

~~Title 46 -- DEPARTMENT OF BANKING AND FINANCE~~

~~Chapter 6 -- INTEREST ON CERTIFICATES OF INDEBTEDNESS~~

~~001 The Director of Banking and Finance, pursuant to authority delegated to him by Section 8-401.01, R.R.S. Nebraska, 1943, prescribes the following regulations for carrying out the provisions of Section 8-410 R.R.S. Nebraska 1943.~~

~~001.01 Definitions~~

~~001.01A Paid-up time certificates of indebtedness. This term means a certificate of indebtedness issued in fixed denomination and evidenced by an instrument which provides on its face that the amount is payable:~~

~~001.01A1 On a certain date, specified in the instrument, not less than 7 days after date; or~~

~~001.01A2 At the expiration of a certain specified time not less than 7 days after the date of the instrument.~~

~~001.01B Paid-up certificates of Indebtedness--Open Account. This term means a paid-up certificate of indebtedness, other than a paid-up time certificate of indebtedness, with respect to which there is in force a written contract with the certificate holder that neither the whole nor any part of such certificate may be withdrawn, prior to the date of maturity, which shall be not less than 7 days after the date of the certificate, or prior to the expiration of the period of notice which must be given by the certificate holder in writing not less than 7 days in advance of withdrawals.~~

~~001.01C Installment Certificates of Indebtedness. This term means an installment certificate of indebtedness issued in passbook or other form and under such term which will allow the holder to add or withdraw funds from time to time as he may desire, except the industrial loan and investment company may require at least a 7-day notice of any such withdrawal.~~

~~001.02 Maximum Rates of Interest Payable on Certificates of Indebtedness.~~

~~Pursuant to the provisions of Section 8-410 R.R.S. Nebraska 1943, effective January 1, 1986, industrial loan and investment companies may pay interest on any certificate of indebtedness, either paid-up or installment,~~

at any rate.

~~001.03 Payment of Paid-Up Certificates of
Indebtedness Before Maturity.~~

~~001.03A Penalty for Early Withdrawal. The following minimum early withdrawal penalties apply only to paid-up certificates of indebtedness contracts entered into, renewed, or extended prior to September 30, 1983, and that have not been renewed or extended on or after October 1, 1983. Where a paid-up certificate of indebtedness with an original maturity of more than one year, or any portion thereof, is paid before maturity, a certificate holder shall forfeit an amount at least equal to six months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the certificate, regardless of the length of time the funds withdrawn have remained in the certificate.~~

~~(Penalties for early withdrawals of paid-up certificates of indebtedness are governed by the restrictions in effect at the time the contract is entered into. If existing paid-up certificates of indebtedness contracts are extended or renewed (whether by automatic renewal or otherwise), so as to increase the rate of interest paid, the restriction in effect at the time of extension or renewal will apply. With the consent of the certificate holder, restrictions that become effective after the date of the contract may be applied.)~~

~~Where necessary to comply with the requirements of this section, any interest already paid to or for the account of the certificate holder shall be deducted from the amount requested to be withdrawn.~~

~~Any amendment of a paid-up certificate of indebtedness contract that results in an increase in the rate of interest paid or in a reduction in the maturity of the paid-up certificate of indebtedness constitutes a payment of the paid-up certificate of indebtedness before maturity.~~

~~001.03A1 A paid-up certificate of indebtedness may be paid before maturity without a reduction or forfeiture of interest as prescribed by this section in the following circumstances:~~

~~001.03A1a Where the Director determines that general economic conditions in areas of Nebraska officially designated disaster areas by the President of the United States warrant a temporary suspension of the penalty and gives industrial loan and investment companies permission to permit early withdrawal of paid-up certificates of indebtedness without penalty upon a showing that the certificate holder has suffered a loss related to disaster; or,~~

~~001.03A1b Where an industrial loan and investment company pays all or a portion of a certificate of indebtedness representing funds contributed to an Individual Retirement Account or Keough plan under 26 U.S.C. 401 when the individual for whose benefit the account is maintained attains age 59 1/2 or thereafter, or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) Section 72 (m)(7).~~

~~001.03A2 A paid-up certificate of indebtedness must be paid before maturity without a forfeiture of interest as prescribed by this section in the following circumstances:~~

~~001.03A2a Where an industrial loan and investment company pays all or a portion of a paid-up certificate of indebtedness upon the death or court-declared incompetence of any owner of the paid-up certificate of indebtedness funds (see "owner," paragraph 001.02A2b(1) of this section); or~~

~~001.03A2b(1) For the purpose of~~

~~this section, an "owner" of paid-up certificates of indebtedness funds is any individual who at the time of his or her death or determination of incompetence, has beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto.~~

~~001.03A2b(2) In the event the owner of a certificate of indebtedness in an Individual Retirement Account or a Keough plan under 26 U.S.C 401 revokes such account or plan within seven (7) days of the date of establishment, interest shall be paid on the account or plan.~~

~~001.03B Penalty for Early Withdrawal. The following minimum early withdrawal penalties shall apply to paid-up certificate of indebtedness contracts entered into, renewed or extended on or after October 1, 1983:~~

~~001.03B1 Where a paid-up certificate of indebtedness with an original maturity or required notice period of 7 to 31 days, or any portion thereof, is paid before maturity, a certificate holder shall forfeit an amount equal to the greater of (i) all interest earned on the amount withdrawn from the most recent of the date of certificate of indebtedness, date of maturity, or date on which notice was given, or (ii) all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or the required notice period.~~

~~001.03B2 Where a paid-up certificate of indebtedness with an original maturity or required notice period of 32 days to one year, or any portion thereof is paid before maturity, a certificate holder shall forfeit an amount at least equal to one month's interest earned, or that could have been earned, on the amount~~

~~withdrawn at the nominal (simple) interest rate being paid on the certificate of indebtedness, regardless of the length of time the funds withdrawn have remained on deposit.~~

~~001.03B3 Where a paid-up certificate of indebtedness with an original maturity or required notice period of more than one year, or any portion thereof is paid before maturity, the certificate holder shall forfeit an amount at least equal to three months' interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple) interest rate being paid on the certificate of indebtedness, regardless of the length of time the funds withdrawn have remained on deposit.~~

~~001.03B4 A paid-up certificate of indebtedness may be paid before maturity without a reduction or forfeiture of interest as prescribed by this section in the following circumstances:~~

~~001.03B4a Where the Director determines that general economic conditions in areas of Nebraska officially designated disaster areas by the President of the United States warrant a temporary suspension of the penalty and gives industrial loan and investment companies permission to permit early withdrawal of paid-up certificates of indebtedness without penalty upon a showing that the certificate holder has suffered a loss related to disaster; or,~~

~~001.03B4b Where an industrial loan and investment company pays all or a portion of a certificate of indebtedness representing funds contributed to an Individual Retirement Account or Keough plan under 26 U.S.C. 402 when the individual for whose benefit the account is maintained attains age 59 1/2~~

or thereafter, or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) Section 72 (m)(7).

~~001.03B5~~ A paid-up certificate of indebtedness must be paid before maturity without a forfeiture of interest as prescribed by this section in the following circumstances:

~~001.03B5a~~ Where an industrial loan and investment company pays all or a portion of a paid-up certificate of indebtedness upon the death court-declared incompetence of any owner of the paid-up certificate of indebtedness funds (see "owner," paragraph ~~001.02A2b(1)~~ of this section); or

~~001.03B5a(1)~~ For the purpose of this section, an "owner" of paid-up certificates of indebtedness funds is any individual who at the time of his or her death or determination of incompetence, has beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto.

~~001.03B5b~~ In the event the owner of a certificate of indebtedness in an Individual Retirement Account or a Keogh plan under 26 U.S.C. 401 revokes such account or plan within seven (7) days of the date of establishment, no penalty shall be assessed and no interest shall be paid on the account or plan.

~~001.03B6~~ Any amendment of a paid-up certificate of indebtedness contract that results in an increase in the rate of interest paid or in a reduction in the maturity of the paid-up certificate of indebtedness before maturity.

~~001.03C~~ Notwithstanding paragraph ~~001.03A~~,

~~where a paid-up certificate of indebtedness of \$1,000 to less than \$100,000, with an original maturity of 91 days, that has been issued, renewed or extended before October 1, 1983, but not renewed or extended on or after that date, is paid before maturity, a certificate holder shall forfeit an amount equal to at least all interest earned on the amount withdrawn.~~

~~001.03D Notwithstanding paragraph 001.03A, where a nonnegotiable paid-up certificate of indebtedness of \$1,000 or more, with an original maturity or required notice period of 7 to 31 days, that has been issued, renewed or extended before October 1, 1983, but not renewed or extended on or after that date, is paid before maturity, the certificate holder shall forfeit an amount equal to at least the greater of:~~

~~001.03D1 all interest earned on the amount withdrawn from the most recent of the date of certificate of indebtedness, date of maturity, or date on which notice was given; or,~~

~~001.03D2 all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or required notice period.~~

~~001.03E Where all or any part of a paid-up certificate of indebtedness issued under this section is withdrawn within seven business days after the maturity date of the deposit or the date of expiration of notice of withdrawal, no early withdrawal penalty is required to be applied on the amount withdrawn.~~

~~001.03F Disclosure of Early Withdrawal Penalty. At the time a certificate holder enters into a paid-up certificate of indebtedness contract with an industrial loan and investment company, the company shall provide a written statement of the effect of the penalty prescribed in paragraphs 001.03A through 001.03D of this section, which shall:~~

~~001.03F1 State clearly that the customer has contracted to keep his funds in the certificate for the stated maturity, and~~

~~001.03F2 Described fully and clearly how such penalty provisions apply to paid-up certificates of indebtedness in the event the company, notwithstanding the contract provisions, permits payment before maturity. Such statements shall be expressly called to the attention of the customer.~~

~~001.04 Loans Upon Security of Certificates of Indebtedness. An industrial loan and investment company may make a loan to the holder of a certificate of indebtedness upon the security of such certificate, provided that the rate of interest on such loan shall be not less than 1% per annum in excess of the rate of interest on the certificate of indebtedness.~~