

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 771**

FINAL READING

Introduced by Lindstrom, 18.

Read first time January 06, 2016

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Securities Act of Nebraska; to amend
- 2 sections 8-1106 and 8-1108.02, Revised Statutes Supplement, 2015; to
- 3 change provisions relating to registration by coordination and
- 4 federal covered securities; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-1106, Revised Statutes Supplement, 2015, is  
2 amended to read:

3 8-1106 (1) Any security for which a registration statement has been  
4 filed under the Securities Act of 1933 in connection with the same  
5 offering may be registered by coordination.

6 (2) A registration statement under this section shall contain the  
7 following information and be accompanied by the following documents, in  
8 addition to payment of the registration fee prescribed in section 8-1108  
9 and, if required under section 8-1112, a consent to service of process  
10 meeting the requirements of that section:

11 (a) One copy of the prospectus filed under the Securities Act of  
12 1933 together with all amendments thereto;

13 (b) The amount of securities to be offered in this state;

14 (c) The states in which a registration statement or similar document  
15 in connection with the offering has been or is expected to be filed;

16 (d) Any adverse order, judgment, or decree previously entered in  
17 connection with the offering by any court or the Securities and Exchange  
18 Commission;

19 (e) If the director by rule or otherwise requires, a copy of the  
20 articles of incorporation and bylaws or their substantial equivalents  
21 currently in effect, a copy of any agreements with or among underwriters,  
22 a copy of any indenture or other instrument governing the issuance of the  
23 security to be registered, and a specimen or copy of the security;

24 (f) If the director requests, any other information or copies of any  
25 other documents filed under the Securities Act of 1933; and

26 (g) An undertaking to forward promptly all amendments to the federal  
27 registration statement, other than an amendment which merely delays the  
28 effective date.

29 (3) A registration statement under this section shall automatically  
30 become effective at the moment the federal registration statement or  
31 qualification becomes effective if all the following conditions are

1 satisfied:

2 (a) No stop order is in effect and no proceeding is pending under  
3 the Securities Act of 1933, as amended, or under section 8-1109;

4 (b) The registration statement has been on file with the director  
5 for at least ten days; and

6 (c) A statement of the maximum and minimum proposed offering prices  
7 and the maximum underwriting discounts and commissions has been filed and  
8 the offering is made within those limitations. The registrant shall  
9 promptly notify the director by facsimile transmission or electronic mail  
10 ~~telegram~~ of the date and time when the federal registration statement  
11 became effective and the content of the price amendment, if any, and  
12 shall promptly file a posteffective amendment containing the information  
13 and documents in the price amendment. Price amendment shall mean the  
14 final federal amendment which includes a statement of the offering price,  
15 underwriting and selling discounts or commissions, amount of proceeds,  
16 conversion rates, call prices, and other matters dependent upon the  
17 offering price.

18 Upon failure to receive the required notification and posteffective  
19 amendment with respect to the price amendment, the director may enter a  
20 stop order, without notice or hearing, retroactively denying  
21 effectiveness to the registration statement or suspending its  
22 effectiveness until there has been compliance with this subsection, if he  
23 or she promptly notifies the registrant by telephone or electronic mail  
24 ~~telegram~~ and promptly confirms by letter sent postage prepaid or ~~telegram~~  
25 when he or she notifies by telephone or electronic mail of the issuance  
26 of the order. If the registrant proves compliance with the requirements  
27 of this subsection as to notice and posteffective amendment, the stop  
28 order shall be void as of the time of its entry. The director may by rule  
29 or otherwise waive either or both of the conditions specified in  
30 subsections (2) and (3) of this section. If the federal registration  
31 statement or qualification becomes effective before all these conditions

1 have been satisfied and they are not waived, the registration statement  
2 shall automatically become effective as soon as all the conditions have  
3 been satisfied.

4 Sec. 2. Section 8-1108.02, Revised Statutes Supplement, 2015, is  
5 amended to read:

6 8-1108.02 (1) The director, by rule and regulation or order, may  
7 require the filing of any or all of the following documents with respect  
8 to a federal covered security under section 18(b)(2) of the Securities  
9 Act of 1933:

10 (a) Prior to the initial offer of such federal covered security in  
11 this state, all documents that are part of a federal registration  
12 statement filed with the Securities and Exchange Commission under the  
13 Securities Act of 1933, together with a consent to service of process  
14 signed by the issuer and with a filing fee as prescribed by section  
15 8-1108.03;

16 (b) After the initial offer of such federal covered security in this  
17 state, all documents which are part of any amendment to the federal  
18 registration statement filed with the Securities and Exchange Commission  
19 under the Securities Act of 1933; and

20 (c) A sales report of the total amount of such federal covered  
21 securities offered or sold in this state, together with the filing fee  
22 prescribed by section 8-1108.03.

23 (2)(a) The director, by rule and regulation or order, may require  
24 the filing of any document required to be filed with the Securities and  
25 Exchange Commission under the Securities Act of 1933 with respect to a  
26 federal covered security under section 18(b)(3) of the Securities Act of  
27 1933 together with a filing fee of two hundred dollars.

28 (b) The director, by rule and regulation or order, may require the  
29 filing of any document required to be filed with the Securities and  
30 Exchange Commission under the Securities Act of 1933 with respect to a  
31 federal covered security under section 18(b)(4) of the Securities Act of

1 1933 together with a filing fee of two hundred dollars. In addition, for  
2 federal covered securities under section 18(b)(4)(E) of the Securities  
3 Act of 1933, the director may also require the submission of a consent to  
4 service of process signed by the issuer and may require that such filing  
5 be made no later than fifteen days after the first sale of such federal  
6 covered security in this state.

7 (c) In connection with filings made pursuant to subdivisions (a) and  
8 (b) of this subsection, the director, by rule and regulation or order,  
9 may require the filing of all documents which are part of any amendment  
10 which the issuer is required to file ~~files~~ with the Securities and  
11 Exchange Commission.

12 (3) The director may issue a stop order suspending the offer and  
13 sale of a federal covered security, except a federal covered security  
14 under section 18(b)(1) of the Securities Act of 1933, if he or she finds  
15 that (a) the order is in the public interest and (b) there is a failure  
16 to comply with any condition established under this section or with any  
17 other applicable provision of the Securities Act of Nebraska.

18 (4) The director, by rule and regulation or order, may waive any or  
19 all of the provisions of this section, except that the director does not  
20 have the authority to waive the payment of fees as required by this  
21 section.

22 (5) No person may bring an action pursuant to section 8-1118 based  
23 on the failure of an issuer to file any notice or pay any fee required by  
24 this section.

25 (6) All federal covered securities offered or sold in this state  
26 must be sold through a registered agent of a broker-dealer registered  
27 under the Securities Act of Nebraska or by persons duly exempted or  
28 excluded from such registration, except that this subsection shall not  
29 apply to the offer or sale of a federal covered security under section  
30 18(b)(4)(E) of the Securities Act of 1933 if no commission or other  
31 remuneration is paid directly or indirectly for soliciting any

1 prospective buyer.

2       Sec. 3. Original sections 8-1106 and 8-1108.02, Revised Statutes

3 Supplement, 2015, are repealed.