ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT
LB963

Hearing Date: Monday January 30, 2012
Committee On: Banking, Commerce and Insurance
Introducer: Pahls
One Liner: Change provisions relating to banking and finance

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

Vote Results:

Aye:	7	Senators Christensen, Gloor, Langemeier, McCoy, Pahls, Pirsch, Schumacher
Nay:		
Absent:	1	Senator Schilz
Present Not Voting:		

Proponents:	**Representing:**
Senator Rich Pahls	Introducer
John Munn	NE Department of Banking and Finance
Jerry Stilmock	NE Bankers Association
Brandon Luetkenhaus	NE Credit Union League

Opponents: **Representing:**

Neutral: **Representing:**

Summary of purpose and/or changes:
This bill, introduced at the request of the Director of Banking and Finance, amends various sections regarding banking and finance. The bill provides, section by section as follows:

BANKS
Section 1 amends Section 8-141, the bank lending limit statute, to authorize state banks to engage in derivative transactions in the manner and to the extent of credit exposure determined by the Director of the Department of Banking and Finance ("Department"). The amendment is required by Section 611 of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") Act in order for state-chartered banks to continue to engage in derivative transactions. The amendment also defines the terms "derivative transaction" and "loan" and comes into operation on January 21, 2013, all in accordance with the Dodd-Frank Act.

Section 2 amends Section 8-157, the bank branching statute, to update cross-references to the interstate bank branching statute amended by Section 16 of the bill.

Section 3 amends Section 8-183.05, a statute relating to savings associations converted to banks, to update a cross-reference to the new name of the Interstate Branching by Merger Act of 1997 as provided in Section 14 of the bill.

Section 4 re-enacts the "wild card" statute for banks, Section 8-1,140, to provide parity between state-chartered banks and their federal counterparts, as of January 1, 2012. The law must be re-enacted on an annual basis due to the Nebraska Constitution.

TRUST COMPANIES

Section 5 amends Section 8-209, the statute requiring the pledge of securities to the Department by trust companies and depository financial institutions with trust powers located in Nebraska, to require out-of-state trust companies and entities without a Nebraska office that may be appointed as trustees in Nebraska to pledge securities to the Department to be held against losses by the pledging entity. As an out-of-state trustee with no Nebraska location may now serve as a trustee for Nebraska property without pledging securities, the safety of the trust funds should improve.

Section 6 amends Section 8-212, the statute providing for the use of pledged securities, to correspond with the amendment in Section 5 of the bill.

Section 7 amends Section 8-213, the statute providing for distribution of pledged securities in the case of insolvency of the pledging entity, to correspond with the amendment in Section 5 of the bill.

Section 8 amends Section 8-214, the statute providing for the release of pledged securities in the case where the pledging entity no longer acts in a fiduciary capacity, to correspond with the amendment in Section 5 of the bill.

Section 9 amends Section 8-215, the statute providing for distribution of pledged securities in the case of a voluntary liquidation of the pledging entity, to correspond with the amendment in Section 5 of the bill.

Section 10 amends Section 8-230, the statute defining terms under the Nebraska Trust Company Act, to update the definitions of "agency capacity" and "fiduciary capacity" by removing the term "a trust company" from each definition. The amendment is needed to correspond with the amendment in Section 5 of the bill.

BUILDING AND LOAN ASSOCIATIONS

Section 11 re-enacts Section 8-355, the "wild card" statute for savings and loan associations, to provide parity between state-chartered savings associations and their federal counterparts, as of January 1, 2012. The law must be re-enacted on an annual basis due to the Nebraska Constitution.

DEPARTMENT ASSESSMENTS AND FEES

Section 12 amends Section 8-602, the financial institutions fee statute, to update the cross-reference in subdivision (10) to the pledged securities amendment in Section 5 of the bill; the cross-reference in subdivision (13) to the interstate bank branching updates in Sections 2 and 16 of the bill; and the cross-reference in subdivision (16) to the interstate bank merger amendment in Sections 16 and 17 of the bill. No new fees are imposed by these updates.

FINANCIAL INSTITUTION NAMES

Section 13 amends Section 8-1901, the statute defining terms for the laws which prohibit confusingly similar financial institution names, to provide that the definition of "financial institution" includes out-of-state state-chartered banks.

INTERSTATE BRANCHING BY MERGER

Section 14 amends Section 8-2101 to change the name of the Interstate Branching by Merger Act of 1997 to the Interstate Branching and Merger Act to reflect the amendments in Sections 15 to 17 of the bill. As a result of preemptive provisions of the Dodd-Frank Act, interstate branching is no longer limited to branches established through merger, so the name is no longer appropriate.

Section 15 amends Section 8-2102, to update a reference to the federal statute defining "bank" and to update a cross-reference to the new name of the Interstate Branching by Merger Act of 1997 as provided in Section 14 of the bill.

Section 16 amends Section 8-2103 to provide that with the prior approval of the Director of the Department and payment of an application fee, a state-chartered bank may (1) establish and maintain de novo branches in any other state, and/or (2) merge with a bank in any other state and establish branches as a result of the merger where the Nebraska bank is the resulting (surviving) bank. The effect of this change will be to allow full interstate branching on a de novo basis, while preserving the ability of Nebraska banks to engage in an interstate merger. A third amendment updates the activities that may be conducted at an out-of-state branch to match language in Section 17 of the bill regarding the activities of an out-of-state bank establishing a Nebraska branch.

Section 17 amends Section 8-2104 to provide that an out-of-state bank may (1) establish and maintain de novo branches in Nebraska, and/or (2) merge with a Nebraska bank and establish branches as a result of the merger where the out-of-state bank is the resulting bank. The requirement that the Nebraska bank being acquired be at least five years old is also removed, and the language relating to the activities of Nebraska branches of out-of-state banks is updated as in Section 16 of the bill.

Section 18 amends Section 8-2106, which provides that an interstate merger transaction cannot occur if, after the merger, the surviving bank or its holding company would control more than fourteen percent of the total of deposits of banks and savings associations located in this state, based on calendar year end reports. The amendments would change (1) the fourteen percent "deposit cap" to twenty-two percent to conform to a 2002 amendment to Section 8-910, and (2) the requirement for calendar year-end reports to mid-year reports to conform to a 2000 amendment to Section 8-910.

Section 19 amends Section 8-2107 relating to the authority of the Director of the Department to examine branches of out-of-state state-chartered banks and to require reports from such institutions. Duplicative language relating to examinations is removed as is the requirement for reports, because it places out-of-state state-chartered banks at a disadvantage with their national counterparts. The amendment also updates a cross-reference to the new name of the Interstate Branching by Merger Act of 1997 as provided in Section 14 of the bill.

Section 20 amends Section 8-2108, relating to the closure of an interstate bank branch, to update a cross-reference to the new name of the Interstate Branching by Merger Act of 1997 as provided in Section 14 of the bill.

CREDIT CARD BANKS

Section 21 amends Section 8-2403, relating to credit card banks, to update a cross-reference to the new name of the Interstate Branching by Merger Act of 1997 as provided in Section 14 of the bill.

CREDIT UNIONS

Section 22 would re-enact Section 21-17,115, the "wild card" statute for credit unions, to provide parity between state-chartered credit unions and their federal counterparts, as of January 1, 2012. The law must be re-enacted on an annual basis due to the Nebraska Constitution.

MISCELLANEOUS PROVISIONS

Section 23 contains the amendatory repeal provisions for the bill.

Section 24 would outright repeal Section 8-2105, which provides that out-of-state banks may only establish branches in Nebraska through an interstate merger transaction, because the restriction has been preempted by the Dodd-Frank Act.

Section 25 provides for the emergency clause for the bill.

Rich Pahls, Chairperson