

State-Federal Cooperation Acts; Capital Notes
Chapter 8, Article 7
§§ 8-701 to 8-716

8-701

Banking institution; definition.

For purposes of sections 8-701 to 8-709, banking institution shall be construed to mean any bank, stock savings bank, mutual savings bank, building and loan association, or savings and loan association, which is now or may hereafter be organized under the laws of this state.

Last amended:

Laws 2005, LB 533, § 21

~ Reissue 2012

8-702

Banking institutions; maintain insurance or provide notice; notice requirements; violation; penalty; proof of compliance filed with Department of Banking and Finance; employment of mortgage loan originators; requirements; automatic forfeiture of charter.

(1) Except as provided in subsection (2) of this section, any banking institution organized under the laws of this state shall, before a charter may be issued, enter into such contracts, incur such obligations, and generally do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to obtain membership in the Federal Deposit Insurance Corporation and provide for insurance of deposits in the banking institution. Any banking institution may take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges which may at any time be available or inure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers, or liquidators by virtue of those provisions of section 8 of the Federal Banking Act of 1933 (section 12B of the Federal Reserve Act, as amended) which establish the Federal Deposit Insurance Corporation and provide for the insurance of deposits or of any other provisions of that or of any other act or resolution of Congress to aid, regulate, or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor. Any banking institution may also subscribe for and acquire any stock, debentures, bonds, or other types of securities of the Federal Deposit Insurance Corporation and comply with the lawful regulations and requirements from time to time issued or made by such corporation.

(2)(a) A banking institution which has not complied with subsection (1) of this section and which was in operation on September 4, 2005, may continue to operate if it provides notice to depositors and holders of savings certificates, certificates of indebtedness, or other similar instruments that such deposits or instruments are not insured. Such notice shall be given (i) on the date any such deposit, savings certificate, certificate of indebtedness, or similar instrument is created for deposits made and instruments created on or after October 1, 1984, and (ii) annually on October 1 thereafter as follows: AS PROVIDED BY THE LAWS OF THE STATE OF NEBRASKA YOU ARE HEREBY NOTIFIED THAT YOUR DEPOSIT, SAVINGS CERTIFICATE, CERTIFICATE OF INDEBTEDNESS, OR OTHER SIMILAR INSTRUMENT

IS NOT INSURED. Any advertising conducted by such banking institution shall in each case state: THE DEPOSITS, SAVINGS CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, OR SIMILAR INSTRUMENTS OF THIS INSTITUTION ARE NOT INSURED. The banking institution shall also display such notice in one or more prominent places in all facilities in which the institution operates. All such notices and statements shall be given in large or contrasting type in such a manner that such notices shall be conspicuous. Each willful failure to give the notice prescribed in subdivision (2)(a) of this section shall constitute a Class II misdemeanor. All officers and directors of any such banking institution shall be jointly and severally responsible for the issuance of the notices described in subdivision (2)(a) of this section in the form and manner described. The banking institution shall annually by November 1 file proof of compliance with subdivision (2)(a) of this section with the Department of Banking and Finance.

(b) Any banking institution described in subdivision (a) of this subsection that employs mortgage loan originators, as defined in section 45-702, shall register such employees with the Nationwide Mortgage Licensing System and Registry, as defined in section 45-702, by furnishing the following information concerning the employees' identities to the Nationwide Mortgage Licensing System and Registry:

(i) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information, for a state and national criminal history background check; and

(ii) Personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(3) The charter of any banking institution which fails to comply with the provisions of this section shall be automatically forfeited and such banking institution shall be liquidated and dissolved, either voluntarily by its board of directors under the supervision of the department or involuntarily by the department as in cases of insolvency, except that such charter shall not be automatically forfeited for failure to comply with subdivision (2)(b) of this section if the banking institution cures such violation within sixty days after receipt of notice of such violation from the Department of Banking and Finance. Any banking institution whose charter is automatically forfeited under the provisions of this subsection which continues to engage in the business for which it had been chartered after such forfeiture, as well as the directors and officers thereof, shall be subject to the penalties provided by law for illegally engaging in the business of banking.

Last amended:

Laws 2013, LB 213, § 9

Operative Date: March 8, 2013

~ Cum. Supp. 2016

8-703

Insolvent banks; appointment of Federal Deposit Insurance Corporation as receiver or liquidator.

The Federal Deposit Insurance Corporation created by section 8 of the Federal Banking Act of 1933 (section 12B of the Federal Reserve Act, as amended) is hereby authorized and empowered to be and act without bond as receiver or liquidator of any banking institution, the deposits in which are to any extent insured by said corporation, and which shall have been closed on account of inability to meet the demands of its depositors. The appropriate state authority, having the right to appoint a receiver or liquidator of a banking institution, may, in the event of such closing, tender to said corporation the appointment as receiver or liquidator of such banking institution, and, if the corporation accepts such appointment, the corporation shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator respectively of a banking institution, its depositors and other creditors, and be subject to all the duties of such receiver or liquidator except insofar as such powers, privileges or duties are in conflict with the provisions of subsection (1) of section 12B of the Federal Reserve Act, as amended (section 8 of the Banking Act of 1933).

Last amended:

C.S.Supp.,1941, § 8-403

~ Reissue 2012

8-704

Insolvent banks; Federal Deposit Insurance Corporation subrogated to depositors' rights.

Whenever any banking institution shall have been closed as aforesaid, and the Federal Deposit Insurance Corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, the corporation, whether or not it shall have become receiver or liquidator of such closed banking institution as herein provided, shall be subrogated to all rights against such closed banking institution of the owners of such deposits in the same manner and to the same extent as subrogation of the corporation is provided for in subsection (1) of section 12B of the Federal Reserve Act, as amended (being section 8, of the Banking Act of 1933) in the case of the closing of a national bank; *Provided*, that the rights of depositors and other creditors of such closed institution shall be determined in accordance with the applicable provisions of the laws of this state.

Last amended:

C.S.Supp.,1941, § 8-404

~ Reissue 2012

8-705

Examinations, reports of other examiners; Director of Banking and Finance may accept.

The Director of Banking and Finance is authorized to accept in his or her discretion, in lieu of any examination authorized by the laws of this state to be conducted by his or her department of a banking institution, the examination that may have been made of such banking institution within a reasonable period by the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller of the Currency, the Consumer Financial Protection Bureau, or a foreign state agency if a copy of the examination is furnished to the director. The director may also in his or her discretion accept any report relative to the condition of a banking institution which may have been

obtained by the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller of the Currency, the Consumer Financial Protection Bureau, or a foreign state agency within a reasonable period in lieu of a report authorized by the laws of this state to be required of such institution by his or her department if a copy of such report is furnished to the director.

As used in this section, unless the context otherwise requires, foreign state agency shall mean any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any other state, 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 2013, LB213, § 10

~ Cum. Supp. 2016

8-706

Examinations, reports of Director of Banking and Finance; may be furnished to other examiners

The Director of Banking and Finance may furnish to the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller of the Currency, the Consumer Financial Protection Bureau, or a foreign state agency, or to any official or examiner thereof, a copy or copies of any or all examinations made of any such banking institution and of any or all reports made by it and shall give access and disclose to the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller of the Currency, the Consumer Financial Protection Bureau, or a foreign state agency, or to any official or examiner thereof, any and all information possessed by the office of the director with reference to the conditions or affairs of any such insured institution. Nothing in this section shall be construed to limit the duty of any banking institution in this state, deposits in which are to any extent insured under the provisions of section 8 of the Banking Act of 1933 (section 12B of the Federal Reserve Act, as amended), or of any amendment of or substitution for the same, to comply with the provisions of such act, its amendments or substitutions, or the requirements of the Federal Deposit Insurance Corporation relative to examinations and reports, nor to limit the powers of the director with reference to examinations and reports under existing law.

As used in this section, unless the context otherwise requires, foreign state agency shall mean any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any other state, 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 2013, LB213, § 11

~ Cum. Supp. 2016

8-707

Insolvent banks; loans from Federal Deposit Insurance Corporation; security; sale of assets to corporation; conditions.

With respect to any banking institution which is now or may hereafter be closed on account of inability to meet the demands of its depositors, or by action of the Director of Banking and Finance, or of a court, or by action of its directors, or in the event of its insolvency or suspension, the Director of Banking and Finance, or the receiver or liquidator of such institution with the permission of the Director of Banking and Finance may borrow from the Federal Deposit Insurance Corporation and furnish any part or all of the assets of said institution to the corporation as security for a loan from the same; *Provided*, that where the corporation is acting as such receiver or liquidator, the order of a court of record of competent jurisdiction shall be first obtained approving such loan. The Director of Banking and Finance, upon the order of a court of record of competent jurisdiction, and upon a like order and with the permission of the Director of Banking and Finance the receiver or liquidator of any such institution, may sell to the corporation any part or all of the assets of such institution. The provisions of this section shall not be construed to limit the power of any banking institution, the Director of Banking and Finance, or receivers or liquidators, to pledge or sell assets in accordance with any existing law.

Last amended:

C.S.Supp.,1941, § 8-407
~ Reissue 2012

8-708

Insolvent bank; Federal Deposit Insurance Corporation as receiver or liquidator; title to property.

Upon the acceptance of the appointment of receiver or liquidator aforesaid by the Federal Deposit Insurance Corporation, the possession of and title to all the assets, business and property of such banking institution of every kind and nature shall pass to and vest in said corporation and without the execution of any instruments of conveyance, assignment, transfer or endorsement.

Last amended:

C.S.Supp.,1941, § 8-408
~ Reissue 2012

8-709

Insolvent bank; Federal Deposit Insurance Corporation as receiver or liquidator; enforcement of stockholders' liability.

Among its other powers, the Federal Deposit Insurance Corporation in the performance of its powers and duties as such receiver or liquidator, shall have the right and power upon the order of a court of record of competent jurisdiction to enforce the individual liability of the stockholders and directors of any such banking institution.

Last amended:

C.S.Supp.,1941, § 8-409
~ Reissue 2012

8-710

Transferred to section 8-116.01

~ Reissue 2012

8-711

Banks, trust companies, insurance companies; loans under National Housing Act; authority to make.

Notwithstanding any more general or special law of the State of Nebraska to the contrary, banks, savings banks, trust companies and insurance companies are authorized (1) to make such loans and advances of credit, and purchases of obligations representing loans and advances of credit, as are eligible for insurance by the Federal Housing Administrator, and to obtain such insurance; and (2) to make such loans, secured by real property or leasehold, as the Federal Housing Administrator insures or makes a commitment to insure, and to obtain such insurance.

Last amended:

C.S.Supp.,1941, § 8-501
~ Reissue 2012

8-712

Banks, trust companies, insurance companies, fiduciaries; investments in National Housing Act securities; authority to make.

It shall be lawful for banks, savings banks, trust companies, insurance companies, personal representatives, administrators, guardians, trustees, and other fiduciaries, the State of Nebraska and its political subdivisions, and institutions and agencies thereof, to invest their funds and the money in their custody or possession, eligible for investment, in bonds or notes secured by mortgages insured by the Federal Housing Administrator, in debentures issued by the Federal Housing Administrator, and in securities issued by national mortgage associations.

Last amended:

Laws 1986, LB 909, § 10
~ Reissue 2012

8-713

Investments in National Housing Act securities; general laws not applicable.

No law of this state requiring security upon which loans or investments may be made, or prescribing the nature, amount or form of such security, or prescribing or limiting interest rates upon loans or investments, or prescribing or limiting the periods for which loans or investments may be made, shall be deemed to apply to loans or investments made pursuant to sections 8-711 and 8-712.

Last amended:

C.S.Supp.,1941, § 8-503
~ Reissue 2012

8-714

Federal Home Loan Bank; members authorized.

In addition to all other powers and investments authorized by law, every institution incorporated under the laws of this state and eligible for membership in a Federal Home Loan Bank may become a member of a Federal Home Loan Bank, as permitted by and in accordance with the Federal Home Loan Bank Act.

Last amended:

Laws 1991, LB 77, § 1
~ Reissue 2012

8-715

Federal Home Loan Bank members; powers.

In addition to all other powers and investments authorized by law, any institution, upon becoming a member of a Federal Home Loan Bank, may (1) purchase stock in, (2) obtain advances from, (3) pledge collateral to, and (4) perform such acts which are necessary and required to make available to it all the advantages and privileges offered by such Federal Home Loan Bank to the extent provided by and in accordance with the Federal Home Loan Bank Act.

Last amended:

Laws 1991, LB 77, § 2
~ Reissue 2012

8-716

Federal Home Loan Bank members; tax exemption prohibited.

No institution incorporated under the laws of this state which is or becomes a member of a Federal Home Loan Bank shall be exempt from any taxes of this state, including any contributions required to be paid under sections 48-648 to 48-654.

Last amended:

Laws 1991, LB 77, § 3
~ Reissue 2012