

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 145**

Introduced by Watermeier, 1.

Read first time January 09, 2015

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to banks and banking; to amend sections 8-139  
2 and 8-157, Reissue Revised Statutes of Nebraska; to change  
3 provisions and penalties relating to executive officers of banks and  
4 to eliminate a license requirement; to provide for the suspension of  
5 executive officers by the Department of Banking and Finance as  
6 prescribed; to harmonize provisions; and to repeal the original  
7 sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-139, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 8-139 (1) No loan or investment shall be made by a bank, directly  
4 or indirectly, without the approval of an active executive officer.  
5 Active executive Executive officers of banks shall be persons of good  
6 moral character, known integrity, business experience and responsibility,  
7 and be capable of conducting the affairs of a bank on sound banking  
8 principles. ~~No person shall act as an active executive officer of any~~  
9 ~~bank until such bank shall apply for and obtain from the department a~~  
10 ~~license for such person to so act.~~ If the department, upon investigation,  
11 ~~is shall be~~ satisfied that any active executive officer of a bank is  
12 conducting the its business of the bank in an unsafe or unauthorized  
13 manner, ~~or is endangering the interests of the stockholders or depositors~~  
14 of the bank, the department may suspend the authority of such active  
15 executive officer to continue to act as an active executive officer shall  
16 ~~have authority to revoke such license.~~ Any person whose authority has  
17 been suspended by the department under this section who acts or attempts  
18 ~~shall act or attempt~~ to act as an active executive officer of a bank any  
19 ~~bank, except under a license from the department, or anyone who shall~~  
20 ~~permit or assist such person to act or attempt to act as such,~~ shall be  
21 guilty of a Class III felony. As part of any order of suspension under  
22 this section, the director may levy a civil penalty against the active  
23 executive officer personally in an amount not to exceed ten thousand  
24 dollars. The fine shall not be paid out of the assets of the bank in  
25 which the active executive officer is employed or otherwise performing  
26 services pursuant to contract. Any person whose authority has been  
27 suspended with prejudice under this section shall not be eligible to act  
28 as an active executive officer at any other bank without authorization to  
29 do so from the department. The department may make and enforce reasonable  
30 regulations and prescribe forms to be used to carry out the intent of  
31 this section.

1       (2) For purposes of this section, active executive officer means any  
2 employee of a financial institution or any person under contract to  
3 perform services for a financial institution, who exercises (a)  
4 management functions, (b) major policymaking functions, or (c)  
5 substantial employee supervision, including the power to terminate  
6 employment or who is determined by the department to be a policy-dominant  
7 individual, in such financial institution. An active executive officer  
8 includes, but is not limited to, a president, a vice-president, a  
9 cashier, an assistant cashier, a chief executive officer, a loan officer,  
10 or an investment officer.

11       Sec. 2. Section 8-157, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13       8-157 (1) Except as otherwise provided in this section and section  
14 8-2103, the general business of every bank shall be transacted at the  
15 place of business specified in its charter.

16       (2)(a)(i) Except as provided in subdivision (2)(a)(ii) of this  
17 section, with the approval of the director, any bank located in this  
18 state may establish and maintain in this state an unlimited number of  
19 branches at which all banking transactions allowed by law may be made.

20       (ii) Any bank that owns or controls more than twenty-two percent of  
21 the total deposits in Nebraska, as described in subdivision (2)(c) of  
22 section 8-910 and computed in accordance with subsection (3) of section  
23 8-910, or any bank that is a subsidiary of a bank holding company that  
24 owns or controls more than twenty-two percent of the total deposits in  
25 Nebraska, as described in subdivision (2)(c) of section 8-910 and  
26 computed in accordance with subsection (3) of section 8-910, shall not  
27 establish and maintain an unlimited number of branches as provided in  
28 subdivision (2)(a)(i) of this section. With the approval of the director,  
29 a bank as described in this subdivision may establish and maintain in the  
30 county in which such bank is located an unlimited number of branches at  
31 which all banking transactions allowed by law may be made, except that if

1 such bank is located in a Class I or Class III county, such bank may  
2 establish and maintain in Class I and Class III counties an unlimited  
3 number of branches at which all banking transactions allowed by law may  
4 be made.

5 (iii) Any bank which establishes and maintains branches pursuant to  
6 subdivision (2)(a)(i) of this section and which subsequently becomes a  
7 bank as described in subdivision (2)(a)(ii) of this section shall not be  
8 subject to the limitations as to location of branches contained in  
9 subdivision (2)(a)(ii) of this section with regard to any such  
10 established branch and shall continue to be entitled to maintain any such  
11 established branch as if such bank had not become a bank as described in  
12 subdivision (2)(a)(ii) of this section.

13 (b) With the approval of the director, any bank or any branch may  
14 establish and maintain a mobile branch at which all banking transactions  
15 allowed by law may be made. Such mobile branch may consist of one or more  
16 vehicles which may transact business only within the county in which such  
17 bank or such branch is located and within counties in this state which  
18 adjoin such county.

19 (c) For purposes of this subsection:

20 (i) Class I county means a county in this state with a population of  
21 three hundred thousand or more as determined by the most recent federal  
22 decennial census;

23 (ii) Class II county means a county in this state with a population  
24 of at least two hundred thousand and less than three hundred thousand as  
25 determined by the most recent federal decennial census;

26 (iii) Class III county means a county in this state with a  
27 population of at least one hundred thousand and less than two hundred  
28 thousand as determined by the most recent federal decennial census; and

29 (iv) Class IV county means a county in this state with a population  
30 of less than one hundred thousand as determined by the most recent  
31 federal decennial census.

1           (3) With the approval of the director, a bank may establish and  
2 maintain branches acquired pursuant to section 8-1506 or 8-1516. All  
3 banking transactions allowed by law may be made at such branches.

4           (4) With the approval of the director, a bank may acquire the assets  
5 and assume the deposits of a branch of another financial institution in  
6 Nebraska if the acquired branch is converted to a branch of the acquiring  
7 bank. All banking transactions allowed by law may be made at a branch  
8 acquired pursuant to this subsection.

9           (5) With the approval of the director, a bank may establish a branch  
10 pursuant to subdivision (6) of section 8-115.01. All banking transactions  
11 allowed by law may be made at such branch.

12           (6) The name given to any branch established and maintained pursuant  
13 to this section shall not be substantially similar to the name of any  
14 existing bank or branch which is unaffiliated with the newly created  
15 branch and is located in the same city, village, or county. The name of  
16 such newly created branch shall be approved by the director.

17           (7) A bank which has a main chartered office or an approved branch  
18 located in the State of Nebraska may, through any of its executive  
19 officers, ~~including executive officers licensed as such pursuant to~~  
20 ~~section 8-139,~~ or designated agents, conduct a loan closing at a location  
21 other than the place of business specified in the bank's charter or any  
22 branch thereof.

23           (8) A bank which has a main chartered office or approved branch  
24 located in the State of Nebraska may, upon notification to the  
25 department, establish savings account programs at any elementary or  
26 secondary school, whether public or private, that has students who reside  
27 in the same city or village as the main chartered office or branch of the  
28 bank, or, if the main office of the bank is located in an unincorporated  
29 area of a county, at any school that has students who reside in the same  
30 unincorporated area. The savings account programs shall be limited to the  
31 establishment of individual student accounts and the receipt of deposits

1 for such accounts.

2 (9) Upon receiving an application for a branch to be established  
3 pursuant to subdivision (2)(a) of this section, to establish a mobile  
4 branch pursuant to subdivision (2)(b) of this section, to acquire a  
5 branch of another financial institution pursuant to subsection (4) of  
6 this section, to establish or acquire a branch pursuant to subsection (1)  
7 of section 8-2103, or to move the location of an established branch other  
8 than a move made pursuant to subdivision (6) of section 8-115.01, the  
9 director shall hold a public hearing on the matter if he or she  
10 determines, in his or her discretion, that the condition of the applicant  
11 bank warrants a hearing. If the director determines that the condition of  
12 the bank does not warrant a hearing, the director shall (a) publish a  
13 notice of the filing of the application in a newspaper of general  
14 circulation in the county where the proposed branch or mobile branch  
15 would be located, the expense of which shall be paid by the applicant  
16 bank, and (b) give notice of such application to all financial  
17 institutions located within the county where the proposed branch or  
18 mobile branch would be located and to such other interested parties as  
19 the director may determine. The director shall send the notice to  
20 financial institutions by first-class mail, postage prepaid, or  
21 electronic mail. Electronic mail may be used if the financial institution  
22 agrees in advance to receive such notices by electronic mail. A financial  
23 institution may designate one office for receipt of any such notice if it  
24 has more than one office located within the county where such notice is  
25 to be sent or a main office in a county other than the county where such  
26 notice is to be sent. If the director receives any substantive objection  
27 to the proposed branch or mobile branch within fifteen days after  
28 publication of such notice, he or she shall hold a hearing on the  
29 application. Notice of a hearing held pursuant to this subsection shall  
30 be published for two consecutive weeks in a newspaper of general  
31 circulation in the county where the proposed branch or mobile branch

1 would be located. The date for hearing the application shall not be more  
2 than ninety days after the filing of the application and not less than  
3 thirty days after the last publication of notice of hearing. The expense  
4 of any publication and mailing required by this section shall be paid by  
5 the applicant.

6       Sec. 3. Original sections 8-139 and 8-157, Reissue Revised Statutes  
7 of Nebraska, are repealed.