

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 214

Final Reading

Introduced by Gloor, 35.

Read first time January 15, 2013

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to consumer protection; to amend sections 8-1101,
 2 8-1104, 8-1108, 8-1108.02, 8-1109, 8-1111, 8-1114,
 3 8-1120, and 59-1722, Reissue Revised Statutes of
 4 Nebraska, and sections 58-703 and 58-711, Revised
 5 Statutes Cumulative Supplement, 2012; to change
 6 provisions relating to the Securities Act of Nebraska and
 7 the administration of the act and to eliminate
 8 registration by notification provisions; to correct a
 9 reference in the Seller-Assisted Marketing Plan Act; to
 10 harmonize provisions; to repeal the original sections;
 11 and to outright repeal section 8-1105, Reissue Revised
 12 Statutes of Nebraska.

13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-1101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 8-1101 For purposes of the Securities Act of Nebraska,
4 unless the context otherwise requires:

5 (1) Agent means any individual other than a broker-dealer
6 who represents a broker-dealer or issuer in effecting or attempting
7 to effect sales of securities, but agent does not include an
8 individual who represents (a) an issuer in (i) effecting a
9 transaction in a security exempted by subdivision (6), (7), or (8) of
10 section 8-1110, (ii) effecting certain transactions exempted by
11 section 8-1111, (iii) effecting transactions in a federal covered
12 security as described in section 18(b)(3) of the Securities Act of
13 1933, or (iv) effecting transactions with existing employees, limited
14 liability company members, partners, or directors of the issuer or
15 any of its subsidiaries if no commission or other remuneration is
16 paid or given directly or indirectly for soliciting any person in
17 this state or (b) a broker-dealer in effecting transactions described
18 in section 15(h)(2) of the Securities Exchange Act of 1934. A
19 partner, limited liability company member, officer, or director of a
20 broker-dealer is an agent only if he or she otherwise comes within
21 this definition;

22 (2) Broker-dealer means any person engaged in the
23 business of effecting transactions in securities for the account of
24 others or for his or her own account. Broker-dealer does not include
25 (a) an issuer-dealer, agent, bank, savings institution, or trust

1 company, (b) an issuer effecting a transaction in its own security
2 exempted by subdivision (5) of section 8-1110 or which qualifies as a
3 federal covered security pursuant to section 18(b)(1) of the
4 Securities Act of 1933, (c) a person who has no place of business in
5 this state if he or she effects transactions in this state
6 exclusively with or through the issuers of the securities involved in
7 the transactions, other broker-dealers, or banks, savings
8 institutions, trust companies, insurance companies, investment
9 companies as defined in the Investment Company Act of 1940, pension
10 or profit-sharing trusts, or other financial institutions or
11 institutional buyers, whether acting for themselves or as trustees,
12 or (d) a person who has no place of business in this state if during
13 any period of twelve consecutive months he or she does not direct
14 more than five offers to sell or to buy into this state in any manner
15 to persons other than those specified in subdivision (2)(c) of this
16 section;

17 (3) Director means the Director of Banking and Finance of
18 the State of Nebraska except as further provided in section 8-1120;

19 (4) Federal covered adviser means a person who is (a)
20 registered under section 203 of the Investment Advisers Act of 1940
21 or (b) is excluded from the definition of investment adviser under
22 section 202 of the Investment Advisers Act of 1940;

23 (5) Federal covered security means any security described
24 as a covered security under section 18(b) of the Securities Act of
25 1933 or rules and regulations promulgated thereunder;

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

3 (7) Investment adviser means any person who for
4 compensation engages in the business of advising others, either
5 directly or through publications or writings, as to the value of
6 securities or as to the advisability of investing in, purchasing, or
7 selling securities or who for compensation and as a part of a regular
8 business issues or promulgates analyses or reports concerning
9 securities. Investment adviser also includes financial planners and
10 other persons who, as an integral component of other financially
11 related services, provide the foregoing investment advisory services
12 to others for compensation and as part of a business or who hold
13 themselves out as providing the foregoing investment advisory
14 services to others for compensation. Investment adviser does not
15 include (a) an investment adviser representative, (b) a bank, savings
16 institution, or trust company, (c) a lawyer, accountant, engineer, or
17 teacher whose performance of these services is solely incidental to
18 the practice of his or her profession, (d) a broker-dealer or its
19 agent whose performance of these services is solely incidental to its
20 business as a broker-dealer and who receives no special compensation
21 for them, (e) an issuer-dealer, (f) a publisher of any bona fide
22 newspaper, news column, news letter, news magazine, or business or
23 financial publication or service, whether communicated in hard copy
24 form, by electronic means, or otherwise which does not consist of the
25 rendering of advice on the basis of the specific investment situation

1 of each client, (g) a person who has no place of business in this
2 state if (i) his or her only clients in this state are other
3 investment advisers, federal covered advisers, broker-dealers, banks,
4 savings institutions, trust companies, insurance companies,
5 investment companies as defined in the Investment Company Act of
6 1940, pension or profit-sharing trusts, or other financial
7 institutions or institutional buyers, whether acting for themselves
8 or as trustees, or (ii) during the preceding twelve-month period, he
9 or she has had five or fewer clients who are residents of this state
10 other than those persons specified in subdivision (g)(i) of this
11 subdivision, (h) any person that is a federal covered adviser, or (i)
12 such other persons not within the intent of this subdivision as the
13 director may by rule, regulation, or order designate;

14 (8) Investment adviser representative means any partner,
15 limited liability company member, officer, or director or any person
16 occupying a similar status or performing similar functions of a
17 partner, limited liability company member, officer, or director or
18 other individual, except clerical or ministerial personnel, who is
19 employed by or associated with an investment adviser that is
20 registered or required to be registered under the Securities Act of
21 Nebraska or who has a place of business located in this state and is
22 employed by or associated with a federal covered adviser, and who (a)
23 makes any recommendations or otherwise renders advice regarding
24 securities, (b) manages accounts or portfolios of clients, (c)
25 determines which recommendation or advice regarding securities should

1 be given, (d) solicits, offers, or negotiates for the sale of or
2 sells investment advisory services, or (e) supervises employees who
3 perform any of the foregoing;

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

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

25 (11) Nonissuer means not directly or indirectly for the

1 benefit of the issuer;

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

7 (13) Sale or sell includes every contract of sale of,
8 contract to sell, or disposition of a security or interest in a
9 security for value. Offer or offer to sell includes every attempt or
10 offer to dispose of, or solicitation of an offer to buy, a security
11 or interest in a security for value. Any security given or delivered
12 with or as a bonus on account of any purchase of securities or any
13 other thing is considered to constitute part of the subject of the
14 purchase and to have been offered and sold for value. A purported
15 gift of assessable stock shall be considered to involve an offer and
16 sale. Every sale or offer of a warrant or right to purchase or
17 subscribe to another security of the same or another issuer, as well
18 as every sale or offer of a security which gives the holder a present
19 or future right or privilege to convert into another security of the
20 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
23 1934, Investment Advisers Act of 1940, Investment Company Act of
24 1940, and Commodity Exchange Act means the federal statutes of those
25 names as amended on or before January 1, ~~2011~~ 2013;

1 (15) Security means any note, stock, treasury stock,
2 bond, debenture, units of beneficial interest in a real estate trust,
3 evidence of indebtedness, certificate of interest or participation in
4 any profit-sharing agreement, collateral-trust certificate,
5 preorganization certificate or subscription, transferable share,
6 investment contract, viatical settlement contract or any fractional
7 or pooled interest in such contract, membership interest in any
8 limited liability company organized under Nebraska law or any other
9 jurisdiction unless otherwise excluded from this definition, voting-
10 trust certificate, certificate of deposit for a security, certificate
11 of interest or participation in an oil, gas, or mining title or lease
12 or in payments out of production under such a title or lease, in
13 general any interest or instrument commonly known as a security, or
14 any certificate of interest or participation in, temporary or interim
15 certificate for, guarantee of, or warrant or right to subscribe to or
16 purchase any of the foregoing. Security does not include any
17 insurance or endowment policy or annuity contract issued by an
18 insurance company. Security also does not include a membership
19 interest in a limited liability company when all of the following
20 exist: (a) The member enters into a written commitment to be engaged
21 actively and directly in the management of the limited liability
22 company; and (b) all members of the limited liability company are
23 actively engaged in the management of the limited liability company;

24 (16) State means any state, territory, or possession of
25 the United States as well as the District of Columbia and Puerto

1 Rico; and

2 (17) Viatical settlement contract means an agreement for
3 the purchase, sale, assignment, transfer, devise, or bequest of all
4 or any portion of the death benefit or ownership of a life insurance
5 policy or contract for consideration which is less than the expected
6 death benefit of the life insurance policy or contract. Viatical
7 settlement contract does not include (a) the assignment, transfer,
8 sale, devise, or bequest of a death benefit of a life insurance
9 policy or contract made by the viator to an insurance company or to a
10 viatical settlement provider or broker licensed pursuant to the
11 Viatical Settlements Act, (b) the assignment of a life insurance
12 policy or contract to a bank, savings bank, savings and loan
13 association, credit union, or other licensed lending institution as
14 collateral for a loan, or (c) the exercise of accelerated benefits
15 pursuant to the terms of a life insurance policy or contract and
16 consistent with applicable law.

17 Sec. 2. Section 8-1104, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 8-1104 It shall be unlawful for any person to offer or
20 sell any security in this state unless (1) such security is
21 registered ~~by notification under section 8-1105,~~ by coordination
22 under section 8-1106~~7~~, or by qualification under section 8-1107, (2)
23 the security is exempt under section 8-1110 or is sold in a
24 transaction exempt under section 8-1111, or (3) the security is a
25 federal covered security.

1 Sec. 3. Section 8-1108, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 8-1108 (1) A registration statement may be filed by the
4 issuer, by any other person on whose behalf the offering is to be
5 made, or by a registered broker-dealer. Any document filed under the
6 Securities Act of Nebraska or a predecessor act within five years
7 preceding the filing of a registration statement may be incorporated
8 by reference in the registration statement to the extent that the
9 document is currently accurate. The director may by rule and
10 regulation or order permit the omission of any item of information or
11 document from any registration statement.

12 (2) The director may require as a condition of
13 registration by qualification (a) that the proceeds from the sale of
14 the registered security be impounded until the issuer receives a
15 specified amount, (b) that the applicant comply with the federal
16 Securities Act of 1933 if it appears to the director to be in the
17 public interest or that the registered security is or will be offered
18 in such manner as to be subject to such act, (c) such reasonable
19 conditions, restrictions, or limitations upon the offering as may be
20 in the public interest, or (d) that any security issued within the
21 past three years, or to be issued, to a promoter for a consideration
22 substantially different from the public offering price or to any
23 person for a consideration other than cash, be delivered in escrow to
24 him or her or to some other depository satisfactory to him or her
25 under an escrow agreement that the owners of such securities shall

1 not be entitled to sell or transfer such securities or to withdraw
2 such securities from escrow until all other stockholders who have
3 paid for their stock in cash shall have been paid a dividend or
4 dividends aggregating not less than six percent of the initial
5 offering price shown to the satisfaction of the director to have been
6 actually earned on the investment in any common stock so held. The
7 director shall not reject a depository solely because of location in
8 another state. In case of dissolution or insolvency during the time
9 such securities are held in escrow, the owners of such securities
10 shall not participate in the assets until after the owners of all
11 other securities shall have been paid in full.

12 (3) For the registration of securities by ~~notification,~~
13 ~~coordination,~~ or qualification, there shall be paid to the director a
14 registration fee of one-tenth of one percent of the aggregate
15 offering price of the securities which are to be offered in this
16 state, but the fee shall in no case be less than one hundred dollars.
17 When a registration statement is withdrawn before the effective date
18 or a preeffective stop order is entered under section 8-1109, the
19 director shall retain one hundred dollars of the fee. Any issuer who
20 sells securities in this state in excess of the aggregate amount of
21 securities registered may, at the discretion of the director and
22 while such registration is still effective, apply to register the
23 excess securities sold to persons within this state by paying a
24 registration fee of three-tenths of one percent for the difference
25 between the initial fee paid and the fee required in this subsection.

1 Registration of the excess securities, if granted, shall be effective
2 retroactively to the date of the existing registration.

3 (4) When securities are registered by ~~notification,~~
4 ~~coordination,~~ or qualification, they may be offered and sold by a
5 registered broker-dealer. Every registration shall remain effective
6 for one year or until sooner revoked by the director or sooner
7 terminated upon request of the registrant with the consent of the
8 director. All outstanding securities of the same class as a
9 registered security shall be considered to be registered for the
10 purpose of any nonissuer transaction. A registration statement which
11 has become effective may not be withdrawn for one year from its
12 effective date if any securities of the same class are outstanding.

13 (5) The director may require the person who filed the
14 registration statement to file reports, not more often than
15 quarterly, to keep reasonably current the information contained in
16 the registration statement and to disclose the progress of the
17 offering with respect to registered securities which are being
18 offered and sold directly by or for the account of the issuer.

19 (6) A registration of securities shall be effective for a
20 period of one year or such shorter period as the director may
21 determine.

22 Sec. 4. Section 8-1108.02, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 8-1108.02 (1) The director, by rule and regulation or
25 order, may require the filing of any or all of the following

1 documents with respect to a federal covered security under section
2 18(b)(2) of the Securities Act of 1933:

3 (a) Prior to the initial offer of such federal covered
4 security in this state, all documents that are part of a federal
5 registration statement filed with the Securities and Exchange
6 Commission under the Securities Act of 1933, together with a consent
7 to service of process signed by the issuer and with a filing fee as
8 prescribed by section 8-1108.03;

9 (b) After the initial offer of such federal covered
10 security in this state, all documents which are part of any amendment
11 to the federal registration statement filed with the Securities and
12 Exchange Commission under the Securities Act of 1933; and

13 (c) A sales report of the total amount of such federal
14 covered securities offered or sold in this state, together with the
15 filing fee prescribed by section 8-1108.03.

16 (2) With respect to any security that is a federal
17 covered security under section ~~18(b)(4)(D)~~18(b)(4)(E) of the
18 Securities Act of 1933, the director, by rule and regulation or
19 order, may require the issuer to file a notice on SEC Form D and a
20 consent to service of process signed by the issuer no later than
21 fifteen days after the first sale of such federal covered security in
22 this state, together with a filing fee of two hundred dollars.

23 (3) The director, by rule and regulation or order, may
24 require the filing of any document filed with the Securities and
25 Exchange Commission under the Securities Act of 1933 with respect to

1 a federal covered security under section 18(b)(3) or (4), except
2 section 18(b)(4)(E), (A), (B), and (C) of the Securities Act of 1933,
3 together with a filing fee of two hundred dollars.

4 (4) The director may issue a stop order suspending the
5 offer and sale of a federal covered security, except a federal
6 covered security under section 18(b)(1) of the Securities Act of
7 1933, if he or she finds that (a) the order is in the public interest
8 and (b) there is a failure to comply with any condition established
9 under this section or with any other applicable provision of the
10 Securities Act of Nebraska.

11 (5) The director, by rule and regulation or order, may
12 waive any or all of the provisions of this section, except that the
13 director does not have the authority to waive the payment of fees as
14 required by this section.

15 (6) No person may bring an action pursuant to section
16 8-1118 based on the failure of an issuer to file any notice or pay
17 any fee required by this section.

18 (7) All federal covered securities offered or sold in
19 this state must be sold through a registered agent of a broker-dealer
20 registered under the Securities Act of Nebraska or by persons duly
21 exempted or excluded from such registration, except that this
22 subsection shall not apply to the offer or sale of a federal covered
23 security under section ~~18(b)(4)(D)~~ 18(b)(4)(E) of the Securities Act
24 of 1933 if no commission or other remuneration is paid directly or
25 indirectly for soliciting any prospective buyer.

1 Sec. 5. Section 8-1109, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 8-1109 The director may issue a stop order denying
4 effectiveness to, or suspending or revoking the effectiveness of, a
5 registration statement to register securities by ~~notification or~~
6 coordination if he or she finds that the order is in the public
7 interest and that:

8 (1) Any such registration statement registering
9 securities, as of its effective date or as of any earlier date in the
10 case of an order denying effectiveness, is incomplete in any material
11 respect or contains any statement which was, in the light of the
12 circumstances under which it was made, false or misleading with
13 respect to any material fact;

14 (2) Any provision of the Securities Act of Nebraska or
15 any rule, order, or condition lawfully imposed under the act has been
16 violated, in connection with the offering by the person filing the
17 registration statement, the issuer, any partner, limited liability
18 company member, officer, or director of the issuer, any person
19 occupying a similar status or performing similar functions, or any
20 person directly or indirectly controlling or controlled by the
21 issuer, but only if the person filing the registration statement is
22 directly or indirectly controlled by or acting for the issuer or any
23 underwriter;

24 (3) The security registered or sought to be registered is
25 the subject of a permanent or temporary injunction of any court of

1 competent jurisdiction entered under any other federal or state act
2 applicable to the offering. The director may not institute a
3 proceeding against an effective registration statement under this
4 subdivision more than one year from the date of the injunction relied
5 on, and he or she may not enter an order under this subdivision on
6 the basis of an injunction entered under any other state act unless
7 the injunction was based on facts which would currently constitute a
8 ground for a stop order under this section;

9 ~~(4) When a security is sought to be registered by~~
10 ~~notification, it is not eligible for such registration;~~

11 ~~(5)~~(4) When a security is sought to be registered by
12 coordination, there has been a failure to comply with the undertaking
13 required by subdivision (2)(g) of section 8-1106;

14 ~~(6)~~(5) The applicant or registrant has failed to pay the
15 proper registration fee. The director may enter only a denial order
16 under this subdivision and shall vacate any such order when the
17 deficiency has been corrected. The director may not enter an order
18 against an effective registration statement on the basis of a fact or
19 transaction known to him or her when the registration statement
20 became effective;

21 ~~(7)~~(6) The authority of the applicant or registrant to
22 do business has been denied or revoked by any other governmental
23 agency;

24 ~~(8)~~(7) The issuer's or registrant's literature,
25 circulars, or advertising is misleading, incorrect, incomplete, or

1 calculated to deceive the purchaser or investor;

2 ~~(9)~~ (8) All or substantially all the enterprise or
3 business of the issuer, promoter, or guarantor has been found to be
4 unlawful by a final order of a court or administrative agency of
5 competent jurisdiction; or

6 ~~(10)~~ (9) There is a refusal to furnish information
7 required by the director within a reasonable time to be fixed by the
8 director.

9 Sec. 6. Section 8-1111, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 8-1111 Except as provided in this section, sections
12 8-1103 to 8-1109 shall not apply to any of the following
13 transactions:

14 (1) Any isolated transaction, whether effected through a
15 broker-dealer or not;

16 (2)(a) Any nonissuer transaction by a registered agent of
17 a registered broker-dealer, and any resale transaction by a sponsor
18 of a unit investment trust registered under the Investment Company
19 Act of 1940, in a security of a class that has been outstanding in
20 the hands of the public for at least ninety days if, at the time of
21 the transaction:

22 (i) The issuer of the security is actually engaged in
23 business and not in the organization stage or in bankruptcy or
24 receivership and is not a blank check, blind pool, or shell company
25 whose primary plan of business is to engage in a merger or

1 combination of the business with, or an acquisition of, an
2 unidentified person or persons;

3 (ii) The security is sold at a price reasonably related
4 to the current market price of the security;

5 (iii) The security does not constitute the whole or part
6 of an unsold allotment to, or a subscription or participation by, the
7 broker-dealer as an underwriter of the security;

8 (iv) A nationally recognized securities manual designated
9 by rule and regulation or order of the director or a document filed
10 with the Securities and Exchange Commission which is publicly
11 available through the Electronic Data Gathering, Analysis, and
12 Retrieval System (EDGAR) contains:

13 (A) A description of the business and operations of the
14 issuer;

15 (B) The names of the issuer's officers and the names of
16 the issuer's directors, if any, or, in the case of a non-United-
17 States issuer, the corporate equivalents of such persons in the
18 issuer's country of domicile;

19 (C) An audited balance sheet of the issuer as of a date
20 within eighteen months or, in the case of a reorganization or merger
21 when parties to the reorganization or merger had such audited balance
22 sheet, a pro forma balance sheet; and

23 (D) An audited income statement for each of the issuer's
24 immediately preceding two fiscal years, or for the period of
25 existence of the issuer if in existence for less than two years, or,

1 in the case of a reorganization or merger when the parties to the
2 reorganization or merger had such audited income statement, a pro
3 forma income statement; and

4 (v) The issuer of the security has a class of equity
5 securities listed on a national securities exchange registered under
6 the Securities Exchange Act of 1934 or designated for trading on the
7 National Association of Securities Dealers Automated Quotation System
8 (NASDAQ), unless:

9 (A) The issuer of the security is a unit investment trust
10 registered under the Investment Company Act of 1940;

11 (B) The issuer of the security has been engaged in
12 continuous business, including predecessors, for at least three
13 years; or

14 (C) The issuer of the security has total assets of at
15 least two million dollars based on an audited balance sheet as of a
16 date within eighteen months or, in the case of a reorganization or
17 merger when parties to the reorganization or merger had such audited
18 balance sheet, a pro forma balance sheet; or

19 (b) Any nonissuer transaction in a security by a
20 registered agent of a registered broker-dealer if:

21 (i) The issuer of the security is actually engaged in
22 business and not in the organization stage or in bankruptcy or
23 receivership and is not a blank check, blind pool, or shell company
24 whose primary plan of business is to engage in a merger or
25 combination of the business with, or an acquisition of, an

1 unidentified person or persons; and

2 (ii) The security is senior in rank to the common stock
3 of the issuer both as to payment of dividends or interest and upon
4 dissolution or liquidation of the issuer and such security has been
5 outstanding at least three years and the issuer or any predecessor
6 has not defaulted within the current fiscal year or the three
7 immediately preceding fiscal years in the payment of any dividend,
8 interest, principal, or sinking fund installment on the security when
9 due and payable;

10 (3) Any nonissuer transaction effected by or through a
11 registered agent of a registered broker-dealer pursuant to an
12 unsolicited order or offer to buy, but the director may by rule or
13 regulation require that the customer acknowledge upon a specified
14 form that the sale was unsolicited and that a signed copy of each
15 such form be preserved by the broker-dealer for a specified period;

16 (4) Any transaction between the issuer or other person on
17 whose behalf the offering is made and an underwriter or among
18 underwriters;

19 (5) Any transaction in a bond or other evidence of
20 indebtedness secured by a real or chattel mortgage or deed of trust
21 or by an agreement for the sale of real estate or chattels if the
22 entire mortgage, deed of trust, or agreement, together with all the
23 bonds or other evidences of indebtedness secured thereby, are offered
24 and sold as a unit. Such exemption shall not apply to any transaction
25 in a bond or other evidence of indebtedness secured by a real estate

1 mortgage or deed of trust or by an agreement for the sale of real
2 estate if the real estate securing the evidences of indebtedness are
3 parcels of real estate the sale of which requires the subdivision in
4 which the parcels are located to be registered under the Interstate
5 Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq., as the act
6 existed on January 1, ~~2011~~ 2013;

7 (6) Any transaction by an executor, personal
8 representative, administrator, sheriff, marshal, receiver, guardian,
9 or conservator;

10 (7) Any transaction executed by a bona fide pledgee
11 without any purpose of evading the Securities Act of Nebraska;

12 (8) Any offer or sale to a bank, savings institution,
13 trust company, insurance company, investment company as defined in
14 the Investment Company Act of 1940, pension or profit-sharing trust,
15 or other financial institution or institutional buyer, to an
16 individual accredited investor, or to a broker-dealer, whether the
17 purchaser is acting for itself or in some fiduciary capacity. For
18 purposes of this subdivision, the term "individual accredited
19 investor" means (a) any director, executive officer, or general
20 partner of the issuer of the securities being offered or sold, or any
21 director, executive officer, or general partner of a general partner
22 of that issuer, (b) any manager of a limited liability company that
23 is the issuer of the securities being offered or sold, (c) any
24 natural person whose individual net worth, or joint net worth with
25 that person's spouse, at the time of his or her purchase, exceeds one

1 million dollars, excluding the value of the primary residence of such
2 person, or (d) any natural person who had an individual income in
3 excess of two hundred thousand dollars in each of the two most recent
4 years or joint income with that person's spouse in excess of three
5 hundred thousand dollars in each of those years and has a reasonable
6 expectation of reaching the same income level in the current year;

7 (9)(a) Any transaction pursuant to an offering in which
8 sales are made to not more than fifteen persons, other than those
9 designated in subdivisions (8), (11), and (17) of this section, in
10 this state during any period of twelve consecutive months if (i) the
11 seller reasonably believes that all the buyers are purchasing for
12 investment, (ii) no commission or other remuneration is paid or given
13 directly or indirectly for soliciting any prospective buyer except to
14 a registered agent of a registered broker-dealer, (iii) a notice
15 generally describing the terms of the transaction and containing a
16 representation that the conditions of this exemption are met is filed
17 by the seller with the director within thirty days after the first
18 sale for which this exemption is claimed, except that failure to give
19 such notice may be cured by an order issued by the director in his or
20 her discretion, and (iv) no general or public advertisements or
21 solicitations are made.

22 (b) If a seller (i) makes sales pursuant to this
23 subdivision for five consecutive twelve-month periods or (ii) makes
24 sales of at least one million dollars from an offering or offerings
25 pursuant to this subdivision, the seller shall, within ninety days

1 after the earlier of either such occurrence, file with the director
2 audited financial statements and a sales report which lists the names
3 and addresses of all purchasers and holders of the seller's
4 securities and the amount of securities held by such persons.
5 Subsequent thereto, such seller shall file audited financial
6 statements and sales reports with the director each time an
7 additional one million dollars in securities is sold pursuant to this
8 subdivision or after the elapse of each additional sixty-month period
9 during which sales are made pursuant to this subdivision;

10 (10) Any offer or sale of a preorganization certificate
11 or subscription if (a) no commission or other remuneration is paid or
12 given directly or indirectly for soliciting any prospective
13 subscriber, (b) the number of subscribers does not exceed ten, and
14 (c) no payment is made by any subscriber;

15 (11) Any transaction pursuant to an offer to existing
16 security holders of the issuer, including persons who at the time of
17 the transaction are holders of convertible securities,
18 nontransferable warrants, or transferable warrants exercisable within
19 not more than ninety days of their issuance, if (a) no commission or
20 other remuneration, other than a standby commission, is paid or given
21 directly or indirectly for soliciting any security holder in this
22 state or (b) the issuer first files a notice specifying the terms of
23 the offer and the director does not by order disallow the exemption
24 within the next five full business days;

25 (12) Any offer, but not a sale, of a security for which

1 registration statements have been filed under both the Securities Act
2 of Nebraska and the Securities Act of 1933 if no stop order or
3 refusal order is in effect and no public proceeding or examination
4 looking toward such an order is pending under either the Securities
5 Act of Nebraska or the Securities Act of 1933;

6 (13) The issuance of any stock dividend, whether the
7 corporation distributing the dividend is the issuer of the stock or
8 not, if nothing of value is given by the stockholders for the
9 distribution other than the surrender of a right to a cash dividend
10 when the stockholder can elect to take a dividend in cash or stock;

11 (14) Any transaction incident to a right of conversion or
12 a statutory or judicially approved reclassification,
13 recapitalization, reorganization, quasi-reorganization, stock split,
14 reverse stock split, merger, consolidation, or sale of assets;

15 (15) Any transaction involving the issuance for cash of
16 any evidence of ownership interest or indebtedness by an agricultural
17 cooperative formed as a corporation under section 21-1301 or 21-1401
18 if the issuer has first filed a notice of intention to issue with the
19 director and the director has not by order, mailed to the issuer by
20 certified or registered mail within ten business days after receipt
21 thereof, disallowed the exemption;

22 (16) Any transaction in this state not involving a public
23 offering when (a) there is no general or public advertising or
24 solicitation, (b) no commission or remuneration is paid directly or
25 indirectly for soliciting any prospective buyer, except to a

1 registered agent of a registered broker-dealer or registered issuer-
2 dealer, (c) a notice generally describing the terms of the
3 transaction and containing a representation that the conditions of
4 this exemption are met is filed by the seller with the director
5 within thirty days after the first sale for which this exemption is
6 claimed, except that failure to give such notice may be cured by an
7 order issued by the director in his or her discretion, (d) a filing
8 fee of two hundred dollars is paid at the time of filing the notice,
9 and (e) any such transaction is effected in accordance with rules and
10 regulations adopted and promulgated by the director relating to this
11 section when the director finds in adopting and promulgating such
12 rules and regulations that the applicability of sections 8-1104 to
13 8-1107 is not necessary or appropriate in the public interest or for
14 the protection of investors. For purposes of this subdivision, not
15 involving a public offering means any offering in which the seller
16 has reason to believe that the securities purchased are taken for
17 investment and in which each offeree, by reason of his or her
18 knowledge about the affairs of the issuer or otherwise, does not
19 require the protections afforded by registration under sections
20 8-1104 to 8-1107 in order to make a reasonably informed judgment with
21 respect to such investment;

22 (17) The issuance of any investment contract issued in
23 connection with an employee's stock purchase, savings, pension,
24 profit-sharing, or similar benefit plan if no commission or other
25 remuneration is paid or given directly or indirectly for soliciting

1 any prospective buyer except to a registered agent of a registered
2 broker-dealer;

3 (18) Any interest in a common trust fund or similar fund
4 maintained by a bank or trust company organized and supervised under
5 the laws of any state or a bank organized under the laws of the
6 United States for the collective investment and reinvestment of funds
7 contributed to such common trust fund or similar fund by the bank or
8 trust company in its capacity as trustee, personal representative,
9 administrator, or guardian and any interest in a collective
10 investment fund or similar fund maintained by the bank or trust
11 company for the collective investment of funds contributed to such
12 collective investment fund or similar fund by the bank or trust
13 company in its capacity as trustee or agent which interest is issued
14 in connection with an employee's savings, pension, profit-sharing, or
15 similar benefit plan or a self-employed person's retirement plan, if
16 a notice generally describing the terms of the collective investment
17 fund or similar fund is filed by the bank or trust company with the
18 director within thirty days after the establishment of the fund.
19 Failure to give the notice may be cured by an order issued by the
20 director in his or her discretion;

21 (19) Any transaction in which a United States Series EE
22 Savings Bond is given or delivered with or as a bonus on account of
23 any purchase of any item or thing;

24 (20) Any transaction in this state not involving a public
25 offering by a Nebraska issuer selling solely to Nebraska residents,

1 when (a) any such transaction is effected in accordance with rules
2 and regulations adopted and promulgated by the director relating to
3 this section when the director finds in adopting and promulgating
4 such rules and regulations that the applicability of sections 8-1104
5 to 8-1107 is not necessary or appropriate in the public interest or
6 for the protection of investors, (b) no commission or remuneration is
7 paid directly or indirectly for soliciting any prospective buyer,
8 except to a registered agent of a registered broker-dealer or
9 registered issuer-dealer, (c) a notice generally describing the terms
10 of the transaction and containing a representation that the
11 conditions of this exemption are met is filed by the seller with the
12 director no later than twenty days prior to any sales for which this
13 exemption is claimed, except that failure to give such notice may be
14 cured by an order issued by the director in his or her discretion,
15 (d) a filing fee of two hundred dollars is paid at the time of filing
16 the notice, and (e) there is no general or public advertising or
17 solicitation;

18 (21) Any transaction by a person who is an organization
19 described in section 501(c)(3) of the Internal Revenue Code as
20 defined in section 49-801.01 involving an offering of interests in a
21 fund described in section 3(c)(10)(B) of the Investment Company Act
22 of 1940 solely to persons who are organizations described in section
23 501(c)(3) of the Internal Revenue Code as defined in section
24 49-801.01 when (a) there is no general or public advertising or
25 solicitation, (b) a notice generally describing the terms of the

1 transaction and containing a representation that the conditions of
2 this exemption are met is filed by the seller with the director
3 within thirty days after the first sale for which this exemption is
4 claimed, except that failure to give such notice may be cured by an
5 order issued by the director in his or her discretion, and (c) any
6 such transaction is effected by a trustee, director, officer,
7 employee, or volunteer of the seller who is either a volunteer or is
8 engaged in the overall fundraising activities of a charitable
9 organization and receives no commission or other special compensation
10 based on the number or the value of interests sold in the fund; or

11 (22) Any offer or sale of any viatical settlement
12 contract or any fractionalized or pooled interest therein in a
13 transaction that meets all of the following criteria:

14 (a) Sales of such securities are made only to the
15 following purchasers:

16 (i) A natural person who, either individually or jointly
17 with the person's spouse, (A) has a minimum net worth of two hundred
18 fifty thousand dollars and had taxable income in excess of one
19 hundred twenty-five thousand dollars in each of the two most recent
20 years and has a reasonable expectation of reaching the same income
21 level in the current year or (B) has a minimum net worth of five
22 hundred thousand dollars. Net worth shall be determined exclusive of
23 home, home furnishings, and automobiles;

24 (ii) A corporation, partnership, or other organization
25 specifically formed for the purpose of acquiring securities offered

1 by the issuer in reliance upon this exemption if each equity owner of
2 the corporation, partnership, or other organization is a person
3 described in subdivision (22)(a)(i) of this section;

4 (iii) A pension or profit-sharing trust of the issuer, a
5 self-employed individual retirement plan, or an individual retirement
6 account, if the investment decisions made on behalf of the trust,
7 plan, or account are made solely by persons described in subdivision
8 (22)(a)(i) of this section; or

9 (iv) An organization described in section 501(c)(3) of
10 the Internal Revenue Code as defined in section 49-801.01, or a
11 corporation, Massachusetts or similar business trust, or partnership
12 with total assets in excess of five million dollars according to its
13 most recent audited financial statements;

14 (b) The amount of the investment of any purchaser, except
15 a purchaser described in subdivision (a)(ii) of this subdivision,
16 does not exceed five percent of the net worth, as determined by this
17 subdivision, of that purchaser;

18 (c) Each purchaser represents that the purchaser is
19 purchasing for the purchaser's own account or trust account, if the
20 purchaser is a trustee, and not with a view to or for sale in
21 connection with a distribution of the security;

22 (d)(i) Each purchaser receives, on or before the date the
23 purchaser remits consideration pursuant to the purchase agreement,
24 the following information in writing:

25 (A) The name, principal business and mailing addresses,

1 and telephone number of the issuer;

2 (B) The suitability standards for prospective purchasers
3 as set forth in subdivision (a) of this subdivision;

4 (C) A description of the issuer's type of business
5 organization and the state in which the issuer is organized or
6 incorporated;

7 (D) A brief description of the business of the issuer;

8 (E) If the issuer retains ownership or becomes the
9 beneficiary of the insurance policy, an audit report from an
10 independent certified public accountant together with a balance sheet
11 and related statements of income, retained earnings, and cash flows
12 that reflect the issuer's financial position, the results of the
13 issuer's operations, and the issuer's cash flows as of a date within
14 fifteen months before the date of the initial issuance of the
15 securities described in this subdivision. The financial statements
16 shall be prepared in conformity with generally accepted accounting
17 principles. If the date of the audit report is more than one hundred
18 twenty days before the date of the initial issuance of the securities
19 described in this subdivision, the issuer shall provide unaudited
20 interim financial statements;

21 (F) The names of all directors, officers, partners,
22 members, or trustees of the issuer;

23 (G) A description of any order, judgment, or decree that
24 is final as to the issuing entity of any state, federal, or foreign
25 governmental agency or administrator, or of any state, federal, or

1 foreign court of competent jurisdiction (I) revoking, suspending,
2 denying, or censuring for cause any license, permit, or other
3 authority of the issuer or of any director, officer, partner, member,
4 trustee, or person owning or controlling, directly or indirectly, ten
5 percent or more of the outstanding interest or equity securities of
6 the issuer, to engage in the securities, commodities, franchise,
7 insurance, real estate, or lending business or in the offer or sale
8 of securities, commodities, franchises, insurance, real estate, or
9 loans, (II) permanently restraining, enjoining, barring, suspending,
10 or censuring any such person from engaging in or continuing any
11 conduct, practice, or employment in connection with the offer or sale
12 of securities, commodities, franchises, insurance, real estate, or
13 loans, (III) convicting any such person of, or pleading nolo
14 contendere by any such person to, any felony or misdemeanor involving
15 a security, commodity, franchise, insurance, real estate, or loan, or
16 any aspect of the securities, commodities, franchise, insurance, real
17 estate, or lending business, or involving dishonesty, fraud, deceit,
18 embezzlement, fraudulent conversion, or misappropriation of property,
19 or (IV) holding any such person liable in a civil action involving
20 breach of a fiduciary duty, fraud, deceit, embezzlement, fraudulent
21 conversion, or misappropriation of property. This subdivision does
22 not apply to any order, judgment, or decree that has been vacated or
23 overturned or is more than ten years old;

24 (H) Notice of the purchaser's right to rescind or cancel
25 the investment and receive a refund;

1 (I) A statement to the effect that any projected rate of
2 return to the purchaser from the purchase of a viatical settlement
3 contract or any fractionalized or pooled interest therein is based on
4 an estimated life expectancy for the person insured under the life
5 insurance policy; that the return on the purchase may vary
6 substantially from the expected rate of return based upon the actual
7 life expectancy of the insured that may be less than, may be equal
8 to, or may greatly exceed the estimated life expectancy; and that the
9 rate of return would be higher if the actual life expectancy were
10 less than, and lower if the actual life expectancy were greater than,
11 the estimated life expectancy of the insured at the time the viatical
12 settlement contract was closed;

13 (J) A statement that the purchaser should consult with
14 his or her tax advisor regarding the tax consequences of the purchase
15 of the viatical settlement contract or any fractionalized or pooled
16 interest therein; and

17 (K) Any other information as may be prescribed by rule of
18 the director; and

19 (ii) The purchaser receives in writing at least five
20 business days prior to closing the transaction:

21 (A) The name, address, and telephone number of the
22 issuing insurance company and the name, address, and telephone number
23 of the state or foreign country regulator of the insurance company;

24 (B) The total face value of the insurance policy and the
25 percentage of the insurance policy the purchaser will own;

1 (C) The insurance policy number, issue date, and type;

2 (D) If a group insurance policy, the name, address, and
3 telephone number of the group and, if applicable, the material terms
4 and conditions of converting the policy to an individual policy,
5 including the amount of increased premiums;

6 (E) If a term insurance policy, the term and the name,
7 address, and telephone number of the person who will be responsible
8 for renewing the policy if necessary;

9 (F) That the insurance policy is beyond the state statute
10 for contestability and the reason therefor;

11 (G) The insurance policy premiums and terms of premium
12 payments;

13 (H) The amount of the purchaser's money that will be set
14 aside to pay premiums;

15 (I) The name, address, and telephone number of the person
16 who will be the insurance policyowner and the person who will be
17 responsible for paying premiums;

18 (J) The date on which the purchaser will be required to
19 pay premiums and the amount of the premium, if known; and

20 (K) Any other information as may be prescribed by rule of
21 the director;

22 (e) The purchaser may rescind or cancel the purchase for
23 any reason by giving written notice of rescission or cancellation to
24 the issuer or the issuer's agent within (i) fifteen calendar days
25 after the date the purchaser remits the required consideration or

1 receives the disclosure required under subdivision (d)(i) of this
2 subdivision and (ii) five business days after the date the purchaser
3 receives the disclosure required by subdivision (d)(ii) of this
4 subdivision. No specific form is required for the rescission or
5 cancellation. The notice is effective when personally delivered,
6 deposited in the United States mail, or deposited with a commercial
7 courier or delivery service. The issuer shall refund all the
8 purchaser's money within seven calendar days after receiving the
9 notice of rescission or cancellation;

10 (f) A notice of the issuer's intent to sell securities
11 pursuant to this subdivision, signed by a duly authorized officer of
12 the issuer and notarized, together with a filing fee of two hundred
13 dollars, is filed with the Department of Banking and Finance before
14 any offers or sales of securities are made under this subdivision.
15 Such notice shall include:

16 (i) The issuer's name, the issuer's type of organization,
17 the state in which the issuer is organized, the date the issuer
18 intends to begin selling securities within or from this state, and
19 the issuer's principal business;

20 (ii) A consent to service of process; and

21 (iii) An audit report of an independent certified public
22 accountant together with a balance sheet and related statements of
23 income, retained earnings and cash flows that reflect the issuer's
24 financial position, the results of the issuer's operations, and the
25 issuer's cash flows as of a date within fifteen months before the

1 date of the notice prescribed in this subdivision. The financial
2 statements shall be prepared in conformity with generally accepted
3 accounting principles and shall be examined according to generally
4 accepted auditing standards. If the date of the audit report is more
5 than one hundred twenty days before the date of the notice prescribed
6 in this subdivision, the issuer shall provide unaudited interim
7 financial statements;

8 (g) No commission or remuneration is paid directly or
9 indirectly for soliciting any prospective purchaser, except to a
10 registered agent of a registered broker-dealer or registered issuer-
11 dealer; and

12 (h) At least ten days before use within this state, the
13 issuer files with the department all advertising and sales materials
14 that will be published, exhibited, broadcast, or otherwise used,
15 directly or indirectly, in the offer or sale of a viatical settlement
16 contract in this state.

17 The director may by order deny or revoke the exemption
18 specified in subdivision (2) of this section with respect to a
19 specific security. Upon the entry of such an order, the director
20 shall promptly notify all registered broker-dealers that it has been
21 entered and of the reasons therefor and that within fifteen business
22 days of the receipt of a written request the matter will be set down
23 for hearing. If no hearing is requested within fifteen business days
24 of the issuance of the order and none is ordered by the director, the
25 order shall automatically become a final order and shall remain in

1 effect until it is modified or vacated by the director. If a hearing
2 is requested or ordered, the director, after notice of and
3 opportunity for hearing to all interested persons, shall enter his or
4 her written findings of fact and conclusions of law and may affirm,
5 modify, or vacate the order. No such order may operate retroactively.
6 No person may be considered to have violated the provisions of the
7 Securities Act of Nebraska by reason of any offer or sale effected
8 after the entry of any such order if he or she sustains the burden of
9 proof that he or she did not know and in the exercise of reasonable
10 care could not have known of the order. In any proceeding under the
11 act, the burden of proving an exemption from a definition shall be
12 upon the person claiming it.

13 Sec. 7. Section 8-1114, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 8-1114 Neither the fact that an application for
16 registration or notice filing under section 8-1103, a notice filing
17 under section 8-1108.02, or a registration statement under section
18 ~~8-1105, 8-1106,~~ or 8-1107 has been filed, nor the fact that a person
19 or security is effectively registered, shall constitute a finding by
20 the director that any document filed under the Securities Act of
21 Nebraska is true, complete, and not misleading. Neither any such fact
22 nor the fact that an exemption or exception is available for a
23 security or a transaction shall mean that the director has passed in
24 any way upon the merits or qualifications of, or recommended or given
25 approval to, any person, security, or transaction. It shall be

1 unlawful to make, or cause to be made, to any prospective purchaser,
2 customer, or client any representation inconsistent with this
3 section.

4 Sec. 8. Section 8-1120, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 8-1120 (1) Except as otherwise provided in this section,
7 the Securities Act of Nebraska shall be administered by the Director
8 of Banking and Finance who may employ such assistants or counsel as
9 may be reasonably necessary for the purpose thereof and who may
10 designate one of such assistants as an assistant director. The
11 director may delegate to such assistant director or counsel any
12 powers, authority, and duties imposed upon or granted to the director
13 under the act, such as may be lawfully delegated under the common law
14 or the statutes of this state. The director may also employ special
15 counsel with respect to any investigation conducted by him or her
16 under the act or with respect to any litigation to which the director
17 is a party under the act, except that security issued by and
18 representing an interest in or a debt of, or guaranteed by, any
19 insurance company shall be registered, pursuant to the provisions of
20 sections 8-1104 to 8-1109, with the Director of Insurance who shall
21 as to such registrations administer and enforce the act, and as
22 pertains to the administration and enforcement of such registration
23 of such securities all references in the act to director shall mean
24 the Director of Insurance.

25 ~~(2)~~-(2)(a) It shall be unlawful for the director or any

1 of his or her officers or employees to use for personal benefit any
2 information which is filed with or obtained by the director and which
3 is not made public. ~~No provision of the act shall authorize Neither~~
4 ~~the director or nor~~ any of his or her officers or employees ~~to shall~~
5 disclose any ~~such~~ confidential information except among themselves,
6 ~~or~~ when necessary or appropriate in a proceeding, examination, or
7 investigation under the act, or as authorized in subdivision (2)(b)
8 of this subsection. No provision of the act shall either create or
9 derogate from any privilege which exists at common law or otherwise
10 when documentary or other evidence is sought under a subpoena
11 directed to the director or any of his or her officers or employees.

12 (b)(i) In administering the act, the director may also:

13 (A) Enter into agreements or relationships with other
14 government officials, including, but not limited to, the securities
15 administrator of a foreign state and the Securities and Exchange
16 Commission, or self-regulatory organizations, to share resources,
17 standardized or uniform methods or procedures, and documents,
18 records, and information; or

19 (B) Accept and rely on examination or investigation
20 reports made by other government officials, including, but not
21 limited to, the securities administrator of a foreign state and the
22 Securities and Exchange Commission, or self-regulatory organizations.

23 (ii) For purposes of this subdivision, foreign state
24 means any state of the United States, other than the State of
25 Nebraska, any territory of the United States, including Puerto Rico,

1 Guam, American Samoa, the Trust Territory of the Pacific Islands, or
2 the Virgin Islands, and the District of Columbia.

3 (3) The director may from time to time make, amend, and
4 rescind such rules and forms as are necessary to carry out the act.
5 No rule or form may be made unless the director finds that the action
6 is necessary or appropriate in the public interest or for the
7 protection of investors and consistent with the purposes fairly
8 intended by the policy and provisions of the act.

9 In prescribing rules and forms the director may cooperate
10 with the securities administrators of the other states and the
11 Securities and Exchange Commission with a view to effectuating the
12 policy of the Securities Act of Nebraska to achieve maximum
13 uniformity in the form and content of registration statements,
14 applications, and reports wherever practicable. All rules and forms
15 of the director shall be published and made available to any person
16 upon request.

17 (4) No provision of the act imposing any liability shall
18 apply to any act done or omitted in good faith in conformity with any
19 rule, form, or order of the director, notwithstanding that the rule
20 or form may later be amended or rescinded or be determined by
21 judicial or other authority to be invalid for any reason.

22 (5) Every hearing in an administrative proceeding shall
23 be public unless the director in his or her discretion grants a
24 request joined in by all the respondents that the hearing be
25 conducted privately.

1 (6) The Securities Act Cash Fund is created. All filing
2 fees, registration fees, and all other fees and all money collected
3 by or paid to the director under any of the provisions of the act
4 shall be remitted to the State Treasurer for credit to the fund,
5 except that registration fees collected by or paid to the Director of
6 Insurance pursuant to the provisions of the act shall be credited to
7 the Department of Insurance Cash Fund. The Securities Act Cash Fund
8 shall be used for the purpose of administering and enforcing the
9 provisions of the act, except that transfers may be made to the
10 General Fund at the direction of the Legislature, ~~and, for the~~
11 ~~calendar years of 2000 and 2001, two million dollars shall be~~
12 ~~transferred in each year to the Affordable Housing Trust Fund. All of~~
13 ~~such money is appropriated and shall be appropriated for such~~
14 ~~purposes.~~ Any money in the Securities Act Cash Fund available for
15 investment shall be invested by the state investment officer pursuant
16 to the Nebraska Capital Expansion Act and the Nebraska State Funds
17 Investment Act.

18 (7) A document is filed when it is received by the
19 director. The director shall keep a register of all applications for
20 registration and registration statements which are or have ever been
21 effective under the Securities Act of Nebraska and all denial,
22 suspension, or revocation orders which have ever been entered under
23 the act. The register shall be open for public inspection. The
24 information contained in or filed with any registration statement,
25 application, or report may be made available to the public under such

1 conditions as the director may prescribe.

2 (8) Upon request and at such reasonable charges as he or
3 she shall prescribe, the director shall furnish to any person
4 photostatic or other copies, certified under his or her seal of
5 office if requested, of any entry in the register or any document
6 which is a matter of public record. In any proceeding or prosecution
7 under the act, any copy so certified shall be prima facie evidence of
8 the contents of the entry or document certified.

9 (9) The director in his or her discretion may honor
10 requests from interested persons for interpretative opinions.

11 Sec. 9. Section 58-703, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 58-703 The Affordable Housing Trust Fund is created. The
14 fund shall receive money pursuant to ~~sections 8-1120 and section~~
15 76-903 and may include revenue from sources recommended by the
16 housing advisory committee established in section 58-704,
17 appropriations from the Legislature, transfers authorized by the
18 Legislature, grants, private contributions, repayment of loans, and
19 all other sources, except that appropriations from the General Fund
20 and transfers from the General Fund or the Cash Reserve Fund may not
21 be used as a revenue source for the Affordable Housing Trust Fund
22 after June 30, 2013. The Department of Economic Development as part
23 of its comprehensive housing affordability strategy shall administer
24 the Affordable Housing Trust Fund.

25 Transfers may be made from the Affordable Housing Trust

1 Fund to the General Fund, the Behavioral Health Services Fund, and
2 the Site and Building Development Fund at the direction of the
3 Legislature.

4 Sec. 10. Section 58-711, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 58-711 The Department of Economic Development shall
7 submit, as part of the department's annual status report under
8 section 81-1201.11, information detailing the status of the
9 Affordable Housing Trust Fund. The status report shall list (1) the
10 applications funded during the previous calendar year, (2) the
11 applications funded in previous years, (3) the identity of the
12 organizations receiving funds, (4) the location of each project, (5)
13 the amount of funding provided to the project, (6) the amount of
14 funding leveraged as a result of the project, (7) the number of units
15 of housing created by the project and the occupancy rate, (8) the
16 expected cost of rent or monthly payment of those units, (9) the
17 projected number of new employees and community investment as a
18 result of the project, and (10) the amount of revenue deposited into
19 the Affordable Housing Trust Fund pursuant to ~~sections 8-1120 and~~
20 section 76-903. The status report shall contain no information that
21 is protected by state or federal confidentiality laws.

22 Sec. 11. Section 59-1722, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 59-1722 (1) Any transaction in which the seller has
25 complied with the Federal Trade Commission trade regulation rule

1 titled Disclosure Requirements and ~~Prohibition~~ Prohibitions
2 Concerning ~~Franchises and Business Opportunity Ventures, Franchising,~~
3 16 C.F.R. 436, shall be exempt from the Seller-Assisted Marketing
4 Plan Act, except that such transactions shall be subject to
5 subdivision (1)(d) of section 59-1757, those provisions regulating or
6 prescribing the use of the phrase buy-back or secured investment or
7 similar phrases as set forth in sections 59-1726 to 59-1728 and
8 59-1751, and all sections which provide for their enforcement. The
9 exemption shall only apply if:

10 (a) The seller uses a disclosure document prepared in
11 accordance with either the Federal Trade Commission trade regulation
12 rule titled Disclosure Requirements and ~~Prohibition~~ Prohibitions
13 Concerning ~~Franchises and Business Opportunity Ventures, Franchising,~~
14 16 C.F.R. 436, or the then current guidelines for the preparation of
15 the Uniform Franchise Offering Circular adopted by the North American
16 Securities ~~Administration~~ Administrators Association;

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

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

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

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

10 (4) The Director of Banking and Finance may by order deny
11 or revoke an exemption specified in this section with respect to a
12 particular offering of one or more business opportunities if the
13 director finds that such an order is in the public interest or is
14 necessary for the protection of purchasers. An order shall not be
15 entered without appropriate prior notice to all interested parties,
16 an opportunity for hearing, and written findings of fact and
17 conclusions of law. If the public interest or the protection of
18 purchasers so requires, the director may by order summarily deny or
19 revoke an exemption specified in this section pending final
20 determination of any proceedings under this section. An order under
21 this section shall not operate retroactively.

22 Sec. 12. Original sections 8-1101, 8-1104, 8-1108,
23 8-1108.02, 8-1109, 8-1111, 8-1114, 8-1120, and 59-1722, Reissue
24 Revised Statutes of Nebraska, and sections 58-703 and 58-711, Revised
25 Statutes Cumulative Supplement, 2012, are repealed.

1 Sec. 13. The following section is outright repealed:

2 Section 8-1105, Reissue Revised Statutes of Nebraska.