

AMENDMENTS TO LB649

(Amendments to Standing Committee amendments, AM1018)

Introduced by Flood, 19.

1 1. Insert the following new section:

2 Sec. 47. Section 8-1120, Revised Statutes Cumulative Supplement,
3 2020, is amended to read:

4 8-1120 (1) Except as otherwise provided in this section, the
5 Securities Act of Nebraska shall be administered by the Director of
6 Banking and Finance who may employ such deputies, examiners, assistants,
7 or counsel as may be reasonably necessary for the purpose thereof. The
8 employment of any person for the administration of the act is subject to
9 section 49-1499.07. The director may delegate to a deputy director or
10 counsel any powers, authority, and duties imposed upon or granted to the
11 director under the act, such as may be lawfully delegated under the
12 common law or the statutes of this state. The director may also employ
13 special counsel with respect to any investigation conducted by him or her
14 under the act or with respect to any litigation to which the director is
15 a party under the act.

16 (2) A security issued by and representing an interest in or a debt
17 of, or guaranteed by, any insurance company shall be registered, pursuant
18 to the provisions of sections 8-1104 to 8-1109, with the Director of
19 Insurance who shall as to such registrations administer and enforce the
20 act, and as pertains to the administration and enforcement of such
21 registration of such securities all references in the act to director
22 shall mean the Director of Insurance.

23 (3)(a) It shall be unlawful for the director or any of his or her
24 employees to use for personal benefit any information which is filed with
25 or obtained by the director and which is not made public. Neither the
26 director nor any of his or her employees shall disclose any confidential

1 information except among themselves, when necessary or appropriate in a
2 proceeding, examination, or investigation under the act, or as authorized
3 in subdivision (3)(b) of this subsection. No provision of the act shall
4 either create or derogate from any privilege which exists at common law
5 or otherwise when documentary or other evidence is sought under a
6 subpoena directed to the director or any of his or her employees.

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

8 (A) Enter into agreements or relationships with other government
9 officials, including, but not limited to, the securities administrator of
10 a foreign state and the Securities and Exchange Commission, or self-
11 regulatory organizations, to share resources, standardized or uniform
12 methods or procedures, and documents, records, and information; or

13 (B) Accept and rely on examination or investigation reports made by
14 other 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.

17 (ii) For purposes of this subdivision, foreign state means any state
18 of the United States, other than the State of Nebraska, any territory of
19 the United States, including Puerto Rico, Guam, American Samoa, the Trust
20 Territory of the Pacific Islands, or the Virgin Islands, and the District
21 of Columbia.

22 (4) The director may adopt and promulgate rules and regulations and
23 prescribe forms to carry out the act. No rule and regulation may be
24 adopted and promulgated or form may be prescribed unless the director
25 finds that the action is necessary or appropriate in the public interest
26 or for the protection of investors and consistent with the purposes
27 fairly intended by the policy and provisions of the act. In adopting and
28 promulgating rules and regulations and prescribing forms the director may
29 cooperate with the securities administrators of the other states and the
30 Securities and Exchange Commission with a view to effectuating the policy
31 of the Securities Act of Nebraska to achieve maximum uniformity in the

1 form and content of registration statements, applications, and reports
2 wherever practicable. All rules and regulations and forms of the director
3 shall be published and made available to any person upon request.

4 (5) No provision of the act imposing any liability shall apply to
5 any act done or omitted in good faith in conformity with any rule and
6 regulation, form, or order of the director, notwithstanding that the rule
7 and regulation or form may later be amended or rescinded or be determined
8 by judicial or other authority to be invalid for any reason.

9 (6) Every hearing in an administrative proceeding shall be public
10 unless the director in his or her discretion grants a request joined in
11 by all the respondents that the hearing be conducted privately.

12 (7)(a) ~~(7)~~ The Securities Act Cash Fund is created. All filing fees,
13 registration fees, and all other fees and all money collected by or paid
14 to the director under any of the provisions of the act shall be remitted
15 to the State Treasurer for credit to the fund, except that registration
16 fees collected by or paid to the Director of Insurance pursuant to the
17 provisions of the act shall be credited to the Department of Insurance
18 Cash Fund. The Securities Act Cash Fund shall be used for the purpose of
19 administering and enforcing the provisions of the act, except that
20 transfers may be made to the General Fund at the direction of the
21 Legislature. Any money in the Securities Act Cash Fund available for
22 investment shall be invested by the state investment officer pursuant to
23 the Nebraska Capital Expansion Act and the Nebraska State Funds
24 Investment Act.

25 (b) The State Treasurer shall transfer seven hundred twelve thousand
26 four hundred eighty-nine dollars from the Securities Act Cash Fund to the
27 Financial Institution Assessment Fund on or before October 30, 2021, on
28 such date as directed by the budget administrator of the budget division
29 of the Department of Administrative Services.

30 (c) The State Treasurer shall transfer three hundred ninety-seven
31 thousand eighty-nine dollars from the Securities Act Cash Fund to the

1 Financial Institution Assessment Fund on or before October 30, 2022, on
2 such date as directed by the budget administrator of the budget division
3 of the Department of Administrative Services.

4 (8) A document is filed when it is received by the director. The
5 director shall keep a register of all applications for registration and
6 registration statements which are or have ever been effective under the
7 Securities Act of Nebraska and all denial, suspension, or revocation
8 orders which have ever been entered under the act. The register shall be
9 open for public inspection. The information contained in or filed with
10 any registration statement, application, or report may be made available
11 to the public under such conditions as the director may prescribe.

12 (9) The director may, by rule and regulation or order, authorize or
13 require the filing of any document required to be filed under the act by
14 electronic or other means, processes, or systems.

15 (10) Upon request and at such reasonable charges as he or she shall
16 prescribe, the director shall furnish to any person photostatic or other
17 copies, certified under his or her seal of office if requested, of any
18 entry in the register or any document which is a matter of public record.
19 In any proceeding or prosecution under the act, any copy so certified
20 shall be prima facie evidence of the contents of the entry or document
21 certified.

22 (11) The director in his or her discretion may honor requests from
23 interested persons for interpretative opinions.

24 2. On page 81, line 30, strike "and 68" and insert "48, and 69"; and
25 in line 31 strike "48, 49, 50, 51," and insert "49, 50, 51, 52,".

26 3. On page 82, strike line 1 and insert "53, 54, 55, 56, 57, 58, 59,
27 60, 61, 62, 63, 64, 65, 66, 67, and 70 of"; and in line 6 after "8-702,"
28 insert "8-1120,".

29 4. Renumber the remaining sections accordingly.