



Hundredth Legislature - First Session - 2007
Introducer's Statement of Intent
LB 122

Chairperson: Rich Pahls
Committee: Banking, Commerce and Insurance
Date of Hearing: January 29, 2007

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 122 is a bill introduced at the request of the Nebraska Department of Banking and Finance. Its primary purpose is to update and revise the laws relating to assessments, examination costs, and fees collected by the Director of Banking and Finance. The following is a description of this proposed legislation and the reasons supporting this proposal.

Section 8-601 is the current section authorizing the director to assess state-chartered depository financial institutions an annual fee to help pay the expenses, including salaries, of the department. Monies collected from this assessment and from a number of sources, including examination costs of financial institutions and financial entities, are placed in the Financial Institution Assessment Cash Fund pursuant to a number of statutes. LB 122 repeals existing provisions of section 8-601 and places proposed updates into six sections by subject matter. Section 2 and sections 4 to 8 contain the substantive revisions.

Section 1 amends section 8-108 which is the statute authorizing the director to conduct examinations of financial institutions and their holding companies, if any. The amendment is a cross-referencing update to section 7, which contains the guidelines for calculating the financial institution assessment.

Section 2 repeals the current language of section 8-601 and reconstitutes a portion of existing language that authorizes the director to levy assessments on financial institutions with the approval of the Governor. The section is updated by including a list of the acts under the jurisdiction of the department that contribute to the Financial Institution Assessment Cash Fund.

Section 3 amends section 8-602 which is the section listing the fees to be charged by the department for certain applications and services. The amendment repeals language relating to the disposition of the money collected, as updated language is now included in section 2.

Section 4 is a new section which brings together in one section the various types of monies which are paid to the department pursuant to existing law and deposited in the Financial Institution Assessment Cash Fund.

Section 5 is a new section recreating the existing Financial Institution Assessment Cash Fund (currently found in subsection (2) of section 8-601) and restating the purpose of the fund with a cross-reference to updated section 8-601. This section also provides for the investment of funds awaiting appropriation.

Section 6 sets forth an updated procedure for determining the amount of the financial institution assessment. On an annual basis (immediately following June 30), the director is to estimate the amount that will be collected from the fees listed in section 4 and estimate the amount needed to administer the laws set forth in sections 1 and 5. The difference between the two is the basis for the assessment. (Subsection (1).)

As in current law, the assessment is to be based on the total assets of each financial institution. There are three updates contained in this provision. First, current law requires the department to set a per diem fee for examination hours as part of the assessment. That requirement is outdated and is no longer a part of the assessment calculation. Second, the law will provide that the asset amount is to be determined by reference to the institution's June 30th Report of Condition. Third, the director may include in the asset calculation fiduciary and related assets and the total amount of off-balance sheet receivables held by an institution. In some cases, this will result in a more accurate assessment. (Subsection (2).)

Subsection 3 of section 6 provides authority for the director to prorate the assessment for any financial institution which receives or surrenders its charter or license during the assessment period. This revision will allow the director to fairly assess such institutions for the actual time that they have been in operation as a state-chartered entity.

Subsection 4 of section 6 provides authority to the director to make a special assessment if the amount levied during a fiscal year is insufficient. This provision moves language currently found in subsection (2) of section 8-601.

Section 7 is a new section relating to department examination costs. This proposal would provide for an hourly cost to be set annually after consultation with the Governor, for a fee difference if the financial institution or entity being examined is also subject to the assessment statutes, and for the collection of special examination and investigation costs. This section also authorizes the department to bill travel costs to out-of-state financial institutions and entities and to in-state financial institutions and entities with out-of-state offices, if out-of-state travel is required for examinations or investigations.

Section 8 is a new section to allow for department administrative action when a financial institution or entity fails to pay amounts owed to the department. Administrative action would include fines and suspension or revocation of charters and licenses, depending on the length of time the amount has remained unpaid. The statute would also authorize the department to accept installment payments for amounts owed the agency.

Sections 9 to 21, are cross-referencing updates to new Sections 6 and 7 and/or to the term "Financial Institution Assessment Cash Fund" for those statutes under the department's jurisdiction that

authorize funds collected to be placed in the Financial Institution Assessment Cash Fund. The following chart sets forth the amendments in the order of placement in LB 122:

| <u>Bill Section #</u> | <u>Subject Matter</u> | <u>Statute Section</u> |
|------------------------------|--|-------------------------------|
| 9 | Bank Holding Companies | 8-915 |
| 10 | Interstate Bank Branches | 8-2107 |
| 11 | Interstate Trust Offices | 8-2312 |
| 12 | Financial Products Solicitations | 8-2504 |
| 13 | Credit Union Conversions | 21-17,112 |
| 14 | Installment Sales Companies (Fund Reference) | 45-347 |
| 15 | Installment Sales Companies | 45-351 |
| 16 | Mortgage Bankers (Examinations) | 45-710 |
| 17 | Mortgage Bankers (Fund Reference) | 45-716 |
| 18 | Delayed Deposit Services (Examinations) | 45-920 |
| 19 | Delayed Deposit Services (Fund Reference) | 45-927 |
| 20 | Installment Loan Companies (Fund Reference) | 45-1014 |
| 21 | Installment Loan Companies (Examinations) | 45-1017 |

Section 22 of LB 122 repeals the existing sections which are amended by the bill.

Section 23 of LB 123 outright repeals Section 21-1739, which provides for the payment of credit union examination fees. It is repealed because the language is incorporated into earlier provisions of the bill.

Principal Introducer:

Rich Pahls, Chairperson
Committee on Banking, Commerce and Insurance