

AMENDMENTS TO LB707

Introduced by Banking, Commerce and Insurance.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 4 of this act shall be known and may be
4 cited as the LIBOR Transition Act.

5 Sec. 2. For purposes of the LIBOR Transition Act:

6 (1) Benchmark means an index of interest rates or dividend rates
7 that is used, in whole or in part, as the basis of or as a reference for
8 calculating or determining any valuation, payment, or other measurement
9 under or in respect of a contract, security, or instrument;

10 (2) Benchmark replacement means a benchmark, or an interest rate or
11 dividend rate, which may or may not be based in whole or in part on a
12 prior setting of LIBOR, to replace LIBOR or any interest rate or dividend
13 rate based on LIBOR, whether on a temporary, permanent, or indefinite
14 basis, under or in respect of a contract, security, or instrument;

15 (3) Benchmark replacement conforming changes means, with respect to
16 any type of contract, security, or instrument, any technical,
17 administrative, or operational changes, alterations, or modifications
18 that are associated with and reasonably necessary to the use, adoption,
19 calculation, or implementation of a recommended benchmark replacement and
20 that:

21 (a) Have been selected or recommended by a relevant recommending
22 body; and

23 (b) If, in the reasonable judgment of the calculating person, the
24 benchmark replacement conforming changes selected or recommended pursuant
25 to subdivision (3)(a) of this section do not apply to such contract,
26 security, or instrument or are insufficient to permit administration and
27 calculation of the recommended benchmark replacement, then benchmark

1 replacement conforming changes shall include such other changes,
2 alterations, or modifications that, in the reasonable judgment of the
3 calculating person:

4 (i) Are necessary to permit administration and calculation of the
5 recommended benchmark replacement under or in respect of such contract,
6 security, or instrument in a manner consistent with market practice for
7 substantially similar contracts, securities, or instruments and, to the
8 extent practicable, the manner in which such contract, security, or
9 instrument was administered immediately prior to the LIBOR replacement
10 date; and

11 (ii) Would not result in a disposition of such contract, security,
12 or instrument for United States federal income tax purposes;

13 (4) Calculating person means, with respect to any contract,
14 security, or instrument, any person, which may be the determining person,
15 responsible for calculating or determining any valuation, payment, or
16 other measurement based on a benchmark;

17 (5) Contract, security, or instrument includes, without limitation,
18 any contract, agreement, mortgage, deed of trust, lease, security,
19 whether representing debt or equity and including any interest in a
20 corporation, a partnership, or a limited liability company, instrument,
21 or other obligation;

22 (6) Determining person means, with respect to any contract,
23 security, or instrument, in the following order of priority:

24 (a) Any person specified as a determining person; or

25 (b) Any person with the authority, right, or obligation to:

26 (i) Determine the benchmark replacement that will take effect on the
27 LIBOR replacement date;

28 (ii) Calculate or determine a valuation, payment, or other
29 measurement based on a benchmark; or

30 (iii) Notify other persons of the occurrence of a LIBOR
31 discontinuance event, a LIBOR replacement date, or a benchmark

1 replacement;

2 (7) Fallback provisions means terms in a contract, security, or
3 instrument that set forth a methodology or procedure for determining a
4 benchmark replacement, including any terms relating to the date on which
5 the benchmark replacement becomes effective, without regard to whether a
6 benchmark replacement can be determined in accordance with such
7 methodology or procedure;

8 (8) LIBOR means, for purposes of the application of the LIBOR
9 Transition Act to any particular contract, security, or instrument,
10 United States dollar LIBOR, formerly known as the London interbank
11 offered rate, as administered by ICE Benchmark Administration Limited, or
12 any predecessor or successor thereof, or any tenor thereof, as
13 applicable, that is used in making any calculation or determination
14 thereunder;

15 (9)(a) LIBOR discontinuance event means the earliest to occur of any
16 of the following:

17 (i) A public statement or publication of information by or on behalf
18 of the administrator of LIBOR announcing that such administrator has
19 ceased or will cease to provide LIBOR, permanently or indefinitely,
20 provided that, at the time of the statement or publication, there is no
21 successor administrator that will continue to provide LIBOR;

22 (ii) A public statement or publication of information by the
23 regulatory supervisor for the administrator of LIBOR, the United States
24 Federal Reserve System, an insolvency official with jurisdiction over the
25 administrator for LIBOR, a resolution authority with jurisdiction over
26 the administrator for LIBOR, or a court or an entity with similar
27 insolvency or resolution authority over the administrator for LIBOR,
28 which states that the administrator of LIBOR has ceased or will cease to
29 provide LIBOR permanently or indefinitely, provided that, at the time of
30 the statement or publication, there is no successor administrator that
31 will continue to provide LIBOR; or

1 (iii) A public statement or publication of information by the
2 regulatory supervisor for the administrator of LIBOR announcing that
3 LIBOR is no longer representative.

4 (b) For purposes of this subdivision (9), a public statement or
5 publication of information that affects one or more tenors of LIBOR shall
6 not constitute a LIBOR discontinuance event with respect to any contract,
7 security, or instrument that (i) provides for only one tenor of LIBOR, if
8 such contract, security, or instrument requires interpolation and such
9 tenor can be interpolated from LIBOR tenors that are not so affected, or
10 (ii) permits a party to choose from more than one tenor of LIBOR and any
11 of such tenors (A) is not so affected or (B) if such contract, security,
12 or instrument requires interpolation, can be interpolated from LIBOR
13 tenors that are not so affected;

14 (10)(a) LIBOR replacement date means:

15 (i) In the case of a LIBOR discontinuance event described in
16 subdivision (9)(a)(i) or (ii) of this section, the later of (A) the date
17 of the public statement or publication of information referenced therein
18 and (B) the date on which the administrator of LIBOR permanently or
19 indefinitely ceases to provide LIBOR; and

20 (ii) In the case of a LIBOR discontinuance event described in
21 subdivision (9)(a)(iii) of this section, the date of the public statement
22 or publication of information referenced therein.

23 (b) For purposes of this subdivision (10), a date that affects one
24 or more tenors of LIBOR shall not constitute a LIBOR replacement date
25 with respect to any contract, security, or instrument that (i) provides
26 for only one tenor of LIBOR, if such contract, security, or instrument
27 requires interpolation and such tenor can be interpolated from LIBOR
28 tenors that are not so affected, or (ii) permits a party to choose from
29 more than one tenor of LIBOR and any of such tenors (A) is not so
30 affected or (B) if such contract, security, or instrument requires
31 interpolation, can be interpolated from LIBOR tenors that are not so

1 affected;

2 (11) Recommended benchmark replacement means, with respect to any
3 particular type of contract, security, or instrument, a benchmark
4 replacement based on SOFR, which shall include any recommended spread
5 adjustment and any benchmark replacement conforming changes, that has
6 been selected or recommended by a relevant recommending body with respect
7 to such type of contract, security, or instrument;

8 (12) Recommended spread adjustment means a spread adjustment, or
9 method for calculating or determining such spread adjustment, which may
10 be a positive or negative value or zero, that has been selected or
11 recommended by a relevant recommending body for a recommended benchmark
12 replacement for a particular type of contract, security, or instrument
13 and for a particular term to account for the effects of the transition or
14 change from LIBOR to a recommended benchmark replacement;

15 (13) Relevant recommending body means the Federal Reserve Board, the
16 Federal Reserve Bank of New York, or the Alternative Reference Rates
17 Committee, or any successor to any of them; and

18 (14) SOFR means, with respect to any day, the secured overnight
19 financing rate published for such day by the Federal Reserve Bank of New
20 York, as the administrator of the benchmark or a successor administrator,
21 on the Federal Reserve Bank of New York's website.

22 Sec. 3. (1) On the LIBOR replacement date, the recommended
23 benchmark replacement shall, by operation of law, be the benchmark
24 replacement for any contract, security, or instrument that uses LIBOR as
25 a benchmark and:

26 (a) Contains no fallback provisions; or

27 (b) Contains fallback provisions that result in a benchmark
28 replacement, other than a recommended benchmark replacement, that is
29 based in any way on any LIBOR value.

30 (2) Following the occurrence of a LIBOR discontinuance event, any
31 fallback provisions in a contract, security, or instrument that provide

1 for a benchmark replacement based on or otherwise involving a poll,
2 survey, or inquiries for quotes or information concerning interbank
3 lending rates or any interest rate or dividend rate based on LIBOR shall
4 be disregarded as if not included in such contract, security, or
5 instrument and shall be deemed null and void and without any force or
6 effect.

7 (3)(a) This subsection shall apply to any contract, security, or
8 instrument that uses LIBOR as a benchmark and contains fallback
9 provisions that permit or require the selection of a benchmark
10 replacement that is:

11 (i) Based in any way on any LIBOR value; or

12 (ii) The substantive equivalent of subdivision (1)(a), (b), or (c)
13 of section 4 of this act.

14 (b) A determining person shall have the authority under the LIBOR
15 Transition Act, but shall not be required, to select on or after the
16 occurrence of a LIBOR discontinuance event the recommended benchmark
17 replacement as the benchmark replacement. Such selection of the
18 recommended benchmark replacement shall be:

19 (i) Irrevocable;

20 (ii) Made by the earlier of either the LIBOR replacement date or the
21 latest date for selecting a benchmark replacement according to such
22 contract, security, or instrument; and

23 (iii) Used in any determinations of the benchmark under or with
24 respect to such contract, security, or instrument occurring on or after
25 the LIBOR replacement date.

26 (4) If a recommended benchmark replacement becomes the benchmark
27 replacement for any contract, security, or instrument pursuant to
28 subsection (1) or (3) of this section, then all benchmark replacement
29 conforming changes that are applicable to such recommended benchmark
30 replacement shall become an integral part of such contract, security, or
31 instrument by operation of law.

1 (5) The LIBOR Transition Act shall not alter or impair:

2 (a) Any written agreement by all requisite parties that,
3 retrospectively or prospectively, provides that the contract, security,
4 or instrument shall not be subject to the LIBOR Transition Act without
5 necessarily referring specifically to the act. For purposes of this
6 subdivision, requisite parties means all parties required to amend the
7 terms and provisions of a contract, security, or instrument that would
8 otherwise be altered or affected by the act;

9 (b) Any contract, security, or instrument that contains fallback
10 provisions that would result in a benchmark replacement that is not based
11 on LIBOR, including, but not limited to, the prime rate or the federal
12 rate, except that such contract, security, or instrument shall be
13 subject to subsection (2) of this section;

14 (c) Any contract, security, or instrument subject to subsection (3)
15 of this section as to which a determining person does not elect to use a
16 recommended benchmark replacement pursuant to subsection (3) of this
17 section or as to which a determining person elects to use a recommended
18 benchmark replacement prior to the occurrence of a LIBOR discontinuance
19 event, except that such contract, security, or instrument shall be
20 subject to subsection (2) of this section; or

21 (d) The application to a recommended benchmark replacement of any
22 cap, floor, modifier, or spread adjustment to which LIBOR had been
23 subject pursuant to the terms of a contract, security, or instrument.

24 (6) Notwithstanding the Uniform Commercial Code or any other law of
25 this state, the LIBOR Transition Act shall apply to all contracts,
26 securities, and instruments, including contracts, with respect to
27 commercial transactions and shall not be deemed to be displaced by any
28 other law of this state.

29 Sec. 4. (1) The selection or use of a recommended benchmark
30 replacement as a benchmark replacement under or in respect of a contract,
31 security, or instrument by operation of section 3 of this act shall

1 constitute:

2 (a) A commercially reasonable replacement for and a commercially
3 substantial equivalent to LIBOR;

4 (b) A reasonable, comparable, or analogous term for LIBOR under or
5 in respect of such contract, security, or instrument;

6 (c) A replacement that is based on a methodology or information that
7 is similar or comparable to LIBOR; and

8 (d) Substantial performance by any person of any right or obligation
9 relating to or based on LIBOR under or in respect of a contract,
10 security, or instrument.

11 (2) Any LIBOR discontinuance event or LIBOR replacement date,
12 selection or use of a recommended benchmark replacement as a benchmark
13 replacement, or determination, implementation, or performance of
14 benchmark replacement conforming changes that occurs by operation of
15 section 3 of this act shall not:

16 (a) Be deemed to impair or affect the right of any person to receive
17 a payment, or affect the amount or timing of such payment, under any
18 contract, security, or instrument; or

19 (b) Have the effect of (i) discharging or excusing performance under
20 any contract, security, or instrument for any reason, claim, or defense,
21 including, but not limited to, any force majeure or other provision in
22 any contract, security, or instrument, (ii) giving any person the right
23 to unilaterally terminate or suspend performance under any contract,
24 security, or instrument, (iii) constituting a breach of a contract,
25 security, or instrument, or (iv) voiding or nullifying any contract,
26 security, or instrument.

27 (3) No person shall have any liability for damages to any person or
28 be subject to any claim or request for equitable relief arising out of or
29 related to the selection or use of a recommended benchmark replacement or
30 the determination, implementation, or performance of benchmark
31 replacement conforming changes, in each case, by operation of section 3

1 of this act, and such selection or use of the recommended benchmark
2 replacement or such determination, implementation, or performance of
3 benchmark replacement conforming changes shall not give rise to any claim
4 or cause of action by any person in law or in equity.

5 (4) The selection or use of a recommended benchmark replacement or
6 the determination, implementation, or performance of benchmark
7 replacement conforming changes, by operation of section 3 of this act,
8 shall be deemed to:

9 (a) Not be an amendment or modification of any contract, security,
10 or instrument; and

11 (b) Not prejudice, impair, or affect any person's rights, interests,
12 or obligations under or in respect of any contract, security, or
13 instrument.

14 (5) Except as provided in either subsection (1) or (3) of section 3
15 of this act, the LIBOR Transition Act shall not be interpreted as
16 creating any negative inference or negative presumption regarding the
17 validity or enforceability of:

18 (a) Any benchmark replacement that is not a recommended benchmark
19 replacement;

20 (b) Any spread adjustment, or method for calculating or determining
21 a spread adjustment, that is not a recommended spread adjustment; or

22 (c) Any changes, alterations, or modifications to or in respect of a
23 contract, security, or instrument that are not benchmark replacement
24 conforming changes.

25 Sec. 5. Section 1-162.01, Revised Statutes Cumulative Supplement,
26 2020, is amended to read:

27 1-162.01 (1) Notwithstanding the Nebraska Professional Corporation
28 Act or the Public Accountancy Act or any other provision of law
29 inconsistent with this section, firms may have owners who are not
30 certified public accountants if the following conditions are met:

31 (a) Such owners shall be:

1 (i) Natural persons;

2 (ii) An employee stock ownership plan as described and defined in 26
3 U.S.C. 401(a) and 26 U.S.C. 4975(e)(7), as such subsections existed on
4 January 1, 2019;

5 (iii) A partnership or limited liability company; or

6 (iv) A corporation;

7 ~~(b) Such owners, whether direct or beneficial, who are natural~~
8 ~~persons shall not exceed, in the aggregate, forty-nine percent of the~~
9 ~~total number of owners of such firm;~~

10 (b) (e) Such owners ~~who are natural persons~~ shall not hold, in the
11 aggregate, directly or beneficially, more than forty-nine percent of such
12 firm's equity capital or voting rights or receive, in the aggregate,
13 directly or beneficially, more than forty-nine percent of such firm's
14 profits or losses;

15 (c)(i) (d) Such owners who are not natural persons shall not, in the
16 aggregate, directly or beneficially, comprise a majority of the total
17 number of owners of a firm; and

18 (ii) Such owners who are natural persons may, in the aggregate,
19 directly or beneficially, comprise a majority of the total number of
20 owners of a firm;

21 ~~(e) Such owners shall not, in the aggregate, directly or~~
22 ~~beneficially, hold one half or more of the equity capital of the firm and~~
23 ~~possess majority voting rights of the firm;~~

24 (d) (f) Such owners, whether direct or beneficial, who are natural
25 persons shall not hold themselves out as certified public accountants;

26 (e) (g) Such owners, whether direct or beneficial, who are natural
27 persons shall not hold themselves out to the general public or to any
28 client as an owner, partner, shareholder, limited liability company
29 member, director, officer, or other official of the firm except in a
30 manner specifically permitted by the rules and regulations of the board;

31 (f) (h) Such owners, whether direct or beneficial, who are natural

1 persons shall not have ultimate responsibility for the performance of any
2 audit, review, or compilation of financial statements or other forms of
3 attestation related to financial information;

4 ~~(g) (i)~~ Such owners who are natural persons shall not be direct or
5 beneficial owners of a firm engaged in the practice of public accountancy
6 without board approval if such natural persons (i) have been convicted of
7 any felony under the laws of any state, of the United States, or of any
8 other jurisdiction, (ii) have been convicted of any crime, an element of
9 which is dishonesty or fraud, under the laws of any state, of the United
10 States, or of any other jurisdiction, (iii) have had their professional
11 or vocational licenses, if any, suspended or revoked by a licensing
12 agency of any state of the United States or of any other jurisdiction or
13 such persons have otherwise been the subject of other final disciplinary
14 action by any such agency, or (iv) are in violation of any rule or
15 regulation regarding character or conduct adopted and promulgated by the
16 board relating to owners who are not certified public accountants;

17 ~~(h) (j)~~ Such owners, if a partnership, limited liability company, or
18 corporation: (i) Hold a permit under section 1-136; (ii) do not have the
19 ultimate responsibility for the firm's performance of audits, reviews, or
20 compilations of financial statements or other forms of attestation
21 relating to financial information; and (iii) have their owners comply
22 with this section, so long as any natural persons who have an ownership
23 or beneficial interest in such partnership, limited liability company, or
24 corporation, directly or beneficially, meet, as if such natural persons
25 or entities were direct owners in the firm, the requirements of
26 subdivisions (1)(b) through ~~(g) (i)~~ of this section;

27 ~~(i) (k)~~ Such beneficial owners under an employee stock ownership
28 plan shall be natural persons actively participating in the business of
29 the firm or an entity controlled by the firm. All of the trustees of such
30 employee stock ownership plans shall be natural persons who are certified
31 public accountants, except in the event that a conflict of interest

1 exists for one or more trustees with respect to a specific issue or
2 transaction, such trustees may appoint a special independent trustee or
3 special fiduciary, who is not a certified public accountant or otherwise
4 legally authorized to render professional services in public accountancy,
5 which special independent trustee or special fiduciary shall be
6 authorized to make decisions only with respect to the specific issue or
7 transaction that is the subject of the conflict; and

8 (j) ~~(i)~~ Such owners who are natural persons shall actively
9 participate in the firm if such owners are direct owners, or shall
10 actively participate in the partnership, limited liability company, or
11 corporation through which the natural person has beneficial ownership of
12 the firm.

13 (2) The issuance or transfer of any shares of stock or equity
14 interests in a firm in violation of this section is void. No shareholder
15 or equity owner of a firm shall enter into a voting trust agreement or
16 any other type of agreement vesting in another person the authority to
17 exercise the voting power of any of the stock or equity of a firm.

18 (3) The board shall adopt and promulgate rules and regulations for
19 purposes of interpretation and enforcement of compliance with this
20 section.

21 Sec. 6. Section 8-101.03, Revised Statutes Supplement, 2021, is
22 amended to read:

23 8-101.03 For purposes of the Nebraska Banking Act, unless the
24 context otherwise requires:

25 (1) Access device means a code, a transaction card, or any other
26 means of access to a customer's account, or any combination thereof, that
27 may be used by a customer for the purpose of initiating an electronic
28 funds transfer at an automatic teller machine or a point-of-sale
29 terminal;

30 (2) Acquiring financial institution means any financial institution
31 establishing a point-of-sale terminal;

1 (3) Automatic teller machine means a machine established and located
2 in the State of Nebraska, whether attended or unattended, which utilizes
3 electronic, sound, or mechanical signals or impulses, or any combination
4 thereof, and from which electronic funds transfers may be initiated and
5 at which banking transactions as defined in section 8-157.01 may be
6 conducted. An unattended automatic teller machine shall not be deemed to
7 be a branch operated by a financial institution;

8 (4) Automatic teller machine surcharge means a fee that an operator
9 of an automatic teller machine imposes upon a consumer for an electronic
10 funds transfer, if such operator is not the financial institution that
11 holds an account of such consumer from which the electronic funds
12 transfer is to be made;

13 (5) Bank or banking corporation means any incorporated banking
14 institution which was incorporated under the laws of this state as they
15 existed prior to May 9, 1933, and any corporation duly organized under
16 the laws of this state for the purpose of conducting a bank within this
17 state under the act. Bank means any such banking institution which is, in
18 addition to the exercise of other powers, following the practice of
19 repaying deposits upon check, draft, or order and of making loans. Bank
20 or banking corporation includes a digital asset depository institution as
21 defined in section 8-3003. Notwithstanding the provisions of this
22 subdivision, a digital asset depository institution is subject to the
23 provisions of subdivision (2)(b) of section 8-3005;

24 (6)(a) ~~(6)~~ Bank subsidiary ~~corporation~~ means a corporation or
25 limited liability company that:

26 (i) Has a corporation which has a bank as a shareholder, member, or
27 investor; and

28 (ii) Is which is organized for purposes of engaging in activities
29 which are part of the business of banking or incidental to such business
30 except for the receipt of deposits.

31 (b) A bank subsidiary ~~corporation~~ may include a corporation

1 organized under the Nebraska Financial Innovation Act.

2 (c) A bank subsidiary is not to be considered a branch of its bank
3 shareholder;

4 (7) Capital or capital stock means capital stock;

5 (8) Data processing center means a facility, wherever located, at
6 which electronic impulses or other indicia of a transaction originating
7 at an automatic teller machine are received and either authorized or
8 routed to a switch or other data processing center in order to enable the
9 automatic teller machine to perform any function for which it is
10 designed;

11 (9) Department means the Department of Banking and Finance;

12 (10) Digital asset depository means a financial institution that
13 securely holds liquid assets when such assets are in the form of
14 controllable electronic records, either as a corporation organized,
15 chartered, and operated pursuant to the Nebraska Financial Innovation Act
16 as a digital asset depository institution, or a financial institution
17 operating a digital asset depository business as a digital asset
18 depository department under a grant of authority by the director;

19 (11) Director means the Director of Banking and Finance;

20 (12) Financial institution means a bank, savings bank, building and
21 loan association, savings and loan association, or credit union, whether
22 chartered by the United States, the department, or a foreign state
23 agency; any other similar organization which is covered by federal
24 deposit insurance; a trust company; or a digital asset depository that is
25 not a digital asset depository institution;

26 (13) Financial institution employees includes parent holding company
27 and affiliate employees;

28 (14) Foreign state agency means any duly constituted regulatory or
29 supervisory agency which has authority over financial institutions and
30 which is created under the laws of any other state, any territory of the
31 United States, Puerto Rico, Guam, American Samoa, the Trust Territory of

1 the Pacific Islands, or the Virgin Islands or which is operating under
2 the code of law for the District of Columbia;

3 (15) Impulse means an electronic, sound, or mechanical impulse, or
4 any combination thereof;

5 (16) Insolvent means a condition in which (a) the actual cash market
6 value of the assets of a bank is insufficient to pay its liabilities to
7 its depositors, (b) a bank is unable to meet the demands of its creditors
8 in the usual and customary manner, (c) a bank, after demand in writing by
9 the director, fails to make good any deficiency in its reserves as
10 required by law, or (d) the stockholders of a bank, after written demand
11 by the director, fail to make good an impairment of its capital or
12 surplus;

13 (17) Making loans includes advances or credits that are initiated by
14 means of credit card or other transaction card. Transaction card and
15 other transactions, including transactions made pursuant to prior
16 agreements, may be brought about and transmitted by means of an
17 electronic impulse. Such loan transactions including transactions made
18 pursuant to prior agreements shall be subject to sections 8-815 to 8-829
19 and shall be deemed loans made at the place of business of the financial
20 institution;

21 (18) Order includes orders transmitted by electronic transmission;

22 (19) Point-of-sale terminal means an information processing terminal
23 which utilizes electronic, sound, or mechanical signals or impulses, or
24 any combination thereof, which are transmitted to a financial institution
25 or which are recorded for later transmission to effectuate electronic
26 funds transfer transactions for the purchase or payment of goods and
27 services and which are initiated by an access device. A point-of-sale
28 terminal is not a branch operated by a financial institution. Any
29 terminal owned or operated by a seller of goods and services shall be
30 connected directly or indirectly to an acquiring financial institution;
31 and

1 (20) Switch means any facility where electronic impulses or other
2 indicia of a transaction originating at an automatic teller machine are
3 received and are routed and transmitted to a financial institution or
4 data processing center, wherever located. A switch may also be a data
5 processing center.

6 Sec. 7. Section 8-108, Revised Statutes Cumulative Supplement, 2020,
7 is amended to read:

8 8-108 (1)(a) The director, the director's ~~his or her~~ deputy, or any
9 duly appointed examiner has the authority to make a thorough examination
10 into all the books, papers, and affairs of any bank or other financial
11 institution chartered by the department or a its holding company or bank
12 subsidiary of such bank or financial institution, if any, and in so doing
13 to administer oaths and affirmations, to examine on oath or affirmation
14 the officers, agents, and clerks of such bank, financial institution, or
15 its holding company, or bank subsidiary ~~, if any,~~ touching the matter
16 which they may be authorized and directed to inquire into and examine,
17 and to subpoena the attendance of any person or persons in this state to
18 testify under oath or affirmation in relation to the affairs of such
19 bank, financial institution, or its holding company, or bank subsidiary ~~,~~
20 ~~if any.~~ The director, deputy, or examiner has the authority to examine
21 and monitor by electronic means the books, papers, and affairs of any
22 such bank, financial institution, or the holding company, or bank
23 subsidiary of a financial institution. The director may provide any
24 examination or report to the Federal Deposit Insurance Corporation, the
25 Federal Reserve Board, the Comptroller of the Currency, the Consumer
26 Financial Protection Bureau, or a foreign state agency.

27 (b) The director may accept any examination or report from a foreign
28 state agency and may accept any examination or report from the Federal
29 Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller
30 of the Currency, or the Consumer Financial Protection Bureau in lieu of
31 an examination or report required under the Nebraska Banking Act. Any

1 such examination or report accepted by the director remains the property
2 and confidential record of the foreign state agency or federal agency
3 which provided the examination or report to the director. A request or
4 subpoena for any such examination or report shall be directed to the
5 foreign state agency or federal agency which provided the examination or
6 report to the director.

7 (2) The department has the authority to examine the books, papers,
8 and affairs of any electronic data processing center which has contracted
9 with a bank or financial institution to conduct the bank or financial
10 institution's electronic data processing business. The department may
11 charge the electronic data processing center for the time spent by
12 examiners in such examination at the rate set forth in section 8-606 for
13 examiners' time spent in examinations of banks or financial institutions.

14 Sec. 8. Section 8-124, Revised Statutes Cumulative Supplement, 2020,
15 is amended to read:

16 8-124 (1) The affairs and business of any bank shall be managed or
17 controlled by a board of directors of not less than five and not more
18 than twenty-five members, who shall be selected at such time and in such
19 manner as may be provided by the articles of incorporation of the
20 corporation and in conformity with the Nebraska Banking Act. The board of
21 directors shall select a president. No person shall act as president if
22 he or she is not a member of the board of directors.

23 (2) The board of directors shall hold at least one regular meeting
24 in each calendar quarter, and at one of such meetings in each year a
25 thorough examination of the books, records, funds, and securities held by
26 the bank shall be made and recorded in detail upon its record book. In
27 lieu of the one annual examination required, the board of directors may
28 accept one annual audit by an accountant or accounting firm approved by
29 the Director of Banking and Finance. The board of directors shall submit
30 such audit to the department within one hundred twenty days after the
31 completion of the audit or, for a periodic audit, within one hundred

1 twenty days after the end of the calendar year.

2 Sec. 9. Section 8-135, Revised Statutes Supplement, 2021, is amended
3 to read:

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

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

13 (b) Electronic means through:

14 (i) Preauthorized direct withdrawal;

15 (ii) An automatic teller machine;

16 (iii) A debit card;

17 (iv) A transfer by telephone;

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

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

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

24 (3) This section shall not be construed to affect the rights,
25 liabilities, or responsibilities of participants in an electronic fund
26 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
27 et seq., as such act existed on January 1, 2022 ~~2021~~, and shall not
28 affect the legal relationships between a minor and any person other than
29 the bank.

30 Sec. 10. Section 8-141, Revised Statutes Supplement, 2021, is
31 amended to read:

1 8-141 (1) No bank shall directly or indirectly loan to any single
2 corporation, limited liability company, firm, or individual, including in
3 such loans all loans made to the several members or shareholders of such
4 corporation, limited liability company, or firm, for the use and benefit
5 of such corporation, limited liability company, firm, or individual, more
6 than twenty-five percent of the paid-up capital, surplus, and capital
7 notes and debentures or fifteen percent of the unimpaired capital and
8 unimpaired surplus of such bank, whichever is greater. Such limitations
9 shall be subject to the following exceptions:

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

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

1 unimpaired capital and unimpaired surplus;

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

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

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

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

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

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

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

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

31 (f) For the purpose of determining lending limits, partnerships

1 shall not be treated as separate entities. Each individual shall be
2 charged with his or her personal debt plus the debt of every partnership
3 in which he or she is a partner, except that for purposes of this section
4 (a) an individual shall only be charged with the debt of any limited
5 partnership in which he or she is a partner to the extent that the terms
6 of the limited partnership agreement provide that such individual is to
7 be held liable for the debts or actions of such limited partnership and
8 (b) no individual shall be charged with the debt of any general
9 partnership in which he or she is a partner beyond the extent to which
10 (i) his or her liability for such partnership debt is limited by the
11 terms of a contract or other written agreement between the bank and such
12 individual and (ii) any personal debt of such individual is incurred for
13 the use and benefit of such general partnership.

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

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

1 such bank. The limitations under this subsection on a bank's purchase of
2 life insurance contracts, in the aggregate from all life insurance
3 companies, shall not apply to any contract purchased prior to April 5,
4 1994.

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

12 (6) For purposes of this section:

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

19 (b) Loan includes:

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

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

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

30 (c) Unimpaired capital and unimpaired surplus means:

31 (i) For qualifying banks that have elected to use the community bank

1 leverage ratio framework, as set forth under the Capital Adequacy
2 Standards of the appropriate federal banking agency:

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

5 (B) The bank's allowance for loan and lease losses or allowance for
6 credit losses, as applicable, as reported in the most recent consolidated
7 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
8 existed on January 1, 2022 ~~2021~~; and

9 (ii) For all other banks:

10 (A) The bank's tier 1 and tier 2 capital included in the bank's
11 risk-based capital under the capital guidelines of the appropriate
12 federal banking agency, based on the bank's most recent consolidated
13 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
14 existed on January 1, 2022 ~~2021~~; and

15 (B) The balance of the bank's allowance for loan and lease losses
16 not included in the bank's tier 2 capital for purposes of the calculation
17 of risk-based capital by the appropriate federal banking agency, based on
18 the bank's most recent consolidated report of condition filed under 12
19 U.S.C. 1817(a)(3), as such section existed on January 1, 2022 ~~2021~~.

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

24 Sec. 11. Section 8-143.01, Revised Statutes Supplement, 2021, is
25 amended to read:

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

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

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

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

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

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

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

31 (c) In any amount if the extension of credit is (i) secured by a

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

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

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

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

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

1 major policymaking functions of the bank and does not actually
2 participate in the major policymaking functions of the bank.

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

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

19 (b) Nothing in subdivision (a) of this subsection shall prohibit any
20 extension of credit made by a bank pursuant to a benefit or compensation
21 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation
22 existed on January 1, 2022 ~~2021~~.

23 (8) For purposes of this section:

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

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

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

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

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

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

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

21 (10) The Director of Banking and Finance may adopt and promulgate
22 rules and regulations to carry out this section, including rules and
23 regulations defining or further defining terms used in this section,
24 consistent with the provisions of 12 U.S.C. 84 and implementing
25 Regulation O as such section and regulation existed on January 1, 2022
26 ~~2021~~.

27 Sec. 12. Section 8-148.06, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 8-148.06 Any bank may subscribe to, invest in, buy, own, and sell
30 the common stock, obligations, and other securities of one or more bank
31 subsidiaries ~~subsidiary corporations~~ organized under the laws of the

1 State of Nebraska. A bank shall not obligate more than thirty-five
2 percent of its paid-up capital stock, surplus, undivided profits, capital
3 reserves, and capital notes and debentures for such purposes. An
4 additional percentage of its paid-up capital stock, surplus, undivided
5 profits, capital reserves, and capital notes and debentures may be
6 invested with written approval of the director. The subscription,
7 investment, possession, or ownership is not subject to sections 8-148,
8 8-149, and 8-150.

9 Sec. 13. Section 8-148.07, Revised Statutes Cumulative Supplement,
10 2020, is amended to read:

11 8-148.07 A bank subsidiary ~~corporation~~ shall engage in only those
12 activities:

13 (1) Prescribed ~~prescribed~~ under subdivision (6) of section 8-101.03;

14 or

15 (2) That ~~that~~ its bank shareholder, ~~or~~ shareholders, member,
16 members, investor, or investors are authorized to perform under the laws
17 of this state and shall engage in those activities only at locations in
18 this state where the bank shareholder, ~~or~~ shareholders, member, members,
19 investor, or investors could be authorized to perform activities.

20 Sec. 14. Section 8-148.08, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 8-148.08 A bank subsidiary ~~corporation~~ is subject to examination and
23 regulation by the department to the same extent as its bank shareholder,
24 ~~or~~ shareholders, member, members, investor, or investors.

25 Sec. 15. Section 8-157.01, Revised Statutes Supplement, 2021, is
26 amended to read:

27 8-157.01 (1) Any establishing financial institution may establish
28 and maintain any number of automatic teller machines at which all banking
29 transactions, defined as receiving deposits of every kind and nature and
30 crediting such to customer accounts, cashing checks and cash withdrawals,
31 transferring funds from checking accounts to savings accounts,

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

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

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

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

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

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

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

28 (e) The director, upon notice and after a hearing, may terminate or
29 suspend the operation of any switch with respect to all Nebraska
30 automatic teller machine transactions if he or she determines that the
31 switch is not being operated in the manner required under subdivision (3)

1 (d) of this section.

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

6 (4) Any consumer initiating an electronic funds transfer at an
7 automatic teller machine for which an automatic teller machine surcharge
8 will be imposed shall receive notice in accordance with the provisions of
9 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
10 2022 ~~2021~~. Such notice shall appear on the screen of the automatic teller
11 machine or appear on a paper notice issued from such machine after the
12 transaction is initiated and before the consumer is irrevocably committed
13 to completing the transaction.

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

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

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

31 (8)(a) Annually by September 1, any entity operating as a switch in

1 Nebraska shall file a notice with the department setting forth its name,
2 address, and contact information for an officer authorized to answer
3 inquiries related to its operations in Nebraska.

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

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

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

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

1 transaction using an account from a foreign financial institution an
2 access fee or surcharge not otherwise prohibited under state or federal
3 law.

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

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

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

28 (15) For purposes of this section:

29 (a) Access means the ability to utilize an automatic teller machine
30 or a point-of-sale terminal to conduct permitted banking transactions or
31 purchase goods and services electronically;

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

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

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

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

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

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

31 (h) Financial institution means a bank, savings bank, building and

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

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

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

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

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

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

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

30 Sec. 16. Section 8-183.04, Revised Statutes Supplement, 2021, is
31 amended to read:

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

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

9 (3) The amount and type of capital required for such a converted
10 savings association shall be as required for federal mutual savings
11 associations in 12 C.F.R. 5.21, as such regulation existed on January 1,
12 2022 ~~2021~~, except that if at any time the department determines that the
13 capital of such a converted savings association is impaired, the director
14 may require the members to make up the capital impairment.

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

20 Sec. 17. Section 8-1,140, Revised Statutes Supplement, 2021, is
21 amended to read:

22 8-1,140 Notwithstanding any of the other provisions of the Nebraska
23 Banking Act or any other Nebraska statute, any bank incorporated under
24 the laws of this state and organized under the provisions of the act, or
25 under the laws of this state as they existed prior to May 9, 1933, shall
26 directly, or indirectly through a department, a subsidiary, or
27 subsidiaries, have all the rights, powers, privileges, benefits, and
28 immunities which may be exercised as of January 1, 2022 ~~2021~~, by a
29 federally chartered bank doing business in Nebraska, including the
30 exercise of all powers and activities that are permitted for a financial
31 subsidiary of a federally chartered bank. Such rights, powers,

1 privileges, benefits, and immunities shall not relieve such bank from
2 payment of state taxes assessed under any applicable laws of this state.

3 Sec. 18. Section 8-318, Revised Statutes Supplement, 2021, is
4 amended to read:

5 8-318 (1)(a) Shares of stock in any association, or in any federal
6 savings and loan association incorporated under the provisions of the
7 federal Home Owners' Loan Act, with its principal office and place of
8 business in this state, may be subscribed for, held, transferred,
9 surrendered, withdrawn, and forfeited and payments thereon received and
10 receipted for by any person, regardless of age, in the same manner and
11 with the same binding effect as though such person were of the age of
12 majority, except that a minor or his or her estate shall not be bound on
13 his or her subscription to stock except to the extent of payments
14 actually made thereon.

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

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

23 (ii) Electronic means through:

24 (A) Preauthorized direct withdrawal;

25 (B) An automatic teller machine;

26 (C) A debit card;

27 (D) A transfer by telephone;

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

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

31 (c) This section shall not be construed to affect the rights,

1 liabilities, or responsibilities of participants in an electronic fund
2 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
3 et seq., as it existed on January 1, 2022 ~~2021~~, and shall not affect the
4 legal relationships between a minor and any person other than the
5 building and loan association.

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

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

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

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

10 Sec. 19. Section 8-355, Revised Statutes Supplement, 2021, is
11 amended to read:

12 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
13 or any other Nebraska statute, except as provided in section 8-345.02,
14 any association incorporated under the laws of the State of Nebraska and
15 organized under the provisions of such article shall have all the rights,
16 powers, privileges, benefits, and immunities which may be exercised as of
17 January 1, 2022 ~~2021~~, by a federal savings and loan association doing
18 business in Nebraska. Such rights, powers, privileges, benefits, and
19 immunities shall not relieve such association from payment of state taxes
20 assessed under any applicable laws of this state.

21 Sec. 20. Section 8-1101, Revised Statutes Supplement, 2021, is
22 amended to read:

23 8-1101 For purposes of the Securities Act of Nebraska, unless the
24 context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (14) Securities Act of 1933, Securities Exchange Act of 1934,
23 Investment Advisers Act of 1940, Investment Company Act of 1940,
24 Commodity Exchange Act, and the federal Interstate Land Sales Full
25 Disclosure Act means the acts as they existed on January 1, 2022 ~~2021~~;

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

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

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

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

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

5 Sec. 21. Section 8-1101.01, Revised Statutes Supplement, 2021, is
6 amended to read:

7 8-1101.01 For purposes of the Securities Act of Nebraska:

8 (1) Federal rules and regulations adopted under the Investment
9 Advisors Act of 1940 or the Securities Act of 1933 means such rules and
10 regulations as they existed on January 1, 2022 ~~2021~~; and

11 (2) Fair practice or ethical rules or standards promulgated by the
12 Securities and Exchange Commission, the Financial Industry Regulatory
13 Authority, or a self-regulatory organization approved by the Securities
14 and Exchange Commission means such practice, rules, or standards as they
15 existed on January 1, 2022 ~~2021~~.

16 Sec. 22. Section 8-1502, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 8-1502 (1) Except as provided in subsection (2) of this section, no
19 person acting personally or as agent shall acquire control of any state-
20 chartered bank or trust company without first giving sixty days' notice
21 to the Department of Banking and Finance on forms provided by the
22 department of such proposed acquisition.

23 The Director of Banking and Finance, upon receipt of such notice,
24 shall act upon it within thirty days, and, unless he or she disapproves
25 the proposed acquisition within that period of time, it may become
26 effective on the sixty-first day after receipt without his or her
27 approval, except that the director may extend the thirty-day period an
28 additional thirty days if in his or her judgment any material information
29 submitted is substantially inaccurate or the acquiring party has not
30 furnished all the information required by sections 8-1501 to 8-1505 or by
31 the director.

1 An acquisition may be made prior to the expiration of the
2 disapproval period if the director issues written notice of his or her
3 intent not to disapprove the action.

4 Within three days after his or her decision to disapprove any
5 proposed acquisition, the director shall notify the acquiring party in
6 writing of the disapproval. The notice shall provide a statement of the
7 basis for the disapproval.

8 (2) The notice requirements of subsection (1) of this section shall
9 not apply when:

10 (a) Shares of a state-chartered bank or trust company are acquired
11 by a person in the regular course of securing or collecting a debt
12 previously contracted in good faith or through inheritance or a bona fide
13 gift if notice of such acquisition is given to the department, on forms
14 provided by the department, within thirty ~~ten~~ days after the acquisition;

15 (b) Shares of a state-chartered bank or trust company are
16 transferred from an individual or individuals to a trust formed by the
17 individual or individuals for estate-planning purposes if (i) there is no
18 change in the proportion of shares held by the trust for such individual
19 or individuals compared to the ownership of such individual or
20 individuals prior to the formation of the trust, (ii) the individual or
21 individuals control the trust, and (iii) notice of the proposed transfer
22 is given to the department, on forms provided by the department, at least
23 thirty days prior to the proposed transfer and the department does not
24 disapprove the transfer for the reason that the transfer is an attempt to
25 subvert the requirements of sections 8-1501 to 8-1505; or

26 (c) The director, the Governor, and the Secretary of State jointly
27 determine that an emergency exists which requires expeditious action or
28 that the department must act immediately to prevent probable failure of
29 the institution to be acquired.

30 Sec. 23. Section 8-1704, Revised Statutes Supplement, 2021, is
31 amended to read:

1 8-1704 CFTC rule shall mean any rule, regulation, or order of the
2 Commodity Futures Trading Commission in effect on January 1, 2022 ~~2021~~.

3 Sec. 24. Section 8-1707, Revised Statutes Supplement, 2021, is
4 amended to read:

5 8-1707 Commodity Exchange Act shall mean the act of Congress known
6 as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2022
7 ~~2021~~.

8 Sec. 25. Section 8-2724, Revised Statutes Supplement, 2021, is
9 amended to read:

10 8-2724 (1) The requirement for a license under the Nebraska Money
11 Transmitters Act does not apply to:

12 (a) The United States or any department, agency, or instrumentality
13 thereof;

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

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

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

20 (ii) Subsidiaries of the institutions listed in subdivision (d)(i)
21 of this subsection;

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

25 (iv) Authorized delegates of the institutions and entities listed in
26 subdivision (d)(i), (ii), or (iii) of this subsection, except that
27 authorized delegates that are not banks, credit unions, building and loan
28 associations, savings and loan associations, savings banks, mutual banks,
29 subsidiaries of any of the foregoing, or bank holding companies shall
30 comply with all requirements imposed upon authorized delegates under the
31 act;

1 (e) The provision of electronic transfer of government benefits for
2 any federal, state, or county governmental agency, as defined in Consumer
3 Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such
4 regulation existed on January 1, 2022 ~~2013~~, by a contractor for and on
5 behalf of the United States or any department, agency, or instrumentality
6 thereof or any state or any political subdivision thereof;

7 (f) An operator of a payment system only to the extent that the
8 payment system provides processing, clearing, or settlement services
9 between or among persons who are all exempt under this section in
10 connection with wire transfers, credit card transactions, debit card
11 transactions, automated clearinghouse transfers, or similar fund
12 transfers; or

13 (g) A person, firm, corporation, or association licensed in this
14 state and acting within this state within the scope of a license:

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

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

18 (iii) To engage in the debt management business pursuant to sections
19 69-1201 to 69-1217.

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

26 Sec. 26. Section 8-2903, Revised Statutes Supplement, 2021, is
27 amended to read:

28 8-2903 (1) When a financial institution, or an employee of a
29 financial institution, reasonably believes, or has received information
30 from the department or a law enforcement agency demonstrating that it is
31 reasonable to believe, that financial exploitation of a vulnerable adult

1 or senior adult may have occurred, may have been attempted, is occurring,
2 or is being attempted, the financial institution may, but is not required
3 to:

4 (a) Delay or refuse a transaction with or involving the vulnerable
5 adult or senior adult;

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

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

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

13 (e) Refuse to comply with instructions given to the financial
14 institution by an agent or a person acting for or with an agent under a
15 power of attorney signed or purported to have been signed by the
16 vulnerable adult or senior adult; or

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

20 (2) A financial institution is not required to act under subsection
21 (1) of this section when provided with information alleging that
22 financial exploitation may have occurred, may have been attempted, is
23 occurring, or is being attempted, but may use the financial institution's
24 discretion to determine whether or not to act under subsection (1) of
25 this section based on the information available to the financial
26 institution at the time.

27 (3)(a)(i) A financial institution may notify any third party
28 reasonably associated with a vulnerable adult or senior adult if the
29 financial institution reasonably believes that the financial exploitation
30 of a vulnerable adult or senior adult may have occurred, may have been
31 attempted, is occurring, or is being attempted.

1 (ii) A third party reasonably associated with a vulnerable adult or
2 senior adult includes, but is not limited to, the following: (A) A
3 parent, spouse, adult child, sibling, or other known family member or
4 close associate of a vulnerable adult or senior adult; (B) an authorized
5 contact provided by a vulnerable adult or senior adult to the financial
6 institution; (C) a co-owner, additional authorized signatory, or
7 beneficiary on a vulnerable adult's or a senior adult's account; (D) an
8 attorney in fact, trustee, conservator, guardian, or other fiduciary who
9 has been selected by a vulnerable adult or senior adult, a court, or a
10 third party to manage some or all of the financial affairs of the
11 vulnerable adult or senior adult; and (E) an attorney known to represent
12 or have represented the vulnerable adult or senior adult.

13 (b) A financial institution may choose not to notify any third party
14 reasonably associated with a vulnerable adult or senior adult of
15 suspected financial exploitation of the vulnerable adult or senior adult
16 if the financial institution reasonably believes the third party is, may
17 be, or may have been engaged in the financial exploitation of the
18 vulnerable adult or senior adult or if requested to refrain from making a
19 notification by a law enforcement agency, if such notification could
20 interfere with a law enforcement investigation.

21 (c) Nothing in this subsection shall prevent a financial institution
22 from notifying the department or a law enforcement agency, if the
23 financial institution reasonably believes that the financial exploitation
24 of a vulnerable adult or senior adult may have occurred, may have been
25 attempted, is occurring, or is being attempted.

26 (4) The authority granted the financial institution under subsection
27 (1) of this section expires upon the sooner of: (a) Thirty business days
28 after the date on which the financial institution first acted under
29 subsection (1) of this section; (b) when the financial institution is
30 satisfied that the transaction or act will not result in financial
31 exploitation of the vulnerable adult or senior adult; or (c) upon

1 termination by an order of a court of competent jurisdiction.

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

7 (6) A financial institution and its bank holding company, if any,
8 and any employees, agents, officers, and directors of the financial
9 institution and its bank holding company, if any, shall be immune from
10 any civil, criminal, or administrative liability that may otherwise exist
11 (a) for delaying or refusing to execute a transaction, withdrawal, or
12 disbursement, or for not delaying or refusing to execute such
13 transaction, withdrawal, or disbursement under this section and (b) for
14 actions taken in furtherance of determinations made under subsections (1)
15 through (5) of this section.

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

20 (b) Notwithstanding any other law to the contrary, a reasonable
21 belief that payment of a check will facilitate the financial exploitation
22 of a vulnerable adult or senior adult shall constitute reasonable grounds
23 to doubt the collectability of the item for purposes of the federal Check
24 Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal
25 Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R.
26 part 229, as such acts and part existed on January 1, 2022 ~~2021~~.

27 Sec. 27. Section 8-3005, Revised Statutes Supplement, 2021, is
28 amended to read:

29 8-3005 (1)(a) A digital asset depository may:

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

31 (ii) Sue and be sued;

- 1 (iii) Receive notes as permitted by federal law;
2 (iv) Carry on a nonlending digital asset banking business for
3 customers, consistent with subdivision (2)(b) of this section;
4 (v) Provide payment services upon the request of a customer; and
5 (vi) Make an application to become a member bank of the federal
6 reserve system.

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

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

11 (2)(a) A digital asset depository institution, consistent with the
12 Nebraska Financial Innovation Act, shall be organized as a corporation
13 under the Nebraska Model Business Corporation Act to exercise the powers
14 set forth in subsection (1) of this section.

15 (b) A digital asset depository institution shall not accept demand
16 deposits of United States currency or United States currency that may be
17 accessed or withdrawn by check or similar means for payment to third
18 parties and except as otherwise provided in this subsection, a digital
19 asset depository institution shall not make any consumer loans for
20 personal, property or household purposes, mortgage loans, or commercial
21 loans of any fiat currency including, but not limited to, United States
22 currency, including the provision of temporary credit relating to
23 overdrafts. Notwithstanding this prohibition against fiat currency
24 lending by a digital asset depository institution, a digital asset
25 depository institution may facilitate the provision of digital asset
26 business services resulting from the interaction of customers with
27 centralized finance or decentralized finance platforms including, but not
28 limited to, controllable electronic record exchange, staking,
29 controllable electronic record lending, and controllable electronic
30 record borrowing. A digital asset depository institution may purchase
31 debt obligations specified by subdivision (2)(c) of section 8-3009.

1 (c) Subject to the laws of the host state, a digital asset
2 depository institution may open a branch in another state in the manner
3 set forth in section 8-157 or 8-2303. A digital asset depository
4 institution, including any branch of the digital asset depository
5 institution, may only accept digital asset deposits or provide other
6 digital asset business services under the Nebraska Financial Innovation
7 Act to individual customers or a customer that is a legal entity other
8 than a natural person engaged in a bona fide business which is lawful
9 under the laws of Nebraska, the laws of the host state if the entity is
10 headquartered in another state, and federal law.

11 (3) The deposit limitations of subdivision (2)(a)(ii) of section
12 8-157 shall not apply to a digital asset depository.

13 (4) Any United States currency coming into an account established by
14 a customer of a digital asset depository institution shall be held in a
15 financial institution, the deposits of which are insured by the Federal
16 Deposit Insurance Corporation, which maintained a main-chartered office
17 in this state, any branch thereof in this state, or any branch of the
18 financial institution which maintained the main-chartered office in this
19 state prior to becoming a branch of such financial institution.

20 (5) A digital asset depository institution shall establish and
21 maintain programs for compliance with the federal Bank Secrecy Act, in
22 accordance with 12 C.F.R. 208.63, as the act and rule existed on January
23 1, 2022 ~~2021~~.

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

29 (a) The collection and reporting of data;

30 (b) Its policies and procedures for accepting and responding to
31 consumer complaints; and

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

5 Sec. 28. Section 8-3007, Revised Statutes Supplement, 2021, is
6 amended to read:

7 8-3007 (1) No customer shall open or maintain an account with a
8 digital asset depository or otherwise receive any services from the
9 digital asset depository unless the customer meets the criteria of this
10 subsection. A customer shall:

11 (a) Make sufficient evidence available to the digital asset
12 depository to enable compliance with anti-money laundering, customer
13 identification, and beneficial ownership requirements, as determined by
14 the federal Bank Secrecy Act guidance and the policies and practices of
15 the institution; and

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

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

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

22 (2) A customer which meets the criteria of subsection (1) of this
23 section may be issued a digital asset depository account and otherwise
24 receive services from the digital asset depository, contingent on the
25 availability of sufficient insurance under subsection (5) of section
26 8-3023.

27 (3) Consistent with subdivisions (1)(a)(iv) and (v) of section
28 8-3005, and in addition to any requirements specified by federal law, a
29 digital asset depository shall require that any potential customer that
30 is a legal entity other than a natural person provide reasonable evidence
31 that the entity is engaged in a business that is lawful and bona fide in

1 Nebraska, in the host state, and under federal law or is likely to open a
2 lawful, bona fide business within a federal Bank Secrecy Act compliant
3 time frame, as the act existed on January 1, 2022 ~~2021~~. For purposes of
4 this subsection, reasonable evidence includes business entity filings,
5 articles of incorporation or organization, bylaws, operating agreements,
6 business plans, promotional materials, financing agreements, or other
7 evidence.

8 Sec. 29. Section 8-3024, Revised Statutes Supplement, 2021, is
9 amended to read:

10 8-3024 A digital asset depository is authorized to carry on one or
11 more of the following digital asset business activities:

12 (1) Provide digital asset and cryptocurrency custody services. Such
13 custody services shall not be provided for a digital asset or
14 cryptocurrency unless the digital asset or cryptocurrency was: ÷

15 (a) Initially offered for public trade more than six months prior to
16 the date of the custody services; or

17 (b) Created or issued by any bank, savings bank, savings and loan
18 association, or building and loan association organized under the laws of
19 this state or organized under the laws of the United States to do
20 business in this state;

21 (2) Issue stablecoins and hold deposits at a Federal Deposit
22 Insurance Corporation-insured financial institution which has a main-
23 chartered office in this state, any branch thereof in this state, or any
24 branch of the financial institution which maintained a main-chartered
25 office in this state prior to becoming a branch of such financial
26 institution that serves as reserves for stablecoins; and

27 (3) Use independent node verification networks and stablecoins for
28 payment activities.

29 Sec. 30. Section 21-17,115, Revised Statutes Supplement, 2021, is
30 amended to read:

31 21-17,115 Notwithstanding any of the other provisions of the Credit

1 Union Act or any other Nebraska statute, any credit union incorporated
2 under the laws of the State of Nebraska and organized under the
3 provisions of the act shall have all the rights, powers, privileges,
4 benefits, and immunities which may be exercised as of January 1, 2022
5 ~~2021~~, by a federal credit union doing business in Nebraska on the
6 condition that such rights, powers, privileges, benefits, and immunities
7 shall not relieve such credit union from payment of state taxes assessed
8 under any applicable laws of this state.

9 Sec. 31. Section 30-3850, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 30-3850 (UTC 505) (a) Whether or not the terms of a trust contain a
12 spendthrift provision, the following rules apply:

13 (1) During the lifetime of the settlor, the property of a revocable
14 trust is subject to claims of the settlor's creditors.

15 (2) With respect to an irrevocable trust:

16 (A) A ~~—~~ a creditor or assignee of the settlor may reach the maximum
17 amount that can be distributed to or for the settlor's benefit. If a
18 trust has more than one settlor, the amount the creditor or assignee of a
19 particular settlor may reach may not exceed the settlor's interest in the
20 portion of the trust attributable to that settlor's contribution.

21 (B) A trustee's discretionary authority to pay directly to the
22 taxing authorities or to reimburse the settlor for any tax on trust
23 income or principal, that is payable by the settlor under the law
24 imposing the tax, shall not be considered to be an amount that can be
25 distributed to or for the settlor's benefit, and a creditor or assignee
26 of the settlor shall not be entitled to reach any amount solely by reason
27 of this discretionary authority.

28 (C) Anything in the Nebraska Uniform Trust Code to the contrary
29 notwithstanding, the settlor shall not be considered to be a beneficiary
30 of an irrevocable trust solely by reason of the trustee's authority to
31 pay directly to the taxing authorities or to reimburse the settlor for

1 any tax on trust income or principal that is payable by the settlor under
2 the law imposing the tax, whether such authority arises pursuant to
3 subsection (b) of section 30-3881 or the terms of the trust.

4 (3) After the death of a settlor, and subject to the settlor's right
5 to direct the source from which liabilities will be paid, the property of
6 a trust that was revocable at the settlor's death is subject to claims of
7 the settlor's creditors, costs of administration of the settlor's estate,
8 the expenses of the settlor's funeral and disposal of remains, and
9 statutory allowances to a surviving spouse and children to the extent the
10 settlor's probate estate is inadequate to satisfy those claims, costs,
11 expenses, and allowances. A proceeding to assert the liability for claims
12 against the estate and statutory allowances may not be commenced unless
13 the personal representative has received a written demand by the
14 surviving spouse, a creditor, a child, or a person acting for a child of
15 the decedent. The proceeding must be commenced within one year after the
16 death of the decedent. Sums recovered by the personal representative of
17 the settlor's estate must be administered as part of the decedent's
18 estate. The liability created by this subdivision shall not apply to any
19 assets to the extent that such assets are otherwise exempt under the laws
20 of this state or under federal law.

21 (4) A beneficiary of a trust subject to subdivision (a)(3) of this
22 section who receives one or more distributions from the trust after the
23 death of the settlor against whom a proceeding to account is brought may
24 join as a party to the proceeding any other beneficiary who has received
25 a distribution from that trust or any other trust subject to subdivision
26 (a)(3) of this section, any surviving owner or beneficiary under sections
27 30-2734 to 30-2745 of any other security or securities account of the
28 decedent or proceeds thereof, or a surviving party or beneficiary of any
29 account under sections 30-2716 to 30-2733.

30 (5) Unless a written notice asserting that a decedent's probate
31 estate is insufficient to pay allowed claims and statutory allowances has

1 been received from the decedent's personal representative before the
2 distribution, a trustee is released from liability under this section on
3 any assets distributed to the trust's beneficiaries.

4 (b) For purposes of this section:

5 (1) during the period the power may be exercised, the holder of a
6 power of withdrawal is treated in the same manner as the settlor of a
7 revocable trust to the extent of the property subject to the power; and

8 (2) upon the lapse, release, or waiver of the power, the holder is
9 treated as the settlor of the trust only to the extent the value of the
10 property affected by the lapse, release, or waiver exceeds the greater of
11 the amount specified in section 2041(b)(2), 2503(b), or 2514(e) of the
12 Internal Revenue Code as defined in section 49-801.01.

13 Sec. 32. Section 30-3881, Revised Statutes Cumulative Supplement,
14 2020, is amended to read:

15 30-3881 (UTC 816) (a) Without limiting the authority conferred by
16 section 30-3880, a trustee may:

17 (1) collect trust property and accept or reject additions to the
18 trust property from a settlor or any other person;

19 (2) acquire or sell property, for cash or on credit, at public or
20 private sale;

21 (3) exchange, partition, or otherwise change the character of trust
22 property;

23 (4) deposit trust money in an account in a regulated financial-
24 service institution;

25 (5) borrow money, including from the trustee, with or without
26 security, and mortgage or pledge trust property for a period within or
27 extending beyond the duration of the trust;

28 (6) with respect to an interest in a proprietorship, partnership,
29 limited liability company, business trust, corporation, or other form of
30 business or enterprise, continue the business or other enterprise and
31 take any action that may be taken by shareholders, members, or property

1 owners, including merging, dissolving, or otherwise changing the form of
2 business organization or contributing additional capital;

3 (7) with respect to stocks or other securities, exercise the rights
4 of an absolute owner, including the right to:

5 (A) vote, or give proxies to vote, with or without power of
6 substitution, or enter into or continue a voting trust agreement;

7 (B) hold a security in the name of a nominee or in other form
8 without disclosure of the trust so that title may pass by delivery;

9 (C) pay calls, assessments, and other sums chargeable or accruing
10 against the securities, and sell or exercise stock subscription or
11 conversion rights; and

12 (D) deposit the securities with a depository or other regulated
13 financial-service institution;

14 (8) with respect to an interest in real property, construct, or make
15 ordinary or extraordinary repairs to, alterations to, or improvements in,
16 buildings or other structures, demolish improvements, raze existing or
17 erect new party walls or buildings, subdivide or develop land, dedicate
18 land to public use or grant public or private easements, and make or
19 vacate plats and adjust boundaries;

20 (9) enter into a lease for any purpose as lessor or lessee,
21 including a lease or other arrangement for exploration and removal of
22 natural resources, with or without the option to purchase or renew, for a
23 period within or extending beyond the duration of the trust;

24 (10) grant an option involving a sale, lease, or other disposition
25 of trust property or acquire an option for the acquisition of property,
26 including an option exercisable beyond the duration of the trust, and
27 exercise an option so acquired;

28 (11) insure the property of the trust against damage or loss and
29 insure the trustee, the trustee's agents, and beneficiaries against
30 liability arising from the administration of the trust;

31 (12) abandon or decline to administer property of no value or of

1 insufficient value to justify its collection or continued administration;
2 (13) with respect to possible liability for violation of
3 environmental law:

4 (A) inspect or investigate property the trustee holds or has been
5 asked to hold, or property owned or operated by an organization in which
6 the trustee holds or has been asked to hold an interest, for the purpose
7 of determining the application of environmental law with respect to the
8 property;

9 (B) take action to prevent, abate, or otherwise remedy any actual or
10 potential violation of any environmental law affecting property held
11 directly or indirectly by the trustee, whether taken before or after the
12 assertion of a claim or the initiation of governmental enforcement;

13 (C) decline to accept property into trust or disclaim any power with
14 respect to property that is or may be burdened with liability for
15 violation of environmental law;

16 (D) compromise claims against the trust which may be asserted for an
17 alleged violation of environmental law; and

18 (E) pay the expense of any inspection, review, abatement, or
19 remedial action to comply with environmental law;

20 (14) pay or contest any claim, settle a claim by or against the
21 trust, and release, in whole or in part, a claim belonging to the trust;

22 (15) pay taxes, assessments, compensation of the trustee and of
23 employees and agents of the trust, and other expenses incurred in the
24 administration of the trust;

25 (16) exercise elections with respect to federal, state, and local
26 taxes;

27 (17) select a mode of payment under any employee benefit or
28 retirement plan, annuity, or life insurance payable to the trustee,
29 exercise rights thereunder, including exercise of the right to
30 indemnification for expenses and against liabilities, and take
31 appropriate action to collect the proceeds;

1 (18) make loans out of trust property, including loans to a
2 beneficiary on terms and conditions the trustee considers to be fair and
3 reasonable under the circumstances, and the trustee has a lien on future
4 distributions for repayment of those loans;

5 (19) pledge trust property to guarantee loans made by others to the
6 beneficiary;

7 (20) appoint a trustee to act in another jurisdiction with respect
8 to trust property located in the other jurisdiction, confer upon the
9 appointed trustee all of the powers and duties of the appointing trustee,
10 require that the appointed trustee furnish security, and remove any
11 trustee so appointed;

12 (21) pay an amount distributable to a beneficiary who is under a
13 legal disability or who the trustee reasonably believes is incapacitated,
14 by paying it directly to the beneficiary or applying it for the
15 beneficiary's benefit, or by:

16 (A) paying it to the beneficiary's conservator or, if the
17 beneficiary does not have a conservator, the beneficiary's guardian;

18 (B) paying it to the beneficiary's custodian under the Nebraska
19 Uniform Transfers to Minors Act or custodial trustee under the Nebraska
20 Uniform Custodial Trust Act, and, for that purpose, creating a
21 custodianship or custodial trust;

22 (C) if the trustee does not know of a conservator, guardian,
23 custodian, or custodial trustee, paying it to an adult relative or other
24 person having legal or physical care or custody of the beneficiary, to be
25 expended on the beneficiary's behalf; or

26 (D) managing it as a separate fund on the beneficiary's behalf,
27 subject to the beneficiary's continuing right to withdraw the
28 distribution;

29 (22) on distribution of trust property or the division or
30 termination of a trust, make distributions in divided or undivided
31 interests, allocate particular assets in proportionate or

1 disproportionate shares, value the trust property for those purposes, and
2 adjust for resulting differences in valuation;

3 (23) resolve a dispute concerning the interpretation of the trust or
4 its administration by mediation, arbitration, or other procedure for
5 alternative dispute resolution;

6 (24) prosecute or defend an action, claim, or judicial proceeding in
7 any jurisdiction to protect trust property and the trustee in the
8 performance of the trustee's duties;

9 (25) sign and deliver contracts and other instruments that are
10 useful to achieve or facilitate the exercise of the trustee's powers; and

11 (26) on termination of the trust, exercise the powers appropriate to
12 wind up the administration of the trust and distribute the trust property
13 to the persons entitled to it.

14 (b) Except as otherwise provided under the terms of the trust, a
15 trustee, other than a trustee who is a related or subordinate party with
16 respect to the settlor within the meaning of section 672(c) of the
17 Internal Revenue Code as defined in section 49-801.01, may, from time to
18 time, in the trustee's absolute discretion, pay directly to the taxing
19 authorities or reimburse the settlor for any tax on trust income or
20 principal that is payable by the settlor for the portion of the settlor's
21 income tax liability attributable to the trust under sections 671 to 678
22 of the Internal Revenue Code as defined in section 49-801.01 or any
23 similar tax law. A trustee shall not exercise or participate in the
24 exercise of discretion pursuant to this subsection in a manner that (1)
25 would cause the inclusion of the trust assets in the settlor's gross
26 taxable estate for federal estate tax purposes at the time of exercise or
27 (2) is inconsistent with the qualification of all or any portion of the
28 trust for the federal gift or estate tax marital deduction, to the extent
29 the trust is intended to qualify for such deduction.

30 (c) ~~(b)~~ The changes made to this section by Laws 2019, LB593, shall
31 apply retroactively to August 30, 2015.

1 Sec. 33. Section 45-736, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 45-736 The unique identifier of any licensee ~~originating a~~
4 ~~residential mortgage loan~~ shall be clearly shown on all residential
5 mortgage loan application forms, solicitations, or advertisements,
6 including business cards or websites, and any other documents as
7 established by rule, regulation, or order of the director.

8 Sec. 34. Section 58-210.02, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 58-210.02 (1) Economic-impact project means:

11 (a) Any ~~any~~ of the following, whether or not in existence, financed
12 in whole or in part through the use of the federal new markets tax credit
13 described in section 45D of the Internal Revenue Code, and located in a
14 low-income community designated pursuant to section 45D of the Internal
15 Revenue Code or designated by the Department of Economic Development:

16 (i) (a) ~~(a)~~ Any land, building, or other improvement, including, but not
17 limited to, infrastructure;

18 (ii) (b) ~~(b)~~ Any real or personal property;

19 (iii) (c) ~~(c)~~ Any equipment; or and

20 (iv) (d) ~~(d)~~ Any undivided or other interest in any property described
21 in subdivision (1)(a)(i), (1)(a)(ii), or (1)(a)(iii) of this section; or
22 ~~(a), (b), or (c) of this subsection.~~

23 (b) Any of the following, whether or not in existence, which
24 constitutes a qualified opportunity zone business located in one or more
25 certified qualified opportunity zones which is financed in whole or in
26 part through one or more investments acquired by one or more qualified
27 opportunity funds as authorized pursuant to the federal Tax Cuts and Jobs
28 Act, Public Law 115-97:

29 (i) Any land, building, or other improvement, including, but not
30 limited to, infrastructure;

31 (ii) Any real or personal property;

1 (iii) Any equipment; or
2 (iv) Any undivided or other interest in any property described in
3 subdivision (1)(b)(i), (1)(b)(ii), or (1)(b)(iii) of this section.

4 (2) Economic-impact project does not include any operating capital.
5 Sec. 35. Section 58-219, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 58-219 Project shall mean one or more of the following:

8 (1)(a) Rental housing;

9 (b) Residential housing; and

10 (c) Residential energy conservation devices;

11 (2) Agriculture or agricultural enterprise;

12 (3) Any land, building, or other improvement, any real or personal
13 property, or any equipment and any undivided or other interest in any of
14 the foregoing, whether or not in existence, suitable or used for or in
15 connection with any of the following revenue-producing enterprises or two
16 or more such enterprises engaged or to be engaged in:

17 (a) In all areas of the state, manufacturing or industrial
18 enterprises, including assembling, fabricating, mixing, processing,
19 warehousing, distributing, or transporting any products of agriculture,
20 forestry, mining, industry, or manufacturing; pollution control
21 facilities; and facilities incident to the development of industrial
22 sites, including land costs and the costs of site improvements such as
23 drainage, water, storm, and sanitary sewers, grading, streets, and other
24 facilities and structures incidental to the use of such sites for
25 manufacturing or industrial enterprises;

26 (b) In all areas of the state, service enterprises if (i) such
27 facilities constitute new construction or rehabilitation, including
28 hotels or motels, sports and recreation facilities available for use by
29 members of the general public either as participants or spectators, and
30 convention or trade show facilities, (ii) such facilities do not or will
31 not derive a significant portion of their gross receipts from retail

1 sales or utilize a significant portion of their total area for retail
2 sales, and (iii) such facilities are owned or to be owned by a nonprofit
3 entity or a public agency;

4 (c) In blighted areas of the state, service and business enterprises
5 if such facilities constitute new construction, acquisition, or
6 rehabilitation, including, but not limited to, those enterprises
7 specified in subdivision (3)(b) of this section, office buildings, and
8 retail businesses if such facilities are owned or to be owned by a
9 nonprofit entity or a public agency; and

10 (d) In all areas of the state, any land, building, or other
11 improvement and all real or personal property, including furniture and
12 equipment, and any undivided or other interest in any such property,
13 whether or not in existence, suitable or used for or in connection with
14 any hospital, nursing home, nonprofit child care facility, or ~~and~~
15 facilities related and subordinate thereto.

16 Nothing in this subdivision shall be construed to include any rental
17 or residential housing, residential energy conservation device, or
18 agriculture or agricultural enterprise;

19 (4) Any land, building, or other improvement, any real or personal
20 property, or any equipment and any undivided or other interest in any of
21 the foregoing, whether or not in existence, used by a nonprofit entity as
22 an office building, but only if (a) the principal long-term occupant or
23 occupants thereof initially employ at least fifty people, (b) the office
24 building will be used by the principal long-term occupant or occupants as
25 a national, regional, or divisional office, (c) the principal long-term
26 occupant or occupants are engaged in a multistate operation, and (d) the
27 authority makes the findings specified in subdivision (1) of section
28 58-251;

29 (5) Wastewater treatment or safe drinking water project which shall
30 include any project or undertaking which involves the construction,
31 development, rehabilitation, and improvement of wastewater treatment

1 facilities or safe drinking water facilities and is financed by a loan
2 from or otherwise provided financial assistance by the Wastewater
3 Treatment Facilities Construction Loan Fund or any comparable state fund
4 providing money for the financing of safe drinking water facilities;

5 (6) Any cost necessary for abatement of an environmental hazard or
6 hazards in school buildings or on school grounds upon a determination by
7 the school that an actual or potential environmental hazard exists in the
8 school buildings or on the school grounds under its control;

9 (7) Any accessibility barrier elimination project costs necessary
10 for accessibility barrier elimination in school buildings or on school
11 grounds upon a determination by the school that an actual or potential
12 accessibility barrier exists in the school buildings or on the school
13 grounds under its control;

14 (8) Solid waste disposal project which shall include land,
15 buildings, equipment, and improvements consisting of all or part of an
16 area or a facility for the disposal of solid waste, including recycling
17 of waste materials, either publicly or privately owned or operated, and
18 any project or program undertaken by a county, city, village, or entity
19 created pursuant to the Interlocal Cooperation Act or the Joint Public
20 Agency Act for closure, monitoring, or remediation of an existing solid
21 waste disposal area or facility and any undivided or other interest in
22 any of the foregoing;

23 (9) Any affordable housing infrastructure which shall include
24 streets, sewers, storm drains, water, broadband, electrical and other
25 utilities, sidewalks, public parks, public playgrounds, public swimming
26 pools, public recreational facilities, and other community facilities,
27 easements, and similar use rights thereof, as well as improvements
28 preparatory to the development of housing units;

29 (10) Any public safety communication project, including land,
30 buildings, equipment, easements, licenses, and leasehold interests, and
31 any undivided or other interest in any of the foregoing, held for or on

1 behalf of any public safety communication system owned or operated by (a)
2 a joint entity providing public safety communications and created
3 pursuant to the Interlocal Cooperation Act or (b) a joint public agency
4 providing public safety communications and created pursuant to the Joint
5 Public Agency Act; and

6 (11) Economic-impact projects.

7 Sec. 36. Section 58-220, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 58-220 Rental housing shall mean a specific work or improvement
10 within this state undertaken primarily to provide rental dwelling
11 accommodations for low-income or moderate-income persons, which work or
12 improvement shall include the acquisition, construction, reconstruction,
13 or rehabilitation of land, buildings, and improvements thereto and such
14 other nonhousing facilities, including commercial facilities, as may be
15 ~~incidental or appurtenant thereto so long as the cost of such nonhousing~~
16 facilities does not exceed twenty percent of the total cost of the rental
17 housing.

18 Sec. 37. Section 58-221, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 58-221 Residential energy conservation device shall mean any prudent
21 means of reducing the demands for conventional fuels or increasing the
22 supply or efficiency of these fuels in residential housing and shall
23 include, but not be limited to:

24 (1) Caulking and weather stripping of doors and windows;

25 (2) Furnace efficiency modifications, including:

26 (a) Replacement burners, furnaces, heat pumps, or boilers or any
27 combination thereof which, as determined by the Director of Environment
28 and Energy, substantially increases the energy efficiency of the heating
29 system;

30 (b) Any device for modifying flue openings which will increase the
31 energy efficiency of the heating system; and

1 (c) Any electrical or mechanical furnace ignition system which
2 replaces a standing gas pilot light;

3 (3) A clock thermostat;

4 (4) Ceiling, attic, wall, and floor insulation;

5 (5) Water heater insulation;

6 (6) Storm windows and doors, multiglazed windows and doors, and
7 heat-absorbed or heat-reflective glazed window and door materials;

8 (7) Any device which controls demand of appliances and aids load
9 management;

10 (8) Any device to utilize solar energy, biomass, geothermal, or wind
11 power for any residential energy conservation purpose including heating
12 of water and space heating or cooling; and

13 (9) Any other conservation device, renewable energy technology, and
14 specific home improvement necessary to insure the effectiveness of the
15 energy conservation measures as the Director of Environment and Energy by
16 rule or regulation identifies.

17 Sec. 38. Section 58-222, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 58-222 Residential housing shall mean a specific work or improvement
20 within this state undertaken primarily to provide owner-occupied single-
21 ~~family~~ dwelling accommodations for low-income and moderate-income
22 persons, which work or improvement shall include the acquisition,
23 construction, reconstruction, or rehabilitation of land, buildings, and
24 improvements thereto, including residential energy conservation devices,
25 and such other nonhousing facilities, including commercial facilities, as
26 may be ~~incidental or appurtenant thereto so long as the cost of such~~
27 nonhousing facilities does not exceed twenty percent of the total cost of
28 the residential housing , ~~including residential energy conservation~~
29 ~~devices.~~

30 Sec. 39. Section 58-239, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 58-239 The authority is hereby granted all powers necessary or
2 appropriate to carry out and effectuate its public and corporate purposes
3 including:

4 (1) To have perpetual succession as a body politic and corporate and
5 an independent instrumentality exercising essential public functions;

6 (2) To adopt, amend, and repeal bylaws, rules, and regulations not
7 inconsistent with the Nebraska Investment Finance Authority Act, to
8 regulate its affairs, to carry into effect the powers and purposes of the
9 authority, and to conduct its business;

10 (3) To sue and be sued in its own name;

11 (4) To have an official seal and alter it at will;

12 (5) To maintain an office at such place or places within the state
13 as it may designate;

14 (6) To make and execute contracts and all other instruments as
15 necessary or convenient for the performance of its duties and the
16 exercise of its powers and functions under the act;

17 (7) To employ architects, engineers, attorneys, inspectors,
18 accountants, building contractors, financial experts, and such other
19 advisors, consultants, and agents as may be necessary in its judgment and
20 to fix their compensation;

21 (8) To obtain insurance against any loss in connection with its
22 bonds, property, and other assets in such amounts and from such insurers
23 as it deems advisable;

24 (9) To borrow money and issue bonds as provided by the act;

25 (10) To receive and accept from any source aid or contributions of
26 money, property, labor, or other things of value to be held, used, and
27 applied to carry out the purposes of the act subject to the conditions
28 upon which the grants or contributions are made including gifts or grants
29 from any department, agency, or instrumentality of the United States, and
30 to make grants, for any purpose consistent with the act;

31 (11) To enter into agreements with any department, agency, or

1 instrumentality of the United States or this state and with lenders for
2 the purpose of carrying out projects authorized under the act;

3 (12) To enter into contracts or agreements with lenders for the
4 servicing and processing of mortgages or loans pursuant to the act;

5 (13) To provide technical assistance to local public bodies and to
6 for-profit and nonprofit entities in the areas of housing for low-income
7 and moderate-income persons, agricultural enterprises, and community or
8 economic development, to distribute data and information concerning the
9 needs of the state in these areas, and, at the discretion of the
10 authority, to charge reasonable fees for such assistance;

11 (14) To the extent permitted under its contract with the holders of
12 bonds of the authority, to consent to any modification with respect to
13 the rate of interest, time, and payment of any installment of principal
14 or interest or any other term of any contract, loan, loan note, loan note
15 commitment, mortgage, mortgage loan, mortgage loan commitment, lease, or
16 agreement of any kind to which the authority is a party;

17 (15) To the extent permitted under its contract with the holders of
18 bonds of the authority, to enter into contracts with any lender
19 containing provisions enabling it to reduce the rental or carrying
20 charges to persons unable to pay the regular schedule of charges when, by
21 reason of other income or payment by any department, agency, or
22 instrumentality of the United States of America or of the state, the
23 reduction can be made without jeopardizing the economic stability of the
24 project being financed;

25 (16) To acquire by construction, purchase, devise, gift, or lease or
26 any one or more of such methods one or more projects located within this
27 state, except that the authority shall not acquire any projects or parts
28 of such projects by condemnation;

29 (17) To lease to others any or all of its projects for such rentals
30 and upon such terms and conditions as the authority may deem advisable
31 and as are not in conflict with the act;

1 (18) To issue bonds for the purpose of paying the cost of financing
2 any project or projects and to secure the payment of such bonds as
3 provided in the act;

4 (19) To sell and convey any real or personal property and make such
5 order respecting the same as it deems conducive to the best interest of
6 the authority;

7 (20) To make and undertake commitments to make loans to lenders
8 under the terms and conditions requiring the proceeds of the loans to be
9 used by such lenders to make loans for projects. Loan commitments or
10 actual loans shall be originated through and serviced by any bank, trust
11 company, savings and loan association, mortgage banker, or other
12 financial institution authorized to transact business in the state;

13 (21) To hold and dispose of any real or personal property, whether
14 tangible or intangible, and any distributions thereon, transferred to or
15 received by the authority as collateral or in payment of amounts due the
16 authority or otherwise pursuant to state law, in accordance with the act;

17 (22) To invest in, purchase, make commitments to invest in or
18 purchase, and take assignments or make commitments to take assignments of
19 loans made by lenders for the construction, rehabilitation, or purchase
20 of projects;

21 (23) To enter into financing agreements with others with respect to
22 projects to provide financing for such projects upon such terms and
23 conditions as the authority deems advisable to effectuate the public
24 purposes of the act, which projects shall be located within the state-
25 ~~The authority shall not operate any project referred to in this section~~
26 ~~as a business or in any manner except as the lessor or seller of such~~
27 ~~project;~~

28 (24) To enter into financing agreements with any corporation,
29 partnership, limited liability company, or individual or with any county,
30 city, village, or entity created pursuant to the Interlocal Cooperation
31 Act or the Joint Public Agency Act for purposes of financing any solid

1 waste disposal project;

2 (25) To enter into agreements with or purchase or guaranty
3 obligations of political subdivisions of the state, including
4 authorities, agencies, commissions, districts, and instrumentalities
5 thereof, to provide financing for affordable housing infrastructure and
6 to enter into financing agreements with private parties for the purpose
7 of financing infrastructure in connection with the development of
8 affordable housing; and

9 (26) In lieu of providing direct financing as authorized by the
10 Nebraska Investment Finance Authority Act, to guaranty debt obligations
11 of any project owner to whom, and for such purposes as, the authority
12 could otherwise provide direct financing, and the authority may establish
13 a fund or account and limit its obligation on such guaranties to money in
14 such fund or account. Any such guaranty shall contain a statement similar
15 to that required by section 58-255 for bonds issued by the authority.

16 Sec. 40. Section 58-251, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 58-251 Prior to providing financing for a development project as
19 defined by subdivision (3) of section 58-219, the authority shall make
20 specific findings relating to the public purposes to be effectuated
21 thereby, including but not limited to (1) with respect to a project as
22 defined in subdivision (3)(a), (3)(b), or (3)(c) of section 58-219, the
23 project's effect on the economic base, the tax base, tax revenue, and
24 employment opportunities, and (2) with respect to a project as defined in
25 subdivision (3)(d) of section 58-219, the project's effect on the
26 provision, including the continued provision, of health care, child care,
27 and related services.

28 Sec. 41. Section 59-1722, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 59-1722 (1) Any transaction involving the sale of a franchise as
31 defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1,

1 2022 ~~2021~~, shall be exempt from the Seller-Assisted Marketing Plan Act,
2 except that such transactions shall be subject to subdivision (1)(d) of
3 section 59-1757, those provisions regulating or prescribing the use of
4 the phrase buy-back or secured investment or similar phrases as set forth
5 in sections 59-1726 to 59-1728 and 59-1751, and all sections which
6 provide for their enforcement. The exemption shall only apply if:

7 (a) The franchise is offered and sold in compliance with the
8 requirements of 16 C.F.R. part 436, Disclosure Requirements and
9 Prohibitions Concerning Franchising, as such part existed on January 1,
10 2022 ~~2021~~;

11 (b) Before placing any advertisement in a Nebraska-based
12 publication, offering for sale to any prospective purchaser in Nebraska,
13 or making any representations in connection with such offer or sale to
14 any prospective purchaser in Nebraska, the seller files a notice with the
15 Department of Banking and Finance which contains (i) the name, address,
16 and telephone number of the seller and the name under which the seller
17 intends to do business and (ii) a brief description of the plan offered
18 by the seller; and

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

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

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

28 (4) The Director of Banking and Finance may by order deny or revoke
29 an exemption specified in this section with respect to a particular
30 offering of one or more business opportunities if the director finds that
31 such an order is in the public interest or is necessary for the

1 protection of purchasers. An order shall not be entered without
2 appropriate prior notice to all interested parties, an opportunity for
3 hearing, and written findings of fact and conclusions of law. If the
4 public interest or the protection of purchasers so requires, the director
5 may by order summarily deny or revoke an exemption specified in this
6 section pending final determination of any proceedings under this
7 section. An order under this section shall not operate retroactively.

8 Sec. 42. Section 62-301, Revised Statutes Cumulative Supplement,
9 2020, is amended to read:

10 62-301 (1) For the purposes of the Uniform Commercial Code and
11 section 62-301.01, the following days shall be holidays: New Year's Day,
12 January 1; Birthday of Martin Luther King, Jr., the third Monday in
13 January; President's Day, the third Monday in February; Arbor Day, the
14 last Friday in April; Memorial Day, the last Monday in May; Juneteenth
15 National Independence Day, June 19; Independence Day, July 4; Labor Day,
16 the first Monday in September; Indigenous Peoples' Day and Columbus Day,
17 the second Monday in October; Veterans Day, November 11, and the
18 federally recognized holiday therefor, or either of them; Thanksgiving
19 Day, the fourth Thursday in November; the day after Thanksgiving; and
20 Christmas Day, December 25. If any such holiday falls on Sunday, the
21 following Monday shall be a holiday. If the date designated by the state
22 for observance of any legal holiday enumerated in this section, except
23 Veterans Day, is different from the date of observance of such holiday
24 pursuant to a federal holiday schedule, the federal holiday schedule
25 shall be observed.

26 (2) Any bank doing business in this state may, by a brief written
27 notice at, on, or near its front door, fully dispense with or restrict,
28 to such extent as it may determine, the hours within which it will be
29 open for business.

30 (3) Any bank may close on Saturday if it states such fact by a brief
31 written notice at, on, or near its front door. When such bank will, in

1 observance of such a notice, not be open for general business, such day
2 shall, with respect to the particular bank, be the equivalent of a
3 holiday as fully as if such day were listed in subsection (1) of this
4 section, and any act authorized, required, or permitted to be performed
5 at, by, or with respect to such bank which will, in observance of such
6 notice, not be open for general business, acting in its own behalf or in
7 any capacity whatever, may be performed on the next succeeding business
8 day and no liability or loss of rights on the part of any person shall
9 result from such delay.

10 (4) Any bank which, by the notice provided for by subsection (3) of
11 this section, has created the holiday for such bank may, without
12 destroying the legal effect of the holiday for it and solely for the
13 convenience of its customers, remain open all or part of such day in a
14 limited fashion by treating every transaction with its customers on such
15 day as though the transaction had taken place immediately upon the
16 opening of such bank on the first following business day.

17 (5) Whenever the word bank is used in this section it includes
18 building and loan association, savings and loan association, credit
19 union, savings bank, trust company, investment company, and any other
20 type of financial institution.

21 Sec. 43. Section 69-2103, Revised Statutes Supplement, 2021, is
22 amended to read:

23 69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

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

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

31 (3) Consumer means a natural person who rents property under a

1 consumer rental purchase agreement;

2 (4) Consumer rental purchase agreement means an agreement which is
3 for the use of property by a consumer primarily for personal, family, or
4 household purposes, which is for an initial period of four months or
5 less, whether or not there is any obligation beyond the initial period,
6 which is automatically renewable with each payment, and which permits the
7 consumer to become the owner of the property. A consumer rental purchase
8 agreement in compliance with the act shall not be construed to be a lease
9 or agreement which constitutes a credit sale as defined in 12 C.F.R.
10 1026.2(a)(16), as such regulation existed on January 1, 2022 ~~2021~~, and 15
11 U.S.C. 1602(h), as such section existed on January 1, 2022 ~~2021~~, or a
12 lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2,
13 as such regulation existed on January 1, 2022 ~~2021~~. Consumer rental
14 purchase agreement does not include:

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

16 (b) Any lease made to an organization;

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

19 (d) A security interest as defined in subdivision (35) of section
20 1-201, Uniform Commercial Code; and

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

22 (5) Consummation means the occurrence of an event which causes a
23 consumer to become contractually obligated on a consumer rental purchase
24 agreement;

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

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

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

1 period;

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

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

9 (11) Total of payments to acquire ownership means the total of all
10 charges imposed by the lessor and payable by the consumer as a condition
11 of acquiring ownership of the property. Total of payments to acquire
12 ownership includes lease payments and any initial nonrefundable
13 administrative fee or required delivery charge but does not include
14 taxes, late charges, reinstatement fees, or charges for optional products
15 or services.

16 Sec. 44. Section 69-2104, Revised Statutes Supplement, 2021, is
17 amended to read:

18 69-2104 (1) Before entering into any consumer rental purchase
19 agreement, the lessor shall disclose to the consumer the following items
20 as applicable:

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

23 (b) The number, amount, and timing of all payments included in the
24 total of payments to acquire ownership;

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

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

29 (e) A statement that the total of payments to acquire ownership does
30 not include other charges such as taxes, late charges, reinstatement
31 fees, or charges for optional products or services the consumer may have

1 elected to purchase and that the consumer should see the rental purchase
2 agreement for an explanation of these charges;

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

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

10 (h) A statement of the cash price of the property. When the
11 agreement involves a lease for two or more items, a statement of the
12 aggregate cash price of all items shall satisfy the requirement of this
13 subdivision;

14 (i) The total amount of the initial payments required to be paid
15 before consummation of the agreement or delivery of the property,
16 whichever occurs later, and an itemization of the components of the
17 initial payment, including any initial nonrefundable administrative fee
18 or delivery charge, lease payment, taxes, or fee or charge for optional
19 products or services;

20 (j) A statement clearly summarizing the terms of the consumer's
21 options to purchase, including a statement that at any time after the
22 first periodic payment is made the consumer may acquire ownership of the
23 property by tendering an amount which may not exceed fifty-five percent
24 of the difference between the total of payments to acquire ownership and
25 the total of lease payments the consumer has paid on the property at that
26 time;

27 (k) A statement identifying the party responsible for maintaining or
28 servicing the property while it is being leased, together with a
29 description of that responsibility and a statement that if any part of a
30 manufacturer's warranty covers the leased property at the time the
31 consumer acquires ownership of the property, such warranty shall be

1 transferred to the consumer if allowed by the terms of the warranty; and

2 (1) The date of the transaction and the names of the lessor and the
3 consumer.

4 (2) With respect to matters specifically governed by the federal
5 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
6 existed on January 1, 2022 ~~2021~~, compliance with such act shall satisfy
7 the requirements of this section.

8 (3) Subsection (1) of this section shall not apply to a lessor who
9 complies with the disclosure requirements of the federal Consumer Credit
10 Protection Act, 15 U.S.C. 1667a, as such section existed on January 1,
11 2022 ~~2021~~, with respect to a consumer rental purchase agreement entered
12 into with a consumer.

13 Sec. 45. Section 69-2112, Revised Statutes Supplement, 2021, is
14 amended to read:

15 69-2112 (1) Any advertisement for a consumer rental purchase
16 agreement which refers to or states the amount of any payment or the
17 right to acquire ownership for any specific item shall also state clearly
18 and conspicuously the following if applicable:

19 (a) That the transaction advertised is a consumer rental purchase
20 agreement;

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

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

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

27 (3) Subsection (1) of this section shall not apply to an
28 advertisement which does not refer to a specific item of property, which
29 does not refer to or state the amount of any payment, or which is
30 published in the yellow pages of a telephone directory or any similar
31 directory of business.

1 (4) With respect to matters specifically governed by the federal
2 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
3 existed on January 1, 2022 ~~2021~~, compliance with such act shall satisfy
4 the requirements of this section.

5 Sec. 46. Section 76-2201, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 76-2201 Sections 76-2201 to 76-2250 and section 50 of this act shall
8 be known and may be cited as the Real Property Appraiser Act.

9 Sec. 47. Section 76-2203, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 76-2203 For purposes of the Real Property Appraiser Act, the
12 definitions found in sections 76-2203.01 to 76-2219.02 and section 50 of
13 this act shall be used.

14 Sec. 48. Section 76-2207.23, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 76-2207.23 Completed application means an application for
17 credentialing has been processed, all statutory requirements for a
18 credential to be issued ~~awarded~~ have been met by the applicant, and all
19 required documentation is submitted to the board for final consideration.

20 Sec. 49. Section 76-2207.30, Revised Statutes Supplement, 2021, is
21 amended to read:

22 76-2207.30 Financial Institutions Reform, Recovery, and Enforcement
23 Act of 1989 means the act as it existed on January 1, 2022 ~~2021~~.

24 Sec. 50. PAREA program means a practical applications of real
25 estate appraisal program approved by the Appraiser Qualifications Board
26 as prescribed by rules and regulations of the Real Property Appraiser
27 Board.

28 Sec. 51. Section 76-2218, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 76-2218 (1) Except as provided in subsections (2) through (6) ~~(2)~~
31 ~~and (3)~~ of this section, two-year continuing education period means the

1 period of twenty-four months commencing on January 1 and completed on
2 December 31 of the following year.

3 (2) ~~For a In the case of~~ new real property appraiser credential
4 holders credentialed prior to July 1 pursuant to section 76-2228.01,
5 76-2230, 76-2231.01, or 76-2232, two-year continuing education period
6 means the period commencing on the date of initial credentialing and
7 completed on December 31 of the following year.

8 (3) ~~For a In the case of~~ new real property appraiser credential
9 holders credentialed on or and after July 1 pursuant to section
10 76-2228.01, 76-2230, 76-2231.01, or 76-2232, two-year continuing
11 education period means the period of twenty-four months commencing on
12 January 1 of the ~~following~~ year following the date of initial
13 credentialing.

14 (4) For a new real property appraiser credentialed pursuant to
15 section 76-2233 who held a valid credential of the same class to engage
16 in real property appraisal practice under the laws of another
17 jurisdiction on January 1 of the year in which the credential was issued
18 by the board, two-year continuing education period means the period of
19 twenty-four months commencing on January 1 of the year in which the
20 credential was issued by the board.

21 (5) For a new real property appraiser credentialed pursuant to
22 section 76-2233 who (a) did not hold a valid credential of the same class
23 to engage in real property appraisal practice under the laws of another
24 jurisdiction on January 1 of the year in which the credential was issued
25 by the board and (b) was credentialed pursuant to section 76-2233 prior
26 to July 1, two-year continuing education period means the period
27 commencing on the date of initial credentialing and completed on December
28 31 of the following year.

29 (6) For a new real property appraiser credentialed pursuant to
30 section 76-2233 who (a) did not hold a valid credential of the same class
31 to engage in real property appraisal practice under the laws of another

1 jurisdiction on January 1 of the year in which the credential was issued
2 by the board and (b) was credentialed pursuant to section 76-2233 on or
3 after July 1, two-year continuing education period means the period of
4 twenty-four months commencing on January 1 of the year following the date
5 of initial credentialing.

6 Sec. 52. Section 76-2221, Revised Statutes Supplement, 2021, is
7 amended to read:

8 76-2221 The Real Property Appraiser Act shall not apply to:

9 (1) Any person who is a salaried employee of (a) the federal
10 government, (b) any agency of the state government or a political
11 subdivision which appraises real estate, (c) any insurance company
12 authorized to do business in this state, or (d) any bank, savings bank,
13 savings and loan association, building and loan association, credit
14 union, or small loan company licensed by this state or supervised or
15 regulated by or through federal enactments covering financial
16 institutions who renders an estimate or opinion of value of real estate
17 or any interest in real estate when such estimate or opinion is rendered
18 in connection with the salaried employee's employment for an entity
19 listed in subdivisions (a) through (d) of this subdivision, except that
20 any salaried employee of the entities listed in subdivisions (a) through
21 (d) of this subdivision who signs a report as a credentialed real
22 property appraiser shall be subject to the act and the Uniform Standards
23 of Professional Appraisal Practice. Any salaried employee of the entities
24 listed in subdivisions (a) through (d) of this subdivision who is a
25 credentialed real property appraiser and who does not sign a report as a
26 credentialed real property appraiser shall include the following
27 disclosure prominently with such report: This opinion of value may not
28 meet the minimum standards contained in the Uniform Standards of
29 Professional Appraisal Practice and is not governed by the Real Property
30 Appraiser Act;

31 (2) A person referred to in subsection (1) of section 81-885.16;

1 (3) Any person who provides assistance (a) in obtaining the data
2 upon which assignment results are based, (b) in the physical preparation
3 of a report, such as taking photographs, preparing charts, maps, or
4 graphs, or typing or printing the report, or (c) that does not directly
5 involve the exercise of judgment in arriving at the assignment results
6 set forth in the report;

7 (4) Any owner of real estate, employee of the owner, or attorney
8 licensed to practice law in this state representing the owner who renders
9 an estimate or opinion of value of the real estate or any interest in the
10 real estate when such estimate or opinion is for the purpose of real
11 estate taxation, or any other person who renders such an estimate or
12 opinion of value when that estimate or opinion requires a specialized
13 knowledge that a real property appraiser would not have, ~~except that a~~
14 ~~real property appraiser or a person licensed under the Nebraska Real~~
15 ~~Estate License Act is not exempt under this subdivision;~~

16 (5) Any owner of real estate, employee of the owner, or attorney
17 licensed to practice law in this state representing the owner who renders
18 an estimate or opinion of value of real estate or any interest in real
19 estate or damages thereto when such estimate or opinion is offered as
20 testimony in any condemnation proceeding, or any other person who renders
21 such an estimate or opinion when that estimate or opinion requires a
22 specialized knowledge that a real property appraiser would not have,
23 ~~except that a real property appraiser or a person licensed under the~~
24 ~~Nebraska Real Estate License Act is not exempt under this subdivision;~~

25 (6) Any owner of real estate, employee of the owner, or attorney
26 licensed to practice law in this state representing the owner who renders
27 an estimate or opinion of value of the real estate or any interest in the
28 real estate when such estimate or opinion is offered in connection with a
29 legal matter involving real property;

30 (7) Any person appointed by a county board of equalization to act as
31 a referee pursuant to section 77-1502.01, except that any person who also

1 practices as an independent real property appraiser for others shall be
2 subject to the Real Property Appraiser Act and shall be credentialed
3 prior to engaging in such other real property appraisal practice. Any
4 real property appraiser appointed to act as a referee pursuant to section
5 77-1502.01 and who prepares a report for the county board of equalization
6 shall not sign such report as a credentialed real property appraiser and
7 shall include the following disclosure prominently with such report: This
8 opinion of value may not meet the minimum standards contained in the
9 Uniform Standards of Professional Appraisal Practice and is not governed
10 by the Real Property Appraiser Act;

11 (8) Any person who is appointed to serve as an appraiser pursuant to
12 section 76-706, except that if such person is a credential holder, he or
13 she shall (a) be subject to the scope of practice applicable to his or
14 her classification of credential and (b) comply with the Uniform
15 Standards of Professional Appraisal Practice, excluding standards 1
16 through 10; or

17 (9) Any person, including an independent contractor, retained by a
18 county to assist in the appraisal of real property as performed by the
19 county assessor of such county subject to the standards established by
20 the Tax Commissioner pursuant to section 77-1301.01. A person so retained
21 shall be under the direction and responsibility of the county assessor.

22 Sec. 53. Section 76-2230, Revised Statutes Supplement, 2021, is
23 amended to read:

24 76-2230 (1) To qualify for a credential as a licensed residential
25 real property appraiser, an applicant shall:

26 (a) Be at least nineteen years of age;

27 (b) Hold a high school diploma or a certificate of high school
28 equivalency or have education acceptable to the Real Property Appraiser
29 Board;

30 (c)(i) Have successfully completed and passed examination for no
31 fewer than one hundred fifty class hours in Real Property Appraiser

1 Board-approved qualifying education courses conducted by education
2 providers as prescribed by rules and regulations of the Real Property
3 Appraiser Board and completed the fifteen-hour National Uniform Standards
4 of Professional Appraisal Practice Course. Each course shall include a
5 proctored, closed-book examination pertinent to the material presented;
6 or

7 (ii) Hold a degree in real estate from an accredited degree-awarding
8 college or university that has had all or part of its curriculum approved
9 by the Appraiser Qualifications Board as required core curriculum or the
10 equivalent as determined by the Appraiser Qualifications Board. If the
11 degree in real estate or equivalent as approved by the Appraiser
12 Qualifications Board does not satisfy all required qualifying education
13 for credentialing, the remaining class hours shall be completed in Real
14 Property Appraiser Board-approved qualifying education pursuant to
15 subdivision (c)(i) of this subsection;

16 (d)(i) ~~(d)~~ Have no fewer than one thousand hours of experience as
17 prescribed by rules and regulations of the Real Property Appraiser Board.
18 The required experience shall be acceptable to the Real Property
19 Appraiser Board and subject to review and determination as to conformity
20 with the Uniform Standards of Professional Appraisal Practice. The
21 experience shall have occurred during a period of no fewer than six
22 months; or

23 (ii) Successfully complete a PAREA program. If the PAREA program
24 does not satisfy all required experience for credentialing, the remaining
25 experience hours shall be completed pursuant to subdivision (d)(i) of
26 this subsection;

27 (e) Submit two copies of legible ink-rolled fingerprint cards or
28 equivalent electronic fingerprint submissions to the Real Property
29 Appraiser Board for delivery to the Nebraska State Patrol in a form
30 approved by both the Nebraska State Patrol and the Federal Bureau of
31 Investigation. A fingerprint-based national criminal history record check

1 shall be conducted through the Nebraska State Patrol and the Federal
2 Bureau of Investigation with such record check to be carried out by the
3 Real Property Appraiser Board; and

4 (f) Within the twelve months following approval of the applicant's
5 education and experience by the Real Property Appraiser Board, pass a
6 licensed residential real property appraiser examination, certified
7 residential real property appraiser examination, or certified general
8 real property appraiser examination, approved by the Appraiser
9 Qualifications Board, prescribed by rules and regulations of the Real
10 Property Appraiser Board, and administered by a contracted testing
11 service.

12 (2) To qualify for an upgraded credential, a licensed residential
13 real property appraiser shall satisfy the appropriate requirements as
14 follows:

15 (a) Submit two copies of legible ink-rolled fingerprint cards or
16 equivalent electronic fingerprint submissions to the Real Property
17 Appraiser Board for delivery to the Nebraska State Patrol in a form
18 approved by both the Nebraska State Patrol and the Federal Bureau of
19 Investigation. A fingerprint-based national criminal history record check
20 shall be conducted through the Nebraska State Patrol and the Federal
21 Bureau of Investigation with such record check to be carried out by the
22 Real Property Appraiser Board; and

23 (b) Within the twelve months following approval of the applicant's
24 education and experience by the Real Property Appraiser Board for an
25 upgraded credential, pass an appropriate examination approved by the
26 Appraiser Qualifications Board for that upgraded credential, prescribed
27 by rules and regulations of the Real Property Appraiser Board, and
28 administered by a contracted testing service.

29 (3) To qualify for a credential as a certified residential real
30 property appraiser, a licensed residential real property appraiser shall:

31 (a)(i) Meet the postsecondary educational requirements pursuant to

1 subdivisions (1)(b) and (c) of section 76-2231.01; or

2 (ii)(A) Have held a credential as a licensed residential real
3 property appraiser for a minimum of five years; and

4 (B) Not have been subject to a nonappealable disciplinary action by
5 the board or any other jurisdiction, which action limited the real
6 property appraiser's legal eligibility to engage in real property
7 appraisal practice within five years immediately preceding the date of
8 application for the certified residential real property appraiser
9 credential;

10 (b) Successfully complete and pass proctored, closed-book
11 examinations for no fewer than fifty additional class hours in board-
12 approved qualifying education courses conducted by education providers as
13 prescribed by rules and regulations of the board, or hold a degree in
14 real estate from an accredited degree-awarding college or university or
15 equivalent pursuant to subdivision (1)(d)(ii) of section 76-2231.01; and

16 (c) Meet the experience requirements pursuant to subdivision (1)(e)
17 of section 76-2231.01.

18 (4) To qualify for a credential as a certified general real property
19 appraiser, a licensed residential real property appraiser shall:

20 (a) Meet the postsecondary educational requirements pursuant to
21 subdivisions (1)(b) and (c) of section 76-2232;

22 (b) Successfully complete and pass proctored, closed-book
23 examinations for no fewer than one hundred fifty additional class hours
24 in board-approved qualifying education courses conducted by education
25 providers as prescribed by rules and regulations of the board, or hold a
26 degree in real estate from an accredited degree-awarding college or
27 university or equivalent pursuant to subdivision (1)(d)(ii) of section
28 76-2232; and

29 (c) Meet the experience requirements pursuant to subdivision (1)(e)
30 of section 76-2232.

31 (5) An appraiser holding a valid licensed residential real property

1 appraiser credential shall satisfy the requirements for the trainee real
2 property appraiser credential for a downgraded credential.

3 (6) The scope of practice for a licensed residential real property
4 appraiser shall be limited to real property appraisal practice concerning
5 noncomplex residential real property or real estate having no more than
6 four units, if any, with a transaction value of less than one million
7 dollars and complex residential real property or real estate having no
8 more than four units, if any, with a transaction value of less than four
9 hundred thousand dollars. The appraisal of subdivisions for which a
10 development analysis or appraisal is necessary is not included in the
11 scope of practice for a licensed residential real property appraiser.

12 Sec. 54. Section 76-2231.01, Revised Statutes Supplement, 2021, is
13 amended to read:

14 76-2231.01 (1) To qualify for a credential as a certified
15 residential real property appraiser, an applicant shall:

16 (a) Be at least nineteen years of age;

17 (b)(i) Hold a bachelor's degree, or higher, from an accredited
18 degree-awarding college or university;

19 (ii) Hold an associate's degree from an accredited degree-awarding
20 community college, college, or university in the study of business
21 administration, accounting, finance, economics, or real estate;

22 (iii) Successfully complete thirty semester hours of college-level
23 education from an accredited degree-awarding community college, college,
24 or university that includes:

25 (A) Three semester hours in each of the following: English
26 composition; microeconomics; macroeconomics; finance; algebra, geometry,
27 or higher mathematics; statistics; computer science; and business law or
28 real estate law; and

29 (B) Three semester hours each in two elective courses in any of the
30 topics listed in subdivision (b)(iii)(A) of this subsection, or in
31 accounting, geography, agricultural economics, business management, or

1 real estate;

2 (iv) Successfully complete thirty semester hours of the College-
3 Level Examination Program ~~from an accredited degree-awarding community~~
4 ~~college, college, or university~~ that includes:

5 (A) Three ~~three~~ semester hours in each of the following subject
6 matter areas: College algebra; ~~college composition;~~ college composition
7 modular; ~~college mathematics;~~ principles of macroeconomics; principles of
8 microeconomics; introductory business law; and information systems; and
9 ~~or~~

10 (B) Six semester hours in each of the following subject matter
11 areas: College composition; and college mathematics; or

12 (v) Successfully complete any combination of subdivisions (b)(iii)
13 and (iv) of this subsection that ensures coverage of all topics and hours
14 identified in subdivision (b)(iii) of this subsection;

15 (c) Have his or her education evaluated for equivalency by one of
16 the following if the college degree is from a foreign country:

17 (i) An accredited degree-awarding college or university;

18 (ii) A foreign degree credential evaluation service company that is
19 a member of the National Association of Credential Evaluation Services;
20 or

21 (iii) A foreign degree credential evaluation service company that
22 provides equivalency evaluation reports accepted by an accredited degree-
23 awarding college or university;

24 (d)(i) Have successfully completed and passed examination for no
25 fewer than two hundred class hours in Real Property Appraiser Board-
26 approved qualifying education courses conducted by education providers as
27 prescribed by rules and regulations of the Real Property Appraiser Board
28 and completed the fifteen-hour National Uniform Standards of Professional
29 Appraisal Practice Course. Each course shall include a proctored, closed-
30 book examination pertinent to the material presented; or

31 (ii) Hold a degree in real estate from an accredited degree-awarding

1 college or university that has had all or part of its curriculum approved
2 by the Appraiser Qualifications Board as required core curriculum or the
3 equivalent as determined by the Appraiser Qualifications Board. If the
4 degree in real estate or equivalent as approved by the Appraiser
5 Qualifications Board does not satisfy all required qualifying education
6 for credentialing, the remaining class hours shall be completed in Real
7 Property Appraiser Board-approved qualifying education pursuant to
8 subdivision (d)(i) of this subsection;

9 (e)(i) ~~(e)~~ Have no fewer than one thousand five hundred hours of
10 experience as prescribed by rules and regulations of the Real Property
11 Appraiser Board. The required experience shall be acceptable to the Real
12 Property Appraiser Board and subject to review and determination as to
13 conformity with the Uniform Standards of Professional Appraisal Practice.
14 The experience shall have occurred during a period of no fewer than
15 twelve months; or

16 (ii) Successfully complete a PAREA program. If the PAREA program
17 does not satisfy all required experience for credentialing, the remaining
18 experience hours shall be completed pursuant to subdivision (e)(i) of
19 this subsection;

20 (f) Submit two copies of legible ink-rolled fingerprint cards or
21 equivalent electronic fingerprint submissions to the Real Property
22 Appraiser Board for delivery to the Nebraska State Patrol in a form
23 approved by both the Nebraska State Patrol and the Federal Bureau of
24 Investigation. A fingerprint-based national criminal history record check
25 shall be conducted through the Nebraska State Patrol and the Federal
26 Bureau of Investigation with such record check to be carried out by the
27 Real Property Appraiser Board; and

28 (g) Within the twelve months following approval of the applicant's
29 education and experience by the Real Property Appraiser Board, pass a
30 certified residential real property appraiser examination or certified
31 general real property appraiser examination, approved by the Appraiser

1 Qualifications Board, prescribed by rules and regulations of the Real
2 Property Appraiser Board, and administered by a contracted testing
3 service.

4 (2) To qualify for an upgraded credential, a certified residential
5 real property appraiser shall satisfy the following requirements:

6 (a) Submit two copies of legible ink-rolled fingerprint cards or
7 equivalent electronic fingerprint submissions to the Real Property
8 Appraiser Board for delivery to the Nebraska State Patrol in a form
9 approved by both the Nebraska State Patrol and the Federal Bureau of
10 Investigation. A fingerprint-based national criminal history record check
11 shall be conducted through the Nebraska State Patrol and the Federal
12 Bureau of Investigation with such record check to be carried out by the
13 Real Property Appraiser Board; and

14 (b) Within the twelve months following approval of the applicant's
15 education and experience by the Real Property Appraiser Board for an
16 upgrade to a certified general real property appraiser credential, pass a
17 certified general real property appraiser examination approved by the
18 Appraiser Qualifications Board, prescribed by rules and regulations of
19 the Real Property Appraiser Board, and administered by a contracted
20 testing service.

21 (3) To qualify for a credential as a certified general real property
22 appraiser, a certified residential real property appraiser shall:

23 (a) Meet the postsecondary educational requirements pursuant to
24 subdivisions (1)(b) and (c) of section 76-2232;

25 (b) Successfully complete and pass proctored, closed-book
26 examinations for no fewer than one hundred additional class hours in
27 board-approved qualifying education courses conducted by education
28 providers as prescribed by rules and regulations of the board, or hold a
29 degree in real estate from an accredited degree-awarding college or
30 university or equivalent pursuant to subdivision (1)(d)(ii) of section
31 76-2232; and

1 (c) Meet the experience requirements pursuant to subdivision (1)(e)
2 of section 76-2232.

3 (4) A certified residential real property appraiser shall satisfy
4 the requirements for the trainee real property appraiser credential and
5 licensed residential real property appraiser credential for a downgraded
6 credential. If requested, evidence acceptable to the Real Property
7 Appraiser Board concerning the experience shall be presented along with
8 an application in the form of written reports or file memoranda.

9 (5) The scope of practice for a certified residential real property
10 appraiser shall be limited to real property appraisal practice concerning
11 residential real property or real estate having no more than four
12 residential units, if any, without regard to transaction value or
13 complexity. The appraisal of subdivisions for which a development
14 analysis or appraisal is necessary is not included in the scope of
15 practice for a certified residential real property appraiser.

16 Sec. 55. Section 76-2232, Revised Statutes Supplement, 2021, is
17 amended to read:

18 76-2232 (1) To qualify for a credential as a certified general real
19 property appraiser, an applicant shall:

20 (a) Be at least nineteen years of age;

21 (b) Hold a bachelor's degree, or higher, from an accredited degree-
22 awarding college or university;

23 (c) Have his or her education evaluated for equivalency by one of
24 the following if the college degree is from a foreign country:

25 (i) An accredited degree-awarding college or university;

26 (ii) A foreign degree credential evaluation service company that is
27 a member of the National Association of Credential Evaluation Services;

28 or

29 (iii) A foreign degree credential evaluation service company that
30 provides equivalency evaluation reports accepted by an accredited degree-
31 awarding college or university;

1 (d)(i) Have successfully completed and passed examination for no
2 fewer than three hundred class hours in Real Property Appraiser Board-
3 approved qualifying education courses conducted by education providers as
4 prescribed by rules and regulations of the Real Property Appraiser Board
5 and completed the fifteen-hour National Uniform Standards of Professional
6 Appraisal Practice Course. Each course shall include a proctored, closed-
7 book examination pertinent to the material presented; or

8 (ii) Hold a degree in real estate from an accredited degree-awarding
9 college or university that has had all or part of its curriculum approved
10 by the Appraiser Qualifications Board as required core curriculum or the
11 equivalent as determined by the Appraiser Qualifications Board. If the
12 degree in real estate or equivalent as approved by the Appraiser
13 Qualifications Board does not satisfy all required qualifying education
14 for credentialing, the remaining class hours shall be completed in Real
15 Property Appraiser Board-approved qualifying education pursuant to
16 subdivision (d)(i) of this subsection;

17 (e)(i) ~~(e)~~ Have no fewer than three thousand hours of experience, of
18 which one thousand five hundred hours shall be in nonresidential
19 appraisal work, as prescribed by rules and regulations of the Real
20 Property Appraiser Board. The required experience shall be acceptable to
21 the Real Property Appraiser Board and subject to review and determination
22 as to conformity with the Uniform Standards of Professional Appraisal
23 Practice. The experience shall have occurred during a period of no fewer
24 than eighteen months; or

25 (ii) Successfully complete a PAREA program. If the PAREA program
26 does not satisfy all required experience for credentialing, the remaining
27 experience hours shall be completed pursuant to subdivision (e)(i) of
28 this subsection;

29 (f) Submit two copies of legible ink-rolled fingerprint cards or
30 equivalent electronic fingerprint submissions to the Real Property
31 Appraiser Board for delivery to the Nebraska State Patrol in a form

1 approved by both the Nebraska State Patrol and the Federal Bureau of
2 Investigation. A fingerprint-based national criminal history record check
3 shall be conducted through the Nebraska State Patrol and the Federal
4 Bureau of Investigation with such record check to be carried out by the
5 Real Property Appraiser Board; and

6 (g) Within the twelve months following approval of the applicant's
7 education and experience by the Real Property Appraiser Board, pass a
8 certified general real property appraiser examination, approved by the
9 Appraiser Qualifications Board, prescribed by rules and regulations of
10 the Real Property Appraiser Board, and administered by a contracted
11 testing service.

12 (2) A certified general real property appraiser shall satisfy the
13 requirements for the trainee real property appraiser credential, licensed
14 residential real property appraiser credential, and certified residential
15 real property appraiser credential for a downgraded credential. If
16 requested, evidence acceptable to the Real Property Appraiser Board
17 concerning the experience shall be presented along with an application in
18 the form of written reports or file memoranda.

19 (3) The scope of practice for the certified general real property
20 appraiser shall include real property appraisal practice concerning all
21 types of real property or real estate that appraiser is competent to
22 engage in.

23 Sec. 56. Section 76-2233.01, Revised Statutes Cumulative Supplement,
24 2020, is amended to read:

25 76-2233.01 (1) A nonresident currently credentialed to engage in
26 real property appraisal practice concerning real estate and real property
27 under the laws of another jurisdiction may obtain a temporary credential
28 as a licensed residential real property appraiser, a certified
29 residential real property appraiser, or a certified general real property
30 appraiser to engage in real property appraisal practice in this state.

31 (2) To qualify for the issuance of a temporary credential, an

1 applicant shall:

2 (a) Submit an application on a form approved by the board;

3 (b) Submit a letter of engagement or a contract indicating the
4 location of the real property appraisal practice assignment—and
5 completion date;

6 (c) Submit an irrevocable consent that service of process upon him
7 or her may be made by delivery of the process to the director of the
8 board if the plaintiff cannot, in the exercise of due diligence, effect
9 personal service upon the applicant in an action against the applicant in
10 a court of this state arising out of the applicant's activities in this
11 state; and

12 (d) Pay the appropriate application fee in an amount established by
13 the board pursuant to section 76-2241.

14 (3) The credential status of an applicant under this section,
15 including current standing and any disciplinary action imposed against
16 his or her credentials, shall be verified through the National Registry
17 of the Appraisal Subcommittee of the Federal Financial Institutions
18 Examination Council.

19 (4) Application for a temporary credential is valid for one year
20 from the date application is made to the board or upon the expiration of
21 the assignment specified in the letter of engagement, whichever occurs
22 first.

23 (5) A temporary credential issued under this section shall be
24 expressly limited to a grant of authority to engage in real property
25 appraisal practice required for an assignment in this state. Each
26 temporary credential shall expire upon the completion of the assignment
27 or upon the expiration of a period of six months from the date of
28 issuance, whichever occurs first. A temporary credential may be renewed
29 for one additional six-month period.

30 (6) Any person issued a temporary credential to engage in real
31 property appraisal practice in this state shall comply with all of the

1 provisions of the Real Property Appraiser Act relating to the appropriate
2 classification of credentialing. The board may, upon its own motion, and
3 shall, upon the written complaint of any aggrieved person, cause an
4 investigation to be made with respect to an alleged violation of the act
5 by a person who is engaged in, or who has engaged in, real property
6 appraisal practice as a temporary credential holder, and that person
7 shall be deemed a real property appraiser within the meaning of the act.

8 Sec. 57. Section 76-2236, Revised Statutes Cumulative Supplement,
9 2020, is amended to read:

10 76-2236 (1) Every credential holder shall furnish evidence to the
11 board that he or she has satisfactorily completed no fewer than twenty-
12 eight hours of approved continuing education activities in each two-year
13 continuing education period. ~~The continuing education period begins on~~
14 ~~January 1 of the next year for any credential holder who first obtained~~
15 ~~his or her credential at the current level on or after July 1.~~ Hours of
16 satisfactorily completed approved continuing education activities cannot
17 be carried over from one two-year continuing education period to another.
18 Evidence of successful completion of such continuing education activities
19 for the two-year continuing education period, including passing
20 examination if applicable, shall be submitted to the board in the manner
21 prescribed by the board. No continuing education activity shall be less
22 than two hours in duration. A person who holds a temporary credential
23 does not have to meet any continuing education requirements in the Real
24 Property Appraiser Act.

25 (2) As prescribed by rules and regulations of the Real Property
26 Appraiser Board and at least once every two years, the seven-hour
27 National Uniform Standards of Professional Appraisal Practice Update
28 Course as approved by the Appraiser Qualifications Board or the
29 equivalent of the course as approved by the Real Property Appraiser
30 Board, shall be included in the continuing education requirement of each
31 credential holder. An instructor certified by the Appraiser

1 Qualifications Board satisfies this requirement by successfully
2 completing a seven-hour instructor recertification course and examination
3 as approved by the Appraiser Qualifications Board.

4 (3) A continuing education activity conducted in another
5 jurisdiction in which the activity is approved to meet the continuing
6 education requirements for renewal of a credential in such other
7 jurisdiction shall be accepted by the board if that jurisdiction has
8 adopted and enforces standards for such continuing education activity
9 that meet or exceed the standards established by the Real Property
10 Appraiser Act and the rules and regulations of the board.

11 (4) The board may adopt a program of continuing education for
12 individual credentials as long as the program is compliant with the
13 Appraiser Qualifications Board's criteria specific to continuing
14 education.

15 (5) No more than fourteen hours may be approved by the Real Property
16 Appraiser Board as continuing education in each two-year continuing
17 education period for participation, other than as a student, in appraisal
18 educational processes and programs, which includes teaching, program
19 development, authorship of textbooks, or similar activities that are
20 determined by the board to be equivalent to obtaining continuing
21 education. Evidence of participation shall be submitted to the board upon
22 completion of the appraisal educational process or program. No
23 preapproval will be granted for participation in appraisal educational
24 processes or programs.

25 (6) Qualifying education, as approved by the board, successfully
26 completed by a credential holder to fulfill the class-hour requirement to
27 upgrade to a higher classification than his or her current
28 classification, shall be approved by the board as continuing education.

29 (7) Qualifying education, as approved by the board, taken by a
30 credential holder not to fulfill the class-hour requirement to upgrade to
31 a higher classification, shall be approved by the board as continuing

1 education if the credential holder completes the examination.

2 (8) A board-approved supervisory real property appraiser and trainee
3 course successfully completed by a certified real property appraiser
4 shall be approved by the board as continuing education no more than once
5 during each two-year continuing education period.

6 (9) The Real Property Appraiser Board shall approve continuing
7 education activities and instructors which it determines would protect
8 the public by improving the competency of credential holders.

9 Sec. 58. Section 77-2387, Revised Statutes Cumulative Supplement,
10 2020, is amended to read:

11 77-2387 For purposes of the Public Funds Deposit Security Act,
12 unless the context otherwise requires:

13 (1) Affiliate means any entity that controls, is controlled by, or
14 is under common control with another entity;

15 (2) Bank means any state-chartered or federally chartered bank which
16 has a main chartered office in this state, any branch thereof in this
17 state, or any branch in this state of a state-chartered or federally
18 chartered bank which maintained a main chartered office in this state
19 prior to becoming a branch of such state-chartered or federally chartered
20 bank;

21 (3) Capital stock financial institution means a capital stock state
22 building and loan association, a capital stock federal savings and loan
23 association, a capital stock federal savings bank, and a capital stock
24 state savings bank, which has a main chartered office in this state, any
25 branch thereof in this state, or any branch in this state of a capital
26 stock financial institution which maintained a main chartered office in
27 this state prior to becoming a branch of such capital stock financial
28 institution;

29 (4) Control means to own directly or indirectly or to control in any
30 manner twenty-five percent of the voting shares of any bank, capital
31 stock financial institution, or holding company or to control in any

1 manner the election of the majority of directors of any bank, capital
2 stock financial institution, or holding company;

3 (5) Custodial official means an officer or an employee of the State
4 of Nebraska or any political subdivision who, by law, is made custodian
5 of or has control over public money or public funds subject to the act or
6 the security for the deposit of public money or public funds subject to
7 the act;

8 (6) Deposit guaranty bond means a bond underwritten by an insurance
9 company authorized to do business in this state which provides coverage
10 for deposits of a governing authority which are in excess of the amounts
11 insured or guaranteed by the Federal Deposit Insurance Corporation;

12 (7) Director means the Director of Banking and Finance;

13 (8) Event of default means the issuance of an order by a supervisory
14 authority or a receiver which restrains a bank, capital stock financial
15 institution, or qualifying mutual financial institution from paying its
16 deposit liabilities;

17 (9) Governing authority means the official, or the governing board,
18 council, or other body or group of officials, authorized to designate a
19 bank, capital stock financial institution, or qualifying mutual financial
20 institution as a depository of public money or public funds subject to
21 the act;

22 (10) Governmental unit means the State of Nebraska or any political
23 subdivision thereof;

24 (11) Political subdivision means any county, city, village,
25 township, district, authority, or other public corporation or entity,
26 whether organized and existing under direct provisions of the
27 Constitution of Nebraska or laws of the State of Nebraska or by virtue of
28 a charter, corporate articles, or other legal instruments executed under
29 authority of the constitution or laws, including any entity created
30 pursuant to the Interlocal Cooperation Act or the Joint Public Agency
31 Act;

1 (12) Qualifying mutual financial institution shall have the same
2 meaning as in section 77-2365.01;

3 (13) Repurchase agreement means an agreement to purchase securities
4 by the governing authority by which the counterparty bank, capital stock
5 financial institution, or qualifying mutual financial institution will
6 repurchase the securities on or before a specified date and for a
7 specified amount and the counterparty bank, capital stock financial
8 institution, or qualifying mutual financial institution will deliver the
9 underlying securities to the governing authority by book entry, physical
10 delivery, or third-party custodial agreement. The transfer of underlying
11 securities to the counterparty bank's, capital stock financial
12 institution's, or qualifying mutual financial institution's customer book
13 entry account may be used for book entry delivery if the governing
14 authority so chooses; and

15 (14) Securities means:

16 (a) Bonds or obligations fully and unconditionally guaranteed both
17 as to principal and interest by the United States Government;

18 (b) United States Government notes, certificates of indebtedness, or
19 treasury bills of any issue;

20 (c) United States Government bonds;

21 (d) United States Government guaranteed bonds or notes;

22 (e) Bonds or notes of United States Government agencies;

23 (f) Bonds of any state or political subdivision which are fully
24 defeased as to principal and interest by any combination of bonds or
25 notes authorized in subdivision (c), (d), or (e) of this subdivision;

26 (g) Bonds or obligations, including mortgage-backed securities and
27 collateralized mortgage obligations, issued by or backed by collateral
28 one hundred percent guaranteed by the Federal Home Loan Mortgage
29 Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or
30 the Federal National Mortgage Association;

31 (h) Student loans backed or partially guaranteed by the United

1 States Department of Education;

2 (i) Repurchase agreements the subject securities of which are any of
3 the securities described in subdivisions (a) through (g) of this
4 subdivision;

5 (j) Securities issued under the authority of the Federal Farm Loan
6 Act;

7 (k) Loan participations which carry the guarantee of the Commodity
8 Credit Corporation, an instrumentality of the United States Department of
9 Agriculture;

10 (l) Guaranty agreements of the Small Business Administration of the
11 United States Government;

12 (m) Bonds or obligations of any county, city, village, metropolitan
13 utilities district, public power and irrigation district, sewer district,
14 fire protection district, rural water district, or school district in
15 this state which have been issued as required by law;

16 (n) Bonds of the State of Nebraska or of any other state which are
17 purchased by the Board of Educational Lands and Funds of this state for
18 investment in the permanent school fund or which are purchased by the
19 state investment officer of this state for investment in the permanent
20 school fund;

21 (o) Bonds or obligations of another state, or a political
22 subdivision of another state, which are rated within the two highest
23 classifications by at least one of the standard rating services, with
24 such classifications to include the underlying credit rating or enhanced
25 credit rating, whichever is higher, with respect to bonds or obligations
26 of a political subdivision of another state;

27 (p) Warrants of the State of Nebraska;

28 (q) Warrants of any county, city, village, local hospital district,
29 or school district in this state;

30 (r) Irrevocable, nontransferable, unconditional standby letters of
31 credit issued by a Federal Home Loan Bank; and

1 (s) Certificates of deposit fully insured or guaranteed by the
2 Federal Deposit Insurance Corporation that are issued to a bank, capital
3 stock financial institution, or qualifying mutual financial institution
4 furnishing securities pursuant to the Public Funds Deposit Security Act.

5 Sec. 59. Section 4A-108, Uniform Commercial Code, Revised Statutes
6 Supplement, 2021, is amended to read:

7 4A-108 Relationship to federal Electronic Fund Transfer Act.

8 (a) Except as provided in subsection (b), this article does not
9 apply to a funds transfer any part of which is governed by the federal
10 Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed
11 on January 1, 2022 ~~2021~~.

12 (b) This article applies to a funds transfer that is a remittance
13 transfer as defined in the federal Electronic Fund Transfer Act, 15
14 U.S.C. 1693o-1, as such section existed on January 1, 2022 ~~2021~~, unless
15 the remittance transfer is an electronic fund transfer as defined in the
16 federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section
17 existed on January 1, 2022 ~~2021~~.

18 (c) In a funds transfer to which this article applies, in the event
19 of an inconsistency between an applicable provision of this article and
20 an applicable provision of the federal Electronic Fund Transfer Act, the
21 provision of the federal Electronic Fund Transfer Act governs to the
22 extent of the inconsistency.

23 Sec. 60. Sections 5, 6, 7, 8, 12, 13, 14, 22, 29, 31, 32, 33, 34,
24 35, 36, 37, 38, 39, 40, and 62 of this act become operative three
25 calendar months after the adjournment of this legislative session. The
26 other sections of this act become operative on their effective date.

27 Sec. 61. If any section in this act or any part of any section is
28 declared invalid or unconstitutional, the declaration shall not affect
29 the validity or constitutionality of the remaining portions.

30 Sec. 62. Original sections 8-148.06, 8-1502, 30-3850, 45-736,
31 58-210.02, 58-219, 58-220, 58-221, 58-222, 58-239, and 58-251, Reissue

1 Revised Statutes of Nebraska, sections 1-162.01, 8-108, 8-124, 8-148.07,
2 8-148.08, and 30-3881, Revised Statutes Cumulative Supplement, 2020, and
3 sections 8-101.03 and 8-3024, Revised Statutes Supplement, 2021, are
4 repealed.

5 Sec. 63. Original sections 59-1722, 76-2201, 76-2203, 76-2207.23,
6 and 76-2218, Reissue Revised Statutes of Nebraska, sections 62-301,
7 76-2233.01, 76-2236, and 77-2387, Revised Statutes Cumulative Supplement,
8 2020, sections 8-135, 8-141, 8-143.01, 8-157.01, 8-183.04, 8-1,140,
9 8-318, 8-355, 8-1101, 8-1101.01, 8-1704, 8-1707, 8-2724, 8-2903, 8-3005,
10 8-3007, 21-17,115, 69-2103, 69-2104, 69-2112, 76-2207.30, 76-2221,
11 76-2230, 76-2231.01, and 76-2232, Revised Statutes Supplement, 2021, and
12 section 4A-108, Uniform Commercial Code, Revised Statutes Supplement,
13 2021, are repealed.

14 Sec. 64. Since an emergency exists, this act takes effect when
15 passed and approved according to law.