

NEBRASKA ADMINISTRATIVE CODE

Title 45 – DEPARTMENT OF BANKING AND FINANCE

Chapter 19 – LEASING OF PERSONAL PROPERTY

001 GENERAL.

001.01 Federal statutes and regulations referenced herein means those statutes and regulations as amended on or before the effective date of this Rule. A copy of the statutes and regulations referenced in this Rule is available as an Appendix to this rule at [\[link to be determined\]](#).

002 MINIMUM COMPLIANCE REQUIREMENTS.

002.01 A bank may, directly or indirectly, engage in the business of leasing personal property if it conforms to the provisions of Title 12, Chapter 1, Part 23 of the Code of Federal Regulations, entitled “Leasing,” unless this Rule provides otherwise.

003 CONSTRUCTION OF RULE.

003.01 Nothing in this Rule shall be construed to be in conflict with the duties, liabilities and standards imposed by the Consumer Leasing Act of 1976, 15 U.S.C. 1667 et. seq.

004 LIMITATIONS.

004.01 Leases permissible under this Rule are subject to the limitations on loans under Neb. Rev. Stat. § 8-141, and the limitations on loans and investments under Neb. Rev. Stat. §§ 8-141 and 8-147.

004.02 The dollar amount of the lease for these purposes will be determined by using the following formulas:

004.02A Bank cost of acquisition of personal property minus investment credit realized minus the balance of any nonrecourse debt; or,

004.02B The sum of the present value of both the lease payments and the residual value of the property.

004.03 The Department reserves the right to determine that leases of personal property are also subject to the limitations of any other law, or rule or regulation, which limits potential financial risks associated with other forms of bank financing.

005 EXCLUSION AND SCOPE OF EXCLUSION.

005.01 Except as provided in this Section, this Rule does not apply to any leases executed prior to May 1, 1982.

005.02 With respect to the applicability of Section 004 of this Rule, when making new extensions of credit, including leases, to a customer, a bank must consider all

outstanding leases regardless of the date they were entered into.

005.03 Any lease which was entered into in good faith prior to May 1, 1982, which does not satisfy the requirements of this Rule may be renewed without violation of this Section only if:

005.03A There is a binding agreement in the expiring lease which requires the bank to renew it at the lessee's option, and the bank cannot otherwise reasonably or properly avoid its commitment to do so, or

005.03B The bank, in good faith, determines and demonstrates by full documentation that renewal of the lease is necessary to avoid significant financial loss and recover its total investment plus the cost of financing.

006 POLICIES.

006.01 The Board of Directors must adopt leasing policies, procedures, objectives, and internal controls which adequately protect the bank and provide customer services.

006.02 Leasing policies must recognize that leasing is a form of term debt financing and therefore must include adequate credit standards.