

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 762**

Introduced by Pahls, 31.

Read first time January 06, 2010

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to banks and banking; to amend section 8-113,  
2 Revised Statutes Supplement, 2009; to change provisions  
3 relating to the unauthorized use of the word bank; to  
4 repeal the original section; and to declare an emergency.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 8-113, Revised Statutes Supplement,  
2 2009, is amended to read:

3           8-113 (1) No individual, firm, company, corporation,  
4 or association doing business in the State of Nebraska, unless  
5 organized as a bank under the Nebraska Banking Act or the authority  
6 of the federal government, or as a building and loan association,  
7 savings and loan association, or savings bank under Chapter 8,  
8 article 3, or the authority of the federal government, shall use  
9 the word bank or any derivative thereof as any part of a title or  
10 description of any business activity.

11           (2) This section does not apply to:

12           (a) Banks, building and loan associations, savings and  
13 loan associations, or savings banks chartered and supervised by a  
14 foreign state agency;

15           (b) ~~bank~~ Bank holding companies registered pursuant to  
16 section 8-913 if the term holding company is also used as any part  
17 of the title or description of any business activity or if the  
18 derivative banc is used;

19           (c) ~~affiliates~~ Affiliates or subsidiaries of (i) a bank  
20 organized under the Nebraska Banking Act or the authority of the  
21 federal government or chartered and supervised by a foreign state  
22 agency, (ii) a building and loan association, savings and loan  
23 association, or savings bank organized under Chapter 8, article  
24 3, or the authority of the federal government or chartered and  
25 supervised by a foreign state agency, or (iii) a bank holding

1 company registered pursuant to section 8-913 if the term holding  
2 company is also used as any part of the title or description of any  
3 business activity or if the derivative bank is used;

4 (d) ~~organizations~~ Organizations substantially owned by  
5 (i) a bank organized under the Nebraska Banking Act or the  
6 authority of the federal government or chartered and supervised  
7 by a foreign state agency, (ii) a building and loan association,  
8 savings and loan association, or savings bank organized under  
9 Chapter 8, article 3, or the authority of the federal government  
10 or chartered and supervised by a foreign state agency, (iii) a  
11 bank holding company registered pursuant to section 8-913 if the  
12 term holding company is also used as any part of the title or  
13 description of any business activity or if the derivative bank is  
14 used, or (iv) any combination of entities listed in subdivisions  
15 (i) through (iii) of this subdivision;

16 (e) ~~mortgage~~ Mortgage bankers licensed or registered  
17 under the Residential Mortgage Licensing Act, if the word mortgage  
18 immediately precedes the word bank or its derivative;

19 (f) ~~organizations~~ Organizations which are described in  
20 section 501(c)(3) of the Internal Revenue Code as defined in  
21 section 49-801.01, which are and exempt from taxation under section  
22 501(a) of the code, and which are not providing or arranging for  
23 financial services subject to the authority of the department, a  
24 foreign state agency, or the federal government;

25 (g) ~~trade~~ Trade associations which are exempt from

1 taxation under section 501(c)(6) of the code and which represent  
2 a segment of the banking or savings and loan industries, and any  
3 affiliate or subsidiary thereof;

4 (h) ~~firms,~~ Firms, companies, corporations, or  
5 associations which sponsor incentive-based solid waste recycling  
6 programs ~~which~~ that issue reward points or credits to persons for  
7 their participation therein; and

8 (i) ~~such~~ Such other firms, companies, corporations, or  
9 associations as have been in existence and doing business prior to  
10 December 1, 1975, under a name composed in part of the word bank or  
11 some derivative thereof.

12 (3) This section does not apply to an individual, firm,  
13 company, corporation, or association doing business in Nebraska  
14 which uses the word bank or any derivative thereof as any part of  
15 a title or description of any business activity if such use is  
16 unlikely to mislead or confuse the public or give the impression  
17 that such individual, firm, company, corporation, or association  
18 is lawfully organized and operating as a bank under the Nebraska  
19 Banking Act or the authority of the federal government, or as a  
20 building and loan association, savings and loan association, or  
21 savings bank under Chapter 8, article 3, or the authority of the  
22 federal government.

23 ~~(3)~~ (4) Any violation of this section shall be a Class V  
24 misdemeanor.

25 Sec. 2. Original section 8-113, Revised Statutes

1 Supplement, 2009, is repealed.

2                   Sec. 3. Since an emergency exists, this act takes effect

3 when passed and approved according to law.