

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB259

Hearing Date: Tuesday January 29, 2019
Committee On: Banking, Commerce and Insurance
Introducer: Lindstrom
One Liner: Change consumer protection provisions under the Securities Act of Nebraska, the Commodity Code, and the Consumer Rental Purchase Agreement Act

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

Vote Results:

Aye:	6	Senators Kolterman, La Grone, Lindstrom, McCollister, Quick, Williams
Nay:		
Absent:	2	Senators Gragert, Howard
Present Not Voting:		

Oral Testimony:

Proponents:

Senator Brett Lindstrom
Mark Quandahl

Representing:

Introducer
NE Department of Banking and Finance

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 259, introduced at the request of the Nebraska Department of Banking and Finance, amends various sections of the Securities Act of Nebraska, the Commodity Code, and the Consumer Rental Purchase Agreement Act. The bill provides, section by section, as follows:

Section 1 amends Section 8-1101, which is the definitional section of the Securities Act of Nebraska. The amendments would:

Correct a discrepancy between the definition of a federal covered adviser in Subsection (4) and an exclusion to the definition of an investment adviser in Subsection (7)(h). The effect of the amendment will be that persons who are excluded from the federal definition of investment adviser will not be included in the state's definition of a federal covered adviser.

Update Subsection (14) to provide that references to named federal securities acts will be as the acts existed on January 1, 2019 (currently January 1, 2017).

Section 2 amends Section 8-1101.01 of the Securities Act of Nebraska to update references to federal rules and regulations adopted under the Investment Advisors Act of 1940 and the Securities Act of 1933 as those rules and regulations existed on January 1, 2019 (currently January 1, 2017), and to remove an obsolete reference to federal Rules 147 and Rule 147A adopted under the Securities Act of 1933.

Section 3 amends Section 8-1103, which is the principal registration statute in the Securities Act of Nebraska for firms

and individuals providing securities-related services and products, to update a reference within Subsection (9)(c)(i) to the fair practice and ethical standards adopted by the Securities and Exchange Commission or the Financial Industry Regulatory Authority in effect on January 1, 2019 (currently January 1, 2017).

Section 4 amends Section 8-1108.02 of the Securities Act of Nebraska to:

Update a federal reference contained in Subsections (2)(b) and (6) as a result of a revision at the federal level. The current reference is to Section 18(b)(4)(E) of the Securities Act of 1933; Congress changed this to Section 18(b)(4)(F); and

Provide an exclusion from broker-dealer and agent registration for the offer or sale of federal covered securities which are exempt from federal registration pursuant to Tier 2 of federal Regulation A, 17 CFR 230.251.

Section 5 amends Section 8-1111, which provides for transactional exemptions from registration (securities, broker-dealer, agent) under the Securities Act of Nebraska, to update a reference within Subsection (5) to the Interstate Land Sales Full Disclosure Act as that Act existed on January 1, 2019 (currently January 1, 2017).

Section 6 amends Section 8-1704 of the Commodity Code, which defines the term "CFTC rule," to update a reference to rules, regulations, or orders of the Commodity Futures Trading Commission in effect on January 1, 2019 (currently January 1, 2011).

Section 7 amends Section 8-1707 of the Commodity Code, which defines the term "Commodity Exchange Act," to update a reference to the federal Commodity Exchange Act in effect on January 1, 2019 (currently January 1, 2011).

Section 8 amends Section 8-1726 of the Commodity Code, which provides investigation and enforcement authority to the Nebraska Department of Banking and Finance for violations of the Commodity Code, to update Subsection (3)(a) by providing that fines collected are to be credited by the State Treasurer in accordance with Article VII, section 5, of the Nebraska Constitution.

Section 9 amends Section 69-2103(4) of the Consumer Rental Purchase Agreement Act, which defines the term "consumer rental purchase agreement," to update references to federal definitions contained in 12 CFR 1026.2(a)(16), 15 USC 1602(h), and 12 CFR 1013.2, as such regulations and law existed on January 1, 2019 (currently January 1, 2016).

Section 10 amends Section 69-2104 of the Consumer Rental Purchase Agreement Act, which requires disclosures to consumers, to update a reference within Subsection (4) to the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such Act existed on January 1, 2019 (currently January 1, 2016).

Section 11 amends Section 69-2112 of the Consumer Rental Purchase Agreement Act, which relates to certain advertisements for consumer rental purchase agreements, to update references within Subsection (2) to the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such Act existed on January 1, 2019 (currently January 1, 2016), and within Subsection (3) to the disclosure requirements of the federal Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, 2019 (currently January 1, 2016).

Section 12 amends Section 69-2117 of the Consumer Rental Purchase Agreement Act, which provides enforcement authority to the Nebraska Department of Banking and Finance for violations of the Act, to update Subsection (4) by providing that fines collected are to be credited by the State Treasurer in accordance with Article VII, section 5, of the Nebraska Constitution.

Section 13 provides for repealers of amendatory sections.

Section 14 provides for the emergency clause for all provisions of the bill.

Matt Williams, Chairperson