

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT (CORRECTED)
LB890

Hearing Date: Tuesday January 26, 2010
Committee On: Banking, Commerce and Insurance
Introducer: Pahls
One Liner: Change banking and finance provisions

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Christensen, Gloor, Langemeier, McCoy, Pahls, Pankonin,
Pirsch, Utter

Nay:

Absent:

Present Not Voting:

Proponents:

Senator Rich Pahls
John Munn
Robert Hallstrom
Brandon Luetkenhaus

Representing:

Introducer
NE Dept. of Banking and Finance
NE Bankers Association
NE Credit Union League

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 890 (Pahls), introduced at the request of the Director of Banking and Finance, would amend various sections regarding banking and finance. The bill would provide, section by section, as follows:

BANKING

Section 1 would amend section 8-115.01 of the Nebraska Banking Act to modify the requirement that the Department of Banking and Finance provide notice of the filing of a bank charter application to all other financial institutions located in the county where the main office of the charter would be located, by allowing financial institutions which have more than one office in the county or a main office in another county to designate one office where the notices are to be sent.

Section 2 would amend section 8-142 of the Nebraska Banking Act to provide for increased penalties for violations of the bank lending limit contained in section 8-141. A violation of section 8-141 is currently a Class IV misdemeanor. This section would create a four-tiered system with the penalties scaled to the loss which the bank incurs or the amount by which the violation exceeds the lending limit. The penalties would range from a Class IV felony for violations which result in bank insolvency to a Class III misdemeanor for violations which result in monetary losses of \$10,000 or less or exceed the authorized limit by \$10,000 or more but less than \$20,000.

Section 3 would amend section 8-143 of the Nebraska Banking Act to update language relating to persons who can be held responsible for violations of the lending limit.

Section 4 would amend section 8-157 of the Nebraska Banking Act to modify the requirement that the Department of Banking and Finance provide notice of the filing of a bank branch application to all other financial institutions located in the county where the branch would be located, by allowing financial institutions which have more than one office in the county or a main office in another county to designate one office where the notices are to be sent.

Section 5 would amend section 8-183.04 of the Nebraska Banking Act to provide that the calculation and type of capital necessary for mutual banks shall be the same as required for federal mutual savings associations under 12 CFR part 567, unless the Department of Banking and Finance determines the capital is impaired. If impaired, the department would be required to additional capital amounts.

Section 6 would amend section 8-1,140 of the Nebraska Banking Act, which is the "wild-card" statute for state-chartered banks. This section would be amended to give state-chartered banks the same rights, powers, privileges, benefits, and immunities which may be exercised by a federally chartered bank doing business in Nebraska as of January 1, 2010. Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually.

TRUST COMPANIES

Section 7 would amend section 8-234 of the Nebraska Trust Company Act to modify the requirement that the Department of Banking and Finance provide notice of the filing of a branch trust office application to all other financial institutions located in the county where the branch trust office would be located, by allowing financial institutions which have more than one office in the county or a main office in another county to designate one office where the notices are to be sent.

BUILDING AND LOAN ASSOCIATIONS

Section 8 would amend section 8-355, which is the "wild-card" statute for state-chartered savings and loan associations. This section would be amended to give state-chartered building and loan associations the same rights, powers, privileges, benefits, and immunities which may be exercised by a federal savings and loan association doing business in Nebraska as of January 1, 2010. Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually.

Section 9 would amend section 8-374 to provide that the Department of Banking and Finance shall send notice of an application for a certificate of approval of a stock savings and loan association to all financial institutions in the county where the main office of the association would be located by first-class mail or electronic mail if the financial institution agrees to electronic notices and to allow financial institutions which have more than one office in the county or a main office in another county to designate one office where the notices are to be sent.

HOLDING COMPANIES

Section 10 would amend section 8-908 of the Nebraska Banking Holding Company Act of 1995 to incorporate new section 11 into the Act.

Section 11 would enact a new section to provide the Department of Banking and Finance with the authority to take corrective administrative action when a bank holding company's officer or director is engaging in acts detrimental to the bank holding company or a subsidiary bank. Corrective action in accordance with section 8-1,134 would include, but not be limited to, removal of such persons from their positions and imposition of fines.

ACQUISITIONS OR MERGER OF FINANCIAL INSTITUTIONS

Section 12 would amend section 8-1502 to provide an exception to the requirement that the prior approval of the Department of Banking and Finance is required for a change of control of banks and trust companies for situations where individual owners create a trust for estate planning purposes; the trust holds shares for the individual(s) in the same proportion as the individuals previously held it; control remains with the same individual(s); and prior notice is given to the department.

CREDIT UNIONS

Section 13 would amend section 21-1725.01 of the Credit Union Act to provide that any notices related to credit union

applications that the Department of Banking and Finance is required to send to other financial institutions in an affected county be sent by first class mail, rather than certified mail, and to allow financial institutions which have more than one office in the county or a main office in another county to designate one office where the notices are to be sent.

Section 14 would amend section 21-17,115 of the Credit Union Act, which is the "wild-card" statute for state-chartered credit unions. This section would be amended to give state-chartered credit unions the same rights, powers, privileges, benefits, and immunities which may be exercised by a federal credit union doing business in Nebraska as of January 1, 2010. Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually.

MISCELLANEOUS PROVISIONS

Sections 15 would provide for operative dates.

Section 16 would provide for repealers of amendatory sections not subject to the emergency clause.

Section 17 would provide for repealers of amendatory sections subject to the emergency clause (the wild-card sections).

Section 18 would provide for the emergency clause.

Rich Pahls, Chairperson