

Bank Holding Companies
Chapter 8, Article 9
§§8-908 to 8-918

8-908

Act, how cited.

Sections 8-908 to 8-918 shall be known and may be cited as the Nebraska Bank Holding Company Act of 1995.

Last amended:

Laws 2010, LB890, § 10

~ Reissue 2012

8-909

Terms, defined.

For purposes of the Nebraska Bank Holding Company Act of 1995, unless the context otherwise requires:

(1) Bank means any bank which is chartered to conduct a bank in this state pursuant to the Nebraska Banking Act or any national bank authorized to do business in this state;

(2) Company means any corporation, partnership, limited liability company, business trust, association, or similar organization or entity, but does not include:

(a) An individual; or

(b) Any corporation, the majority of the shares of which are owned by the United States or by any state;

(3)(a) Bank holding company means any company, including an out-of-state bank holding company, which, except as provided in subdivision (b) of this subdivision:

(i) Directly or indirectly owns or controls twenty-five percent or more of the voting shares of any bank;

(ii) Controls in any manner the election of the majority of the directors of any bank; or

(iii) For the benefit of whose shareholders or members twenty-five percent or more of the voting shares of any bank or bank holding company are held by trustees.

(b)(i) No estate, trust, guardianship, or conservatorship or fiduciary thereof shall be a bank holding company by virtue of its ownership or control of a bank or banks if such trust is not a business trust or voting trust. It shall be unlawful for any such estate, trust, guardianship, or

conservatorship to acquire, by purchase, ownership, or control, twenty-five percent of the shares of any additional bank;

(ii) No company shall be a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of bank shares and which are held only for such period of time as will permit the sale thereof on a reasonable basis; and

(iii) No company shall be a bank holding company by virtue of its ownership or control of shares acquired and held in the ordinary course of securing or collecting a debt previously contracted in good faith, except that such shares shall be disposed of within a period of two years from the date on which they were acquired, unless the director, upon good cause shown, extends the two-year period. Any extensions granted by the director shall be for no more than one year at a time and, in the aggregate, for no more than three years;

(4) Adequately capitalized means a level of capitalization which meets or exceeds all applicable federal regulatory capital standards;

(5) Department means the Department of Banking and Finance;

(6) Director means the Director of Banking and Finance;

(7) Foreign state means any state of the United States other than Nebraska, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the District of Columbia;

(8) Home state means, with respect to a bank holding company, the state in which the total deposits of all banking subsidiaries of such company are the largest on the later of: (a) July 1, 1966; or (b) the date on which the company becomes a bank holding company under 12 U.S.C. 1842;

(9) Out-of-state bank holding company means a bank holding company whose home state is a foreign state, except an out-of-state bank holding company, as defined in 12 U.S.C. 1842(d) as it existed on August 26, 1983, which owned at least two banks in Nebraska as of March 12, 1963; and

(10) Foreign state agency means any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any state of the United States other than Nebraska, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands or which is operating under the code of law for the District of Columbia.

Last amended:

Laws 1998, LB 1321, § 69

~ Reissue 2012

8-910

Unlawful acts; authorized ownership or control of banks; limitation.

(1) It shall be unlawful, except as provided in this section, for:

(a) Any action to be taken that causes any company to become a bank holding company;

(b) Any action to be taken that causes a bank to become a subsidiary of a bank holding company;

(c) Any bank holding company to acquire direct or indirect ownership or control of any voting shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than twenty-five percent of the voting shares of such bank;

(d) Any bank holding company or subsidiary thereof, other than a bank, to acquire all or substantially all of the assets of a bank; or

(e) Any bank holding company to merge or consolidate with any other bank holding company.

(2) The prohibition set forth in subsection (1) of this section shall not apply if:

(a)(i) The bank holding company is registered with the department as of September 29, 1995, as a bank holding company for any bank or banks; or (ii) the bank holding company registers with the department in accordance with the provisions of section 8-913 as a bank holding company;

(b) The bank holding company does not have a name deceptively similar to an existing unaffiliated bank or bank holding company located in Nebraska;

(c) Upon any action referred to in subsection (1) of this section and subject to subsection (3) of this section, the bank or banks so owned or controlled would have deposits in Nebraska in an amount no greater than twenty-two percent of the total deposits of all banks in Nebraska plus the total deposits, savings accounts, passbook accounts, and shares in savings and loan associations and building and loan associations in Nebraska as determined by the director on the basis of the most recent midyear reports, except as provided in subsections (4), (5), and (6) of this section;

(d) The bank holding company is adequately capitalized and adequately managed;

(e) The bank holding company complies with sections 8-1501 to 8-1505 if the bank or banks to be acquired are chartered in this state under the Nebraska Banking Act; and

(f) The bank holding company, if an out-of-state bank holding company, complies with the limitations of section 8-911.

(3) If any person, association, partnership, limited liability company, or corporation owns or controls twenty-five percent or more of the voting stock of any bank holding company acquiring a bank and any such person, association, partnership, limited liability company, or corporation

owns or controls twenty-five percent or more of the voting stock of any other bank or bank holding company in Nebraska, then the total deposits of such other bank or banks and of all banks in Nebraska owned or controlled by such bank holding company shall be included in the computation of the total deposits of a bank holding company acquiring a bank.

(4) A bank or bank holding company which acquires and holds all or substantially all of the voting stock of one credit card bank under sections 8-1512 and 8-1513 shall not have such acquisition count against the limitations set forth in subdivision (2)(c) of this section.

(5) A bank holding company which acquired an institution or which formed a bank which acquired an institution under sections 8-1506 to 8-1510 or which acquired any assets and liabilities from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation prior to January 1, 1994, shall not have such acquisition or formation count against the limitations set forth in subdivision (2)(c) of this section.

(6) A bank which accepts deposits from nonresidents of Nebraska and voluntarily segregates the reporting of such deposits in such a manner as to allow the director to determine the amounts of such deposits shall not have such deposits count against the limitations set forth in subdivision (2)(c) of this section. The bank shall report the amount of such deposits, if so segregated, to the director prior to October 1 of each year.

Last amended:

Laws 2008, LB851, § 13

~ Reissue 2012

8-911

Out-of-state bank holding company; acquisition of banks; conditions.

(1) Upon compliance with all other provisions of the Nebraska Bank Holding Company Act of 1995 and any other applicable law, an out-of-state bank holding company may acquire a bank or banks under the act only if the bank or banks to be acquired have been chartered for five years or more.

(2) An out-of-state bank holding company shall not, directly or indirectly, form, charter, or establish a bank in Nebraska or cause a bank in Nebraska to be formed, chartered, or established unless (a) the bank is formed, chartered, or established solely for the purpose of acquiring all or substantially all of the assets of a bank which has been chartered for five years or more and (b) the bank does not open for business prior to such acquisition.

Last amended:

Laws 1998, LB 1321, § 71

~ Reissue 2012

8-912

Ownership, acquisition, or control of subsidiary in foreign state; when.

Upon approval of the Federal Reserve Board and upon compliance with section 8-913, a bank holding company whose home state is Nebraska may own, acquire, or control a depository institution subsidiary in any foreign state.

Last amended:

Laws 1995, LB 384, § 23

~ Reissue 2012

8-913

Bank holding company; registration required; when.

Every bank holding company shall register with the department within thirty days after the consummation of an action set forth in section 8-910 on forms provided by the department. The forms provided by the department shall include such information with respect to the financial condition, operations, management, and intercompany relationship of the bank holding company and its subsidiaries and related matters, as the director may deem necessary or appropriate to carry out the purposes of the Nebraska Bank Holding Company Act of 1995. Upon good cause shown, the director may, in his or her discretion, extend the time within which a bank holding company shall register. A bank holding company shall amend its registration within thirty days after any additional action under section 8-910, 8-911, or 8-912.

Last amended:

Laws 1995, LB 384, § 24

~ Reissue 2012

8-914

Reports required.

The director may require reports made under oath to be filed in the department to keep it informed as to the operation of any bank holding company.

Last amended:

Laws 1995, LB 384, § 25

~ Reissue 2012

8-915

Examinations; costs; reports in lieu of examination; director; powers.

The director may make examinations of any bank holding company with one or more state-chartered bank subsidiaries and each state-chartered bank subsidiary thereof, the cost of which shall be assessed, in the manner set forth in sections 8-605 and 8-606, against and paid for by such bank holding company. The director may accept reports of examination made by the Federal Reserve Board, the Comptroller of the Currency, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, or a foreign state agency in lieu of making an examination by the department. The director may provide reports of examination conducted by the department or other confidential information to any of such regulatory entities. The director may contract with any of such regulatory entities to conduct and pay for such an examination for the department. The

director may contract with any of such regulatory entities to conduct and receive payment for such an examination for any of such regulatory entities. The director may enter into cooperative agreements with any or all of such regulatory entities to foster the purposes of the Nebraska Bank Holding Company Act of 1995.

Last amended:

Laws 2013, LB213, § 12

~ Cum. Supp. 2014

8-916

Bank subsidiary; powers; depository institution; limitations; agency relationship; limitations.

(1) Any bank subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for a depository institution without regard to the location of the depository institution.

(2) Notwithstanding any other provision of law, a bank acting as an agent in accordance with this section for another depository institution shall not be considered to be a branch of the other depository institution.

(3) A depository institution shall not:

(a) Conduct any activity as an agent under subsection (1) or (6) of this section which such institution is prohibited from conducting as a principal under any applicable law; or

(b) As a principal, have an agent conduct any activity under subsection (1) or (6) of this section which the institution is prohibited from conducting under any applicable law.

(4) No provision of this section shall be construed as affecting:

(a) The authority of any depository institution to act as an agent on behalf of any other depository institution under any other provision of law; or

(b) Whether a depository institution which conducts any activity as an agent on behalf of any other depository institution under any other provision of law shall be considered to be a branch of such other depository institution.

(5) An agency relationship between depository institutions under subsection (1) or (6) of this section shall be on terms that are consistent with safe and sound banking practices and all applicable rules and regulations of the department, any appropriate federal banking regulatory agency, and, if applicable, any foreign state agency.

(6) A savings association insured by the Federal Deposit Insurance Corporation which was an affiliate of a bank on or before July 1, 1994, may conduct activities as an agent on behalf of such bank in the same manner as an insured bank affiliate of such bank may act as an agent for such bank under this section to the extent such activities are conducted only in:

(a) Nebraska or any foreign state in which:

(i) The bank is not prohibited from operating a branch under any provision of law; and

(ii) The savings association maintained an office or branch and conducted business on or before July 1, 1994; or

(b) Nebraska or any foreign state in which:

(i) The bank is not expressly prohibited from operating a branch under applicable Nebraska or foreign state law; and

(ii) The savings association maintained a main office and conducted business on or before July 1, 1994.

(7) For purposes of this section:

(a) Bank means any bank, in addition to those defined in section 8-909, chartered by the United States or by any foreign state agency and insured by the Federal Deposit Insurance Corporation;

(b) Savings institution means any savings and loan association, building and loan association, capital stock savings association, savings bank, or similar entity, chartered under Chapter 8, article 3, chartered by the United States, or chartered by any foreign state agency and insured by the Federal Deposit Insurance Corporation;

(c) Depository institution means either a bank as defined in subdivision (a) of this subsection or a savings institution as defined in subdivision (b) of this subsection;

(d) Affiliate means any entity that controls, is controlled by, or is under common control with another entity; and

(e) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of any bank, savings institution, or holding company or to control in any manner the election of the majority of directors of any bank, savings institution, or holding company.

Last amended:

Laws 2003, LB 217, § 17

~ Reissue 2012

8-917

Rules and regulations.

The department may adopt and promulgate rules and regulations to administer and to carry out the purposes of the Nebraska Bank Holding Company Act of 1995.

Last amended:

Laws 1995, LB 384, § 28

~ Reissue 2012

8-918

Unsafe or unauthorized activities; powers of department.

If the department, upon investigation, determines that any officer or director of a bank holding company which owns or controls a state-chartered bank is conducting the business of the bank holding company or the business of its subsidiary state-chartered bank or banks in an unsafe or unauthorized manner or is endangering the interest of the bank holding company or the interest of its subsidiary state-chartered bank or banks, the department shall have authority, after notice and opportunity for hearing, to do any or all of the following: (1) Remove such officer or director of the bank holding company from acting as an officer or director of the bank holding company; and (2) impose fines and order any other necessary corrective action against such officer or director pursuant to sections 8-1,134 to 8-1,139. The department may adopt and promulgate rules and regulations to carry out this section.

Last amended:

Laws 2010, LB890, § 11.

~ Reissue 2012