec. 6. This act becomes effective upon passage and approval.

