

AMENDMENTS TO LB140

Introduced by Williams, 36.

1 1. Strike original section 36 and insert the following new sections:

2 Sec. 36. Section 8-139, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 8-139 (1) No loan or investment shall be made by a bank, directly
5 or indirectly, without the approval of an active executive officer.

6 (2) Executive officers of banks shall be persons of good moral
7 character, known integrity, business experience and responsibility, and
8 be capable of conducting the affairs of a bank on sound banking
9 principles.

10 (3) Except as provided in subsection (6) of this section, no
11 person shall act as an active executive officer of any bank until such
12 bank has applied shall apply for and obtained obtain from the department
13 a license for such person to so act as an active executive officer. If
14 the director department, upon investigation, is shall be satisfied that
15 any active executive officer of a bank is conducting the its business of
16 the bank in an unsafe or unauthorized manner, or is endangering the
17 interests of the stockholders or depositors of the bank, the department
18 may shall have authority to revoke the such license of such active
19 executive officer or suspend the ability of such active executive officer
20 to continue to act as an active executive officer.

21 (4) Any person (a) whose license has been revoked or whose authority
22 has been suspended by the department under subsection (3) of this section
23 or who lacks a license and on whose behalf no election was made under
24 subsection (6) of this section and (b) who acts or attempts shall act or
25 attempt to act as an active executive officer of a any bank is , except
26 under a license from the department, or anyone who shall permit or assist
27 such person to act or attempt to act as such, shall be guilty of a Class

1 III felony.

2 (5) As part of any order of revocation or suspension under
3 subsection (3) of this section, the director may levy a civil penalty
4 against the active executive officer personally in an amount not to
5 exceed ten thousand dollars. The civil penalty shall not be paid out of
6 the assets of the bank in which the active executive officer is employed
7 or otherwise performing services pursuant to contract. The department
8 shall remit the civil penalty collected to the State Treasurer for
9 distribution in accordance with Article VII, section 5, of the
10 Constitution of Nebraska. Any person whose authority has been revoked or
11 suspended with prejudice under this section shall not be eligible to act
12 as an executive officer at any other bank without authorization to do so
13 from the department. The department may make and enforce reasonable
14 regulations and prescribe forms to be used to carry out the intent of
15 this section.

16 (6) A bank has the right, on or after the operative date of this
17 section, to elect for its active executive officers to be exempt from the
18 requirement to apply for and obtain a license from the department. An
19 election, once made, shall remain in effect with respect to all active
20 executive officers of the bank until and unless the election is revoked
21 by the bank. An election or revocation shall be made in a form and manner
22 established by the department. Within thirty days after revoking such
23 election, such bank shall apply for and obtain from the department a
24 license for any person acting or desiring to act as an active executive
25 officer of the bank.

26 (7) For purposes of this section, active executive officer means any
27 employee of a bank or any person under contract to perform services for a
28 bank who is determined by the department to be a policy-dominant
29 individual in the bank or who exercises (a) management functions, (b)
30 major policymaking functions, or (c) substantial employee supervision,
31 including the power to terminate employment. An active executive officer

1 includes, but is not limited to, a president, a vice-president, a
2 cashier, an assistant cashier, a chief executive officer, a loan officer,
3 or an investment officer.

4 (8) The director may adopt and promulgate rules and regulations and
5 prescribe forms to be used to carry out the intent of this section.

6 Sec. 130. Section 8-1,140, Revised Statutes Cumulative Supplement,
7 2016, is amended to read:

8 8-1,140 Notwithstanding any of the other provisions of the Nebraska
9 Banking Act or any other Nebraska statute, any bank incorporated under
10 the laws of this state and organized under the provisions of the act, or
11 under the laws of this state as they existed prior to May 9, 1933, shall
12 directly, or indirectly through a subsidiary or subsidiaries, have all
13 the rights, powers, privileges, benefits, and immunities which may be
14 exercised as of January 1, 2017 ~~2016~~, by a federally chartered bank doing
15 business in Nebraska, including the exercise of all powers and activities
16 that are permitted for a financial subsidiary of a federally chartered
17 bank. Such rights, powers, privileges, benefits, and immunities shall not
18 relieve such bank from payment of state taxes assessed under any
19 applicable laws of this state.

20 Sec. 134. Section 8-355, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
23 or any other Nebraska statute, except as provided in section 8-345.02,
24 any association incorporated under the laws of the State of Nebraska and
25 organized under the provisions of such article shall have all the rights,
26 powers, privileges, benefits, and immunities which may be exercised as of
27 January 1, 2017 ~~2016~~, by a federal savings and loan association doing
28 business in Nebraska. Such rights, powers, privileges, benefits, and
29 immunities shall not relieve such association from payment of state taxes
30 assessed under any applicable laws of this state.

31 Sec. 148. Section 21-1770, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 21-1770 The chief executive officer or the credit committee may
3 apply to the department on forms supplied by the department for the
4 licensing of one or more loan officers in order to delegate to such loan
5 officers the power to approve loans and disburse loan funds up to the
6 limits and according to policies established by the credit committee, if
7 any, and in the absence of a credit committee, the board of directors.
8 Such application shall include information deemed necessary by the
9 department and shall be signed by the entire credit committee, if any,
10 and in the absence of a credit committee, the entire board of directors,
11 as well as the new loan officer seeking a license. No person shall act in
12 the capacity of loan officer for more than thirty days until approved by
13 the department unless the credit union has elected to opt out of
14 licensing loan officers on forms supplied by the department.

15 Sec. 149. Section 21-17,115, Revised Statutes Cumulative Supplement,
16 2016, is amended to read:

17 21-17,115 Notwithstanding any of the other provisions of the Credit
18 Union Act or any other Nebraska statute, any credit union incorporated
19 under the laws of the State of Nebraska and organized under the
20 provisions of the act shall have all the rights, powers, privileges,
21 benefits, and immunities which may be exercised as of January 1, 2017
22 ~~2016~~, by a federal credit union doing business in Nebraska on the
23 condition that such rights, powers, privileges, benefits, and immunities
24 shall not relieve such credit union from payment of state taxes assessed
25 under any applicable laws of this state.

26 Sec. 160. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
27 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,
28 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50,
29 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68,
30 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86,
31 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103,

1 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117,
2 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132,
3 133, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147,
4 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 161, and 163 of
5 this act become operative three calendar months after the adjournment of
6 this legislative session. The other sections of this act become operative
7 on their effective date.

8 Sec. 162. Original sections 8-1,140, 8-355, and 21-17,115, Revised
9 Statutes Cumulative Supplement, 2016, are repealed.

10 Sec. 164. Since an emergency exists, this act takes effect when
11 passed and approved according to law.

12 2. On page 142, lines 9 and 10 strike "effective date of this act"
13 and insert "operative date of this section"; remove underscoring in lines
14 9 through 13; and in line 28 after the first comma insert "21-1770,".

15 3. Renumber the remaining sections and correct internal references
16 accordingly.