

Title 45 - DEPARTMENT OF BANKING AND FINANCE

Chapter ~~16~~ 10 ~~DIRECTOR, OFFICER OR EMPLOYEE BORROWING INSIDER LOAN~~
GUARANTEES

001 DEFINITIONS.

001.01 "Executive officer" is as defined in Neb. Rev. Stat. § 8-143.01.

001.02 "Insider" means a director, executive officer, principal shareholder of a bank, or any related interest of such persons.

002 GUARANTEES.

002.01 ~~Section 8-140 pertains to directors, officers and employees of state banks borrowing funds of the bank. The Department of Banking and Finance interprets this section to mean that such director, officer or employee~~ For purposes of Neb. Rev. Stat. § 8-143.01, an extension of credit means that an insider directly or indirectly receives funds in exchange for some consideration returning to the bank.

002.02 ~~Thus, the director, officer or employee~~ Except as provided in Subsection 002.03 of this Rule, an insider may be a guarantor of an extension of credit without falling within the purview of ~~section 8-140~~ Neb. Rev. Stat. § 8-143.01.

002.03 ~~There are, however, two instances in which a director, officer, or employee~~ An insider will fall within the purview of ~~section 8-140~~ Neb. Rev. Stat. § 8-143.01 even though ~~he or she~~ the insider is only in the capacity of guarantor. ~~These are:~~

001.01 when:

002.03A the loan is in default, or

001.02 002.03B ~~when~~ the maker clearly does not have the ability or financial capacity to repay the ~~loan~~ extension of credit, and reliance is being placed upon the guarantor for repayment.

003 BOARD OF DIRECTORS' APPROVAL.

003.01 In order to avoid a violation of ~~section 8-140~~ Neb. Rev. Stat. § 8-143.01 in the event 001.01 or 001.02 ~~should occur related to an insider guarantee~~, the approval of the Board of Directors must be obtained for such guarantees prior to the insider giving the guarantee.