

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 813

Introduced by Lindstrom, 18.

Read first time January 04, 2018

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Securities Act of Nebraska; to amend
- 2 sections 8-1101, 8-1101.01, 8-1103, and 8-1111, Revised Statutes
- 3 Supplement, 2017; to redefine terms; to adopt certain federal
- 4 provisions; to repeal the original sections; and to declare an
- 5 emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-1101, Revised Statutes Supplement, 2017, is
2 amended to read:

3 8-1101 For purposes of the Securities Act of Nebraska, unless the
4 context otherwise requires:

5 (1) Agent means any individual other than a broker-dealer who
6 represents a broker-dealer or issuer in effecting or attempting to effect
7 sales of securities, but agent does not include an individual who
8 represents (a) an issuer in (i) effecting a transaction in a security
9 exempted by subdivision (6), (7), or (8) of section 8-1110, (ii)
10 effecting certain transactions exempted by section 8-1111, (iii)
11 effecting transactions in a federal covered security as described in
12 section 18(b)(3) of the Securities Act of 1933, or (iv) effecting
13 transactions with existing employees, limited liability company members,
14 partners, or directors of the issuer or any of its subsidiaries if no
15 commission or other remuneration is paid or given directly or indirectly
16 for soliciting any person in this state or (b) a broker-dealer in
17 effecting transactions described in section 15(h)(2) of the Securities
18 Exchange Act of 1934. A partner, limited liability company member,
19 officer, or director of a broker-dealer is an agent only if he or she
20 otherwise comes within this definition;

21 (2) Broker-dealer means any person engaged in the business of
22 effecting transactions in securities for the account of others or for his
23 or her own account. Broker-dealer does not include (a) an issuer-dealer,
24 agent, bank, savings institution, or trust company, (b) an issuer
25 effecting a transaction in its own security exempted by subdivision (5)
26 (a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a
27 federal covered security pursuant to section 18(b)(1) of the Securities
28 Act of 1933, (c) a person who has no place of business in this state if
29 he or she effects transactions in this state exclusively with or through
30 the issuers of the securities involved in the transactions, other broker-
31 dealers, or banks, savings institutions, credit unions, trust companies,

1 insurance companies, investment companies as defined in the Investment
2 Company Act of 1940, pension or profit-sharing trusts, or other financial
3 institutions or institutional buyers, whether acting for themselves or as
4 trustees, (d) a person who has no place of business in this state if
5 during any period of twelve consecutive months he or she does not direct
6 more than five offers to sell or to buy into this state in any manner to
7 persons other than those specified in subdivision (2)(c) of this section,
8 or (e) a person who is a resident of Canada and who has no office or
9 other physical presence in Nebraska if the following conditions are
10 satisfied: (i) The person must be registered with, or be a member of, a
11 securities self-regulatory organization in Canada or a stock exchange in
12 Canada; (ii) the person must maintain, in good standing, its provisional
13 or territorial registration or membership in a securities self-regulatory
14 organization in Canada, or stock exchange in Canada; (iii) the person
15 effects, or attempts to effect, (A) a transaction with or for a Canadian
16 client who is temporarily present in this state and with whom the
17 Canadian broker-dealer had a bona fide customer relationship before the
18 client entered this state or (B) a transaction with or for a Canadian
19 client in a self-directed tax advantaged retirement plan in Canada of
20 which that client is the holder or contributor; and (iv) the person
21 complies with all provisions of the Securities Act of Nebraska relating
22 to the disclosure of material information in connection with the
23 transaction;

24 (3) Department means the Department of Banking and Finance. Director
25 means the Director of Banking and Finance of the State of Nebraska except
26 as further provided in section 8-1120;

27 (4) Federal covered adviser means a person who is ~~(a) registered~~
28 ~~under section 203 of the Investment Advisers Act of 1940 or (b) is~~
29 ~~excluded from the definition of investment adviser under section 202 of~~
30 ~~the Investment Advisers Act of 1940;~~

31 (5) Federal covered security means any security described as a

1 covered security under section 18(b) of the Securities Act of 1933 or
2 rules and regulations under the act;

3 (6) Guaranteed means guaranteed as to payment of principal,
4 interest, or dividends;

5 (7) Investment adviser means any person who for compensation engages
6 in the business of advising others, either directly or through
7 publications or writings, as to the value of securities or as to the
8 advisability of investing in, purchasing, or selling securities or who
9 for compensation and as a part of a regular business issues or
10 promulgates analyses or reports concerning securities. Investment adviser
11 also includes financial planners and other persons who, as an integral
12 component of other financially related services, provide the foregoing
13 investment advisory services to others for compensation and as part of a
14 business or who hold themselves out as providing the foregoing investment
15 advisory services to others for compensation. Investment adviser does not
16 include (a) an investment adviser representative, (b) a bank, savings
17 institution, or trust company, (c) a lawyer, accountant, engineer, or
18 teacher whose performance of these services is solely incidental to the
19 practice of his or her profession, (d) a broker-dealer or its agent whose
20 performance of these services is solely incidental to its business as a
21 broker-dealer and who receives no special compensation for them, (e) an
22 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,
23 newsletter, news magazine, or business or financial publication or
24 service, whether communicated in hard copy form, by electronic means, or
25 otherwise which does not consist of the rendering of advice on the basis
26 of the specific investment situation of each client, (g) a person who has
27 no place of business in this state if (i) his or her only clients in this
28 state are other investment advisers, federal covered advisers, broker-
29 dealers, banks, savings institutions, credit unions, trust companies,
30 insurance companies, investment companies as defined in the Investment
31 Company Act of 1940, pension or profit-sharing trusts, or other financial

1 institutions or institutional buyers, whether acting for themselves or as
2 trustees, or (ii) during the preceding twelve-month period, he or she has
3 had five or fewer clients who are residents of this state other than
4 those persons specified in subdivision (g)(i) of this subdivision, (h)
5 any person that is a federal covered adviser or is excluded from the
6 definition of investment advisor under section 202 of the Investment
7 Advisors Act of 1940, or (i) such other persons not within the intent of
8 this subdivision as the director may by rule and regulation or order
9 designate;

10 (8) Investment adviser representative means any partner, limited
11 liability company member, officer, or director or any person occupying a
12 similar status or performing similar functions of a partner, limited
13 liability company member, officer, or director or other individual,
14 except clerical or ministerial personnel, who is employed by or
15 associated with an investment adviser that is registered or required to
16 be registered under the Securities Act of Nebraska or who has a place of
17 business located in this state and is employed by or associated with a
18 federal covered adviser, and who (a) makes any recommendations or
19 otherwise renders advice regarding securities, (b) manages accounts or
20 portfolios of clients, (c) determines which recommendation or advice
21 regarding securities should be given, (d) solicits, offers, or negotiates
22 for the sale of or sells investment advisory services, or (e) supervises
23 employees who perform any of the foregoing;

24 (9) Issuer means any person who issues or proposes to issue any
25 security, except that (a) with respect to certificates of deposit,
26 voting-trust certificates, or collateral-trust certificates or with
27 respect to certificates of interest or shares in an unincorporated
28 investment trust not having a board of directors, or persons performing
29 similar functions, or of the fixed, restricted management, or unit type,
30 the term issuer means the person or persons performing the acts and
31 assuming the duties of depositor or manager pursuant to the provisions of

1 the trust or other agreement or instrument under which the security is
2 issued and (b) with respect to a fractional or pooled interest in a
3 viatical settlement contract, issuer means the person who creates, for
4 the purpose of sale, the fractional or pooled interest. In the case of a
5 viatical settlement contract that is not fractionalized or pooled, issuer
6 means the person effecting a transaction with a purchaser of such
7 contract;

8 (10) Issuer-dealer means (a) any issuer located in the State of
9 Nebraska or (b) any issuer which registered its securities by
10 qualification who proposes to sell to the public of the State of Nebraska
11 the securities that it issues without the benefit of another registered
12 broker-dealer. Such securities shall have been approved for sale in the
13 State of Nebraska pursuant to section 8-1104;

14 (11) Nonissuer means not directly or indirectly for the benefit of
15 the issuer;

16 (12) Person means an individual, a corporation, a partnership, a
17 limited liability company, an association, a joint-stock company, a trust
18 in which the interests of the beneficiaries are evidenced by a security,
19 an unincorporated organization, a government, or a political subdivision
20 of a government;

21 (13) Sale or sell includes every contract of sale of, contract to
22 sell, or disposition of a security or interest in a security for value.
23 Offer or offer to sell includes every attempt or offer to dispose of, or
24 solicitation of an offer to buy, a security or interest in a security for
25 value. Any security given or delivered with or as a bonus on account of
26 any purchase of securities or any other thing is considered to constitute
27 part of the subject of the purchase and to have been offered and sold for
28 value. A purported gift of assessable stock shall be considered to
29 involve an offer and sale. Every sale or offer of a warrant or right to
30 purchase or subscribe to another security of the same or another issuer,
31 as well as every sale or offer of a security which gives the holder a

1 present or future right or privilege to convert into another security of
2 the same or another issuer, shall be considered to include an offer of
3 the other security;

4 (14) Securities Act of 1933, Securities Exchange Act of 1934,
5 Investment Advisers Act of 1940, Investment Company Act of 1940, and
6 Commodity Exchange Act means the acts as they existed on January 1, 2018
7 ~~2017~~;

8 (15) Security means any note, stock, treasury stock, bond,
9 debenture, units of beneficial interest in a real estate trust, evidence
10 of indebtedness, certificate of interest or participation in any profit-
11 sharing agreement, collateral-trust certificate, preorganization
12 certificate or subscription, transferable share, investment contract,
13 viatical settlement contract or any fractional or pooled interest in such
14 contract, membership interest in any limited liability company organized
15 under Nebraska law or any other jurisdiction unless otherwise excluded
16 from this definition, voting-trust certificate, certificate of deposit
17 for a security, certificate of interest or participation in an oil, gas,
18 or mining title or lease or in payments out of production under such a
19 title or lease, in general any interest or instrument commonly known as a
20 security, or any certificate of interest or participation in, temporary
21 or interim certificate for, guarantee of, or warrant or right to
22 subscribe to or purchase any of the foregoing. Security does not include
23 any insurance or endowment policy or annuity contract issued by an
24 insurance company. Security also does not include a membership interest
25 in a limited liability company when all of the following exist: (a) The
26 member enters into a written commitment to be engaged actively and
27 directly in the management of the limited liability company; and (b) all
28 members of the limited liability company are actively engaged in the
29 management of the limited liability company. For the limited purposes of
30 determining professional malpractice insurance premiums, a security
31 issued through a transaction that is exempted pursuant to subdivision

1 (23) of section 8-1111 shall not be considered a security;

2 (16) State means any state, territory, or possession of the United
3 States as well as the District of Columbia and Puerto Rico; and

4 (17) Viatical settlement contract means an agreement for the
5 purchase, sale, assignment, transfer, devise, or bequest of all or any
6 portion of the death benefit or ownership of a life insurance policy or
7 contract for consideration which is less than the expected death benefit
8 of the life insurance policy or contract. Viatical settlement contract
9 does not include (a) the assignment, transfer, sale, devise, or bequest
10 of a death benefit of a life insurance policy or contract made by the
11 viator to an insurance company or to a viatical settlement provider or
12 broker licensed pursuant to the Viatical Settlements Act, (b) the
13 assignment of a life insurance policy or contract to a bank, savings
14 bank, savings and loan association, credit union, or other licensed
15 lending institution as collateral for a loan, or (c) the exercise of
16 accelerated benefits pursuant to the terms of a life insurance policy or
17 contract and consistent with applicable law.

18 Sec. 2. Section 8-1101.01, Revised Statutes Supplement, 2017, is
19 amended to read:

20 8-1101.01 For purposes of the Securities Act of Nebraska, federal
21 rules and regulations adopted under the Investment Advisors Act of 1940
22 or the Securities Act of 1933 means such rules and regulations as they
23 existed on January 1, 2018 ~~2017~~, ~~except that references to Rule 147 and~~
24 ~~Rule 147A adopted under the Securities Act of 1933 shall be to such rules~~
25 ~~as published in the Federal Register on November 21, 2016.~~

26 Sec. 3. Section 8-1103, Revised Statutes Supplement, 2017, is
27 amended to read:

28 8-1103 (1) It shall be unlawful for any person to transact business
29 in this state as a broker-dealer, issuer-dealer, or agent, except in
30 certain transactions exempt under section 8-1111, unless he or she is
31 registered under the Securities Act of Nebraska. It shall be unlawful for

1 any broker-dealer to employ an agent for purposes of effecting or
2 attempting to effect transactions in this state unless the agent is
3 registered. It shall be unlawful for an issuer to employ an agent unless
4 the issuer is registered as an issuer-dealer and unless the agent is
5 registered. The registration of an agent shall not be effective unless
6 the agent is employed by a broker-dealer or issuer-dealer registered
7 under the act. When the agent begins or terminates employment with a
8 registered broker-dealer or issuer-dealer, the broker-dealer or issuer-
9 dealer shall promptly notify the director.

10 (2)(a) It shall be unlawful for any person to transact business in
11 this state as an investment adviser or as an investment adviser
12 representative unless he or she is registered under the act.

13 (b) Except with respect to federal covered advisers whose only
14 clients are those described in subdivision (7)(g)(i) of section 8-1101,
15 it shall be unlawful for any federal covered adviser to conduct advisory
16 business in this state unless such person files with the director the
17 documents which are filed with the Securities and Exchange Commission, as
18 the director may by rule and regulation or order require, a consent to
19 service of process, and payment of the fee prescribed in subsection (6)
20 of this section prior to acting as a federal covered adviser in this
21 state.

22 (c)(i) It shall be unlawful for any investment adviser required to
23 be registered under the Securities Act of Nebraska to employ an
24 investment adviser representative unless the investment adviser
25 representative is registered under the act.

26 (ii) It shall be unlawful for any federal covered adviser to employ,
27 supervise, or associate with an investment adviser representative having
28 a place of business located in this state unless such investment adviser
29 representative is registered under the Securities Act of Nebraska or is
30 exempt from registration.

31 (d) The registration of an investment adviser representative shall

1 not be effective unless the investment adviser representative is employed
2 by a registered investment adviser or a federal covered adviser. When an
3 investment adviser representative begins or terminates employment with an
4 investment adviser, the investment adviser shall promptly notify the
5 director. When an investment adviser representative begins or terminates
6 employment with a federal covered adviser, the investment adviser
7 representative shall promptly notify the director.

8 (3) A broker-dealer, issuer-dealer, agent, investment adviser, or
9 investment adviser representative may apply for registration by filing
10 with the director an application and payment of the fee prescribed in
11 subsection (6) of this section. If the applicant is an individual, the
12 application shall include the applicant's social security number.
13 Registration of a broker-dealer or issuer-dealer shall automatically
14 constitute registration of all partners, limited liability company
15 members, officers, or directors of such broker-dealer or issuer-dealer as
16 agents, except any partner, limited liability company member, officer, or
17 director whose registration as an agent is denied, suspended, or revoked
18 under subsection (9) of this section, without the filing of applications
19 for registration as agents or the payment of fees for registration as
20 agents. The application shall contain whatever information the director
21 requires concerning such matters as:

22 (a) The applicant's form and place of organization;

23 (b) The applicant's proposed method of doing business;

24 (c) The qualifications and business history of the applicant and, in
25 the case of a broker-dealer or investment adviser, the qualifications and
26 business history of any partner, limited liability company member,
27 officer, director, person occupying a similar status or performing
28 similar functions of a partner, limited liability company member,
29 officer, or director, or person directly or indirectly controlling the
30 broker-dealer or investment adviser;

31 (d) Any injunction or administrative order or conviction of a

1 misdemeanor involving a security or any aspect of the securities business
2 and any conviction of a felony;

3 (e) The applicant's financial condition and history; and

4 (f) Information to be furnished or disseminated to any client or
5 prospective client if the applicant is an investment adviser.

6 (4)(a) If no denial order is in effect and no proceeding is pending
7 under subsection (9) of this section, registration shall become effective
8 at noon of the thirtieth day after an application is filed, complete with
9 all amendments. The director may specify an earlier effective date.

10 (b) The director shall require as conditions of registration:

11 (i) That the applicant, except for renewal, and, in the case of a
12 corporation, partnership, or limited liability company, the officers,
13 directors, partners, or limited liability company members pass such
14 examination or examinations as the director may prescribe as evidence of
15 knowledge of the securities business;

16 (ii) That an issuer-dealer and its agents pass an examination
17 prescribed and administered by the department. Such examination shall be
18 administered upon request and upon payment of an examination fee of five
19 dollars. Any applicant for issuer-dealer registration who has
20 satisfactorily passed any other examination approved by the director
21 shall be exempted from this requirement upon furnishing evidence of
22 satisfactory completion of such examination to the director;

23 (iii) That an issuer-dealer have a minimum net capital of twenty-
24 five thousand dollars. In lieu of a minimum net capital requirement of
25 twenty-five thousand dollars, the director may require an issuer-dealer
26 to post a corporate surety bond with a surety company licensed to do
27 business in Nebraska in an amount equal to such capital requirements.
28 When the director finds that a surety bond with a surety company would
29 cause an undue burden on an issuer-dealer, the director may require the
30 issuer-dealer to post a signature bond. Every such surety or signature
31 bond shall run in favor of Nebraska, shall provide for an action thereon

1 by any person who has a cause of action under section 8-1118, and shall
2 provide that no action may be maintained to enforce any liability on the
3 bond unless brought within the time periods specified by section 8-1118;

4 (iv) That a broker-dealer have such minimum net capital as the
5 director may by rule and regulation or order require, subject to the
6 limitations provided in section 15 of the Securities Exchange Act of
7 1934. In lieu of any such minimum net capital requirement, the director
8 may by rule and regulation or order require a broker-dealer to post a
9 corporate surety bond with a surety company licensed to do business in
10 Nebraska in an amount equal to such capital requirement, subject to the
11 limitations of section 15 of the Securities Exchange Act of 1934. Every
12 such surety bond shall run in favor of Nebraska, shall provide for an
13 action thereon by any person who has a cause of action under section
14 8-1118, and shall provide that no action may be maintained to enforce any
15 liability on the bond unless brought within the time periods specified by
16 section 8-1118; and

17 (v) That an investment adviser have such minimum net capital as the
18 director may by rule and regulation or order require, subject to the
19 limitations of section 222 of the Investment Advisers Act of 1940, which
20 may include different requirements for those investment advisers who
21 maintain custody of clients' funds or securities or who have
22 discretionary authority over such funds or securities and those
23 investment advisers who do not. In lieu of any such minimum net capital
24 requirement, the director may require by rule and regulation or order an
25 investment adviser to post a corporate surety bond with a surety company
26 licensed to do business in Nebraska in an amount equal to such capital
27 requirement, subject to the limitations of section 222 of the Investment
28 Advisers Act of 1940. Every such surety bond shall run in favor of
29 Nebraska, shall provide for an action thereon by any person who has a
30 cause of action under section 8-1118, and shall provide that no action
31 may be maintained to enforce any liability on the bond unless brought

1 within the time periods specified by section 8-1118.

2 (c) The director may waive the requirement of an examination for any
3 applicant who by reason of prior experience can demonstrate his or her
4 knowledge of the securities business. Registration of a broker-dealer,
5 agent, investment adviser, and investment adviser representative shall be
6 effective for a period of not more than one year and shall expire on
7 December 31 unless renewed. Registration of an issuer-dealer shall be
8 effective for a period of not more than one year and may be renewed as
9 provided in this section. Notice filings by a federal covered adviser
10 shall be effective for a period of not more than one year and shall
11 expire on December 31 unless renewed.

12 (d) The director may restrict or limit an applicant as to any
13 function or activity in this state for which registration is required
14 under the Securities Act of Nebraska.

15 (5) Registration of a broker-dealer, issuer-dealer, agent,
16 investment adviser, or investment adviser representative may be renewed
17 by filing with the director or with a registration depository designated
18 by the director prior to the expiration date such information as the
19 director by rule and regulation or order may require to indicate any
20 material change in the information contained in the original application
21 or any renewal application for registration as a broker-dealer, issuer-
22 dealer, agent, investment adviser, or investment adviser representative
23 previously filed with the director by the applicant, and payment of the
24 prescribed fee. A federal covered adviser may renew its notice filing by
25 filing with the director prior to the expiration thereof the documents
26 filed with the Securities and Exchange Commission, as the director by
27 rule and regulation or order may require, a consent to service of
28 process, and the prescribed fee.

29 (6) The fee for initial or renewal registration shall be two hundred
30 fifty dollars for a broker-dealer, two hundred dollars for an investment
31 adviser, one hundred dollars for an issuer-dealer, forty dollars for an

1 agent, and forty dollars for an investment adviser representative. The
2 fee for initial or renewal filings for a federal covered adviser shall be
3 two hundred dollars. When an application is denied or withdrawn, the
4 director shall retain all of the fee.

5 (7)(a) Every registered broker-dealer, issuer-dealer, and investment
6 adviser shall make and keep such accounts, correspondence, memoranda,
7 papers, books, and other records as the director may prescribe by rule
8 and regulation or order, except as provided by section 15 of the
9 Securities Exchange Act of 1934, in connection with broker-dealers, and
10 section 222 of the Investment Advisers Act of 1940, in connection with
11 investment advisers. All records so required shall be preserved for such
12 period as the director may prescribe by rule and regulation or order.

13 (b) All the records of a registered broker-dealer, issuer-dealer, or
14 investment adviser shall be subject at any time or from time to time to
15 such reasonable periodic, special, or other examinations by
16 representatives of the director, within or without this state, as the
17 director deems necessary or appropriate in the public interest or for the
18 protection of investors and advisory clients. For the purpose of avoiding
19 unnecessary duplication of examinations, the director, insofar as he or
20 she deems it practicable in administering this subsection, may cooperate
21 with the securities administrators of other states, the Securities and
22 Exchange Commission, and any national securities exchange or national
23 securities association registered under the Securities Exchange Act of
24 1934. Costs of such examinations shall be borne by the registrant.

25 (c) Every registered broker-dealer, except as provided in section 15
26 of the Securities Exchange Act of 1934, and investment adviser, except as
27 provided by section 222 of the Investment Advisers Act of 1940, shall
28 file such financial reports as the director may prescribe by rule and
29 regulation or order.

30 (d) If any information contained in any document filed with the
31 director is or becomes inaccurate or incomplete in any material respect,

1 a broker-dealer, issuer-dealer, agent, investment adviser, or investment
2 adviser representative shall promptly file a correcting amendment or a
3 federal covered adviser shall file a correcting amendment when such
4 amendment is required to be filed with the Securities and Exchange
5 Commission.

6 (8) With respect to investment advisers, the director may require
7 that certain information be furnished or disseminated to clients as
8 necessary or appropriate in the public interest or for the protection of
9 investors and advisory clients. To the extent determined by the director
10 in his or her discretion, information furnished to clients of an
11 investment adviser that would be in compliance with the Investment
12 Advisers Act of 1940 and the rules and regulations under such act may be
13 used in whole or in part to satisfy the information requirement
14 prescribed in this subsection.

15 (9)(a) The director may by order deny, suspend, or revoke
16 registration of any broker-dealer, issuer-dealer, agent, investment
17 adviser, or investment adviser representative or bar, censure, or impose
18 a fine pursuant to subsection (4) of section 8-1108.01 on any registrant
19 or any partner, limited liability company member, officer, director, or
20 person occupying a similar status or performing similar functions of a
21 partner, limited liability company member, officer, or director for a
22 registrant from employment with any broker-dealer, issuer-dealer, or
23 investment adviser if he or she finds that the order is in the public
24 interest and that the applicant or registrant or, in the case of a
25 broker-dealer, issuer-dealer, or investment adviser, any partner, limited
26 liability company member, officer, director, person occupying a similar
27 status or performing similar functions of a partner, limited liability
28 company member, officer, or director, or person directly or indirectly
29 controlling the broker-dealer, issuer-dealer, or investment adviser:

30 (i) Has filed an application for registration under this section
31 which, as of any date after filing in the case of an order denying

1 effectiveness, was incomplete in any material respect or contained any
2 statement which was, in the light of the circumstances under which it was
3 made, false or misleading with respect to any material fact;

4 (ii) Has willfully violated or willfully failed to comply with any
5 provision of the Securities Act of Nebraska or any rule and regulation or
6 order under the act;

7 (iii) Has been convicted, within the past ten years, of any
8 misdemeanor involving a security or commodity or any aspect of the
9 securities or commodities business or any felony;

10 (iv) Is permanently or temporarily enjoined by any court of
11 competent jurisdiction from engaging in or continuing any conduct or
12 practice involving any aspect of the securities or commodities business;

13 (v) Is the subject of an order of the director denying, suspending,
14 or revoking registration as a broker-dealer, issuer-dealer, agent,
15 investment adviser, or investment adviser representative;

16 (vi) Is the subject of an adjudication or determination, after
17 notice and opportunity for hearing, within the past ten years by a
18 securities or commodities agency or administrator of another state or a
19 court of competent jurisdiction that the person has willfully violated
20 the Securities Act of 1933, the Securities Exchange Act of 1934, the
21 Investment Advisers Act of 1940, the Investment Company Act of 1940, the
22 Commodity Exchange Act, or the securities or commodities law of any other
23 state;

24 (vii) Has engaged in dishonest or unethical practices in the
25 securities or commodities business;

26 (viii) Is insolvent, either in the sense that his or her liabilities
27 exceed his or her assets or in the sense that he or she cannot meet his
28 or her obligations as they mature, but the director may not enter an
29 order against a broker-dealer, issuer-dealer, or investment adviser under
30 this subdivision without a finding of insolvency as to the broker-dealer,
31 issuer-dealer, or investment adviser;

1 (ix) Has not complied with a condition imposed by the director under
2 subsection (4) of this section or is not qualified on the basis of such
3 factors as training, experience, or knowledge of the securities business;

4 (x) Has failed to pay the proper filing fee, but the director may
5 enter only a denial order under this subdivision, and he or she shall
6 vacate any such order when the deficiency has been corrected;

7 (xi) Has failed to reasonably supervise his or her agents or
8 employees, if he or she is a broker-dealer or issuer-dealer, or his or
9 her investment adviser representatives or employees, if he or she is an
10 investment adviser, to assure their compliance with the Securities Act of
11 Nebraska;

12 (xii) Has been denied the right to do business in the securities
13 industry, or the person's respective authority to do business in an
14 investment-related industry has been revoked by any other state, federal,
15 or foreign governmental agency or self-regulatory organization for cause,
16 or the person has been the subject of a final order in a criminal, civil,
17 injunctive, or administrative action for securities, commodities, or
18 fraud-related violations of the law of any state, federal, or foreign
19 governmental unit; or

20 (xiii) Has refused to allow or otherwise impedes the department from
21 conducting an examination under subsection (7) of this section or has
22 refused the department access to a registrant's office to conduct an
23 examination under subsection (7) of this section.

24 (b) The director may by order bar any person from engaging in the
25 securities business in this state if the director finds that the order is
26 in the public interest and that the person has:

27 (i) Willfully violated or willfully failed to comply with any
28 provision of the Securities Act of Nebraska or any rule and regulation or
29 order under the act; or

30 (ii) Engaged in dishonest or unethical practices in the securities
31 business, which activity at the time was subject to regulation by the

1 Securities Act of Nebraska.

2 (c)(i) For purposes of subdivisions (9)(a)(vii) and (9)(b)(ii) of
3 this section, the director may, by rule and regulation or order,
4 determine that a violation of any provision of the fair practice or
5 ethical rules or standards promulgated by the Securities and Exchange
6 Commission, the Financial Industry Regulatory Authority, or a self-
7 regulatory organization approved by the Securities and Exchange
8 Commission, in effect on January 1, 2018 ~~2017~~, constitutes a dishonest or
9 unethical practice in the securities or commodities business.

10 (ii) The director may not institute a proceeding under this section
11 on the basis of a final judicial or administrative order made known to
12 him or her by the applicant prior to the effective date of the
13 registration unless the proceeding is instituted within the next ninety
14 days following registration. For purposes of this subdivision, a final
15 judicial or administrative order does not include an order that is stayed
16 or subject to further review or appeal. This subdivision shall not apply
17 to renewed registrations.

18 (iii) The director may by order summarily postpone or suspend
19 registration pending final determination of any proceeding under this
20 subsection. Upon the entry of the order, the director shall promptly
21 notify the applicant or registrant, as well as the employer or
22 prospective employer if the applicant or registrant is an agent or
23 investment adviser representative, that it has been entered and of the
24 reasons therefor and that within fifteen business days after the receipt
25 of a written request the matter will be set down for hearing. If no
26 hearing is requested within fifteen business days of the issuance of the
27 order and none is ordered by the director, the order shall automatically
28 become a final order and shall remain in effect until it is modified or
29 vacated by the director. If a hearing is requested or ordered, the
30 director, after notice of and opportunity for hearing, shall enter his or
31 her written findings of fact and conclusions of law and may affirm,

1 modify, or vacate the order. No order may be entered under this section
2 denying or revoking registration without appropriate prior notice to the
3 applicant or registrant, as well as the employer or prospective employer
4 if the applicant or registrant is an agent or investment adviser
5 representative, and opportunity for hearing.

6 (10)(a) If the director finds that any registrant or applicant for
7 registration is no longer in existence or has ceased to do business as a
8 broker-dealer, issuer-dealer, agent, investment adviser, or investment
9 adviser representative, is subject to an adjudication of mental
10 incompetence or to the control of a committee, conservator, or guardian,
11 or cannot be located after reasonable search, the director may by order
12 cancel the registration or application.

13 (b) If an applicant for registration does not complete the
14 registration application and fails to respond to a notice or notices from
15 the department to correct the deficiency or deficiencies for a period of
16 one hundred twenty days or more after the date the department sends the
17 initial notice to correct the deficiency, the department may deem the
18 registration application as abandoned and may issue a notice of
19 abandonment of the registration application to the applicant in lieu of
20 proceedings to deny the application.

21 (c) Withdrawal from registration as a broker-dealer, issuer-dealer,
22 agent, investment adviser, or investment adviser representative shall
23 become effective thirty days after receipt of an application to withdraw
24 or within a shorter period of time as the director may determine unless a
25 revocation or suspension proceeding is pending when the application is
26 filed or a proceeding to revoke or suspend or to impose conditions upon
27 the withdrawal is instituted within thirty days after the application is
28 filed. If a revocation or suspension proceeding is pending or instituted,
29 withdrawal shall become effective at such time and upon such conditions
30 as the director shall order.

31 Sec. 4. Section 8-1111, Revised Statutes Supplement, 2017, is

1 amended to read:

2 8-1111 Except as provided in this section, sections 8-1103 to 8-1109
3 shall not apply to any of the following transactions:

4 (1) Any isolated transaction, whether effected through a broker-
5 dealer or not;

6 (2)(a) Any nonissuer transaction by a registered agent of a
7 registered broker-dealer, and any resale transaction by a sponsor of a
8 unit investment trust registered under the Investment Company Act of
9 1940, in a security of a class that has been outstanding in the hands of
10 the public for at least ninety days if, at the time of the transaction:

11 (i) The issuer of the security is actually engaged in business and
12 not in the organization stage or in bankruptcy or receivership and is not
13 a blank check, blind pool, or shell company whose primary plan of
14 business is to engage in a merger or combination of the business with, or
15 an acquisition of, an unidentified person or persons;

16 (ii) The security is sold at a price reasonably related to the
17 current market price of the security;

18 (iii) The security does not constitute the whole or part of an
19 unsold allotment to, or a subscription or participation by, the broker-
20 dealer as an underwriter of the security;

21 (iv) A nationally recognized securities manual designated by rule
22 and regulation or order of the director or a document filed with the
23 Securities and Exchange Commission which is publicly available through
24 the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR)
25 contains:

26 (A) A description of the business and operations of the issuer;

27 (B) The names of the issuer's officers and the names of the issuer's
28 directors, if any, or, in the case of a non-United-States issuer, the
29 corporate equivalents of such persons in the issuer's country of
30 domicile;

31 (C) An audited balance sheet of the issuer as of a date within

1 eighteen months or, in the case of a reorganization or merger when
2 parties to the reorganization or merger had such audited balance sheet, a
3 pro forma balance sheet; and

4 (D) An audited income statement for each of the issuer's immediately
5 preceding two fiscal years, or for the period of existence of the issuer
6 if in existence for less than two years, or, in the case of a
7 reorganization or merger when the parties to the reorganization or merger
8 had such audited income statement, a pro forma income statement; and

9 (v) The issuer of the security has a class of equity securities
10 listed on a national securities exchange registered under the Securities
11 Exchange Act of 1934 unless:

12 (A) The issuer of the security is a unit investment trust registered
13 under the Investment Company Act of 1940;

14 (B) The issuer of the security has been engaged in continuous
15 business, including predecessors, for at least three years; or

16 (C) The issuer of the security has total assets of at least two
17 million dollars based on an audited balance sheet as of a date within
18 eighteen months or, in the case of a reorganization or merger when
19 parties to the reorganization or merger had such audited balance sheet, a
20 pro forma balance sheet; or

21 (b) Any nonissuer transaction in a security by a registered agent of
22 a registered broker-dealer if:

23 (i) The issuer of the security is actually engaged in business and
24 not in the organization stage or in bankruptcy or receivership and is not
25 a blank check, blind pool, or shell company whose primary plan of
26 business is to engage in a merger or combination of the business with, or
27 an acquisition of, an unidentified person or persons; and

28 (ii) The security is senior in rank to the common stock of the
29 issuer both as to payment of dividends or interest and upon dissolution
30 or liquidation of the issuer and such security has been outstanding at
31 least three years and the issuer or any predecessor has not defaulted

1 within the current fiscal year or the three immediately preceding fiscal
2 years in the payment of any dividend, interest, principal, or sinking
3 fund installment on the security when due and payable.

4 The director may by order deny or revoke the exemption specified in
5 subdivision (a) or (b) of subdivision (2) of this section with respect to
6 a specific security. Upon the entry of such an order, the director shall
7 promptly notify all registered broker-dealers that such order has been
8 entered and the reasons for such order and that within fifteen business
9 days after receipt of a written request the matter will be set for
10 hearing. If no hearing is requested within fifteen business days of the
11 issuance of the order and none is ordered by the director, the order
12 shall automatically become a final order and shall remain in effect until
13 modified or vacated by the director. If a hearing is requested or
14 ordered, the director shall, after notice of and opportunity for hearing
15 to all interested persons, enter his or her written findings of fact and
16 conclusions of law and may affirm, modify, or vacate the order. No such
17 order shall operate retroactively. No person may be considered to have
18 violated the Securities Act of Nebraska by reason of any offer or sale
19 effected after the entry of any such order if he or she sustains the
20 burden of proof that he or she did not know, and in the exercise of
21 reasonable care could not have known, of the order;

22 (3) Any nonissuer transaction effected by or through a registered
23 agent of a registered broker-dealer pursuant to an unsolicited order or
24 offer to buy, but the director may by rule and regulation or order
25 require that the customer acknowledge upon a specified form that the sale
26 was unsolicited and that a signed copy of each such form be preserved by
27 the broker-dealer for a specified period;

28 (4) Any transaction between the issuer or other person on whose
29 behalf the offering is made and an underwriter or among underwriters;

30 (5) Any transaction in a bond or other evidence of indebtedness
31 secured by a real or chattel mortgage or deed of trust or by an agreement

1 for the sale of real estate or chattels if the entire mortgage, deed of
2 trust, or agreement, together with all the bonds or other evidences of
3 indebtedness secured thereby, are offered and sold as a unit. Such
4 exemption shall not apply to any transaction in a bond or other evidence
5 of indebtedness secured by a real estate mortgage or deed of trust or by
6 an agreement for the sale of real estate if the real estate securing the
7 evidences of indebtedness are parcels of real estate the sale of which
8 requires the subdivision in which the parcels are located to be
9 registered under the federal Interstate Land Sales Full Disclosure Act,
10 15 U.S.C. 1701 et seq., as such act existed on January 1, 2018 ~~2017~~;

11 (6) Any transaction by an executor, personal representative,
12 administrator, sheriff, marshal, receiver, guardian, or conservator;

13 (7) Any transaction executed by a bona fide pledgee without any
14 purpose of evading the Securities Act of Nebraska;

15 (8)(a) Any offer or sale to any of the following, whether the
16 purchaser is acting for itself or in some fiduciary capacity:

17 (i) A bank, savings institution, credit union, trust company, or
18 other financial institution;

19 (ii) An insurance company;

20 (iii) An investment company as defined in the Investment Company Act
21 of 1940;

22 (iv) A pension or profit-sharing trust;

23 (v) A broker-dealer;

24 (vi) A corporation with total assets in excess of five million
25 dollars, not formed for the specific purpose of acquiring the securities
26 offered;

27 (vii) A Massachusetts or similar business trust with total assets in
28 excess of five million dollars, not formed for the specific purpose of
29 acquiring the securities offered;

30 (viii) A partnership with total assets in excess of five million
31 dollars, not formed for the specific purpose of acquiring the securities

1 offered;

2 (ix) A trust with total assets in excess of five million dollars,
3 not formed for the specific purpose of acquiring the securities, whose
4 purchase is directed by a person who has such knowledge and experience in
5 financial and business matters that he or she is capable of evaluating
6 the merits and risks of the prospective investment;

7 (x) Any entity in which all of the equity owners are individuals who
8 are individual accredited investors as defined in subdivision (b) of this
9 subdivision;

10 (xi) An institutional buyer as may be defined by the director by
11 rule and regulation or order; or

12 (xii) An individual accredited investor.

13 (b) For purposes of subdivision (8)(a) of this section, individual
14 accredited investor means (i) any director, executive officer, or general
15 partner of the issuer of the securities being offered or sold, or any
16 director, executive officer, or general partner of a general partner of
17 that issuer, (ii) any manager of a limited liability company that is the
18 issuer of the securities being offered or sold, (iii) any natural person
19 whose individual net worth, or joint net worth with that person's spouse,
20 at the time of his or her purchase, exceeds one million dollars,
21 excluding the value of the primary residence of such person, or (iv) any
22 natural person who had an individual income in excess of two hundred
23 thousand dollars in each of the two most recent years or joint income
24 with that person's spouse in excess of three hundred thousand dollars in
25 each of those years and has a reasonable expectation of reaching the same
26 income level in the current year;

27 (9)(a) Any transaction pursuant to an offering in which sales are
28 made to not more than fifteen persons, other than those designated in
29 subdivisions (8), (11), and (17) of this section, in this state during
30 any period of twelve consecutive months if (i) the seller reasonably
31 believes that all the buyers are purchasing for investment, (ii) no

1 commission or other remuneration is paid or given directly or indirectly
2 for soliciting any prospective buyer except to a registered agent of a
3 registered broker-dealer, (iii) a notice generally describing the terms
4 of the transaction and containing a representation that the conditions of
5 this exemption are met is filed by the seller with the director within
6 thirty days after the first sale for which this exemption is claimed,
7 except that failure to give such notice may be cured by an order issued
8 by the director in his or her discretion, and (iv) no general or public
9 advertisements or solicitations are made.

10 (b) If a seller (i) makes sales pursuant to this subdivision for
11 five consecutive twelve-month periods or (ii) makes sales of at least one
12 million dollars from an offering or offerings pursuant to this
13 subdivision, the seller shall, within ninety days after the earlier of
14 either such occurrence, file with the director audited financial
15 statements and a sales report which lists the names and addresses of all
16 purchasers and holders of the seller's securities and the amount of
17 securities held by such persons. Subsequent thereto, such seller shall
18 file audited financial statements and sales reports with the director
19 each time an additional one million dollars in securities is sold
20 pursuant to this subdivision or after the elapse of each additional
21 sixty-month period during which sales are made pursuant to this
22 subdivision;

23 (10) Any offer or sale of a preorganization certificate or
24 subscription if (a) no commission or other remuneration is paid or given
25 directly or indirectly for soliciting any prospective subscriber, (b) the
26 number of subscribers does not exceed ten, and (c) no payment is made by
27 any subscriber;

28 (11) Any transaction pursuant to an offer to existing security
29 holders of the issuer, including persons who at the time of the
30 transaction are holders of convertible securities, nontransferable
31 warrants, or transferable warrants exercisable within not more than

1 ninety days of their issuance, if (a) no commission or other
2 remuneration, other than a standby commission, is paid or given directly
3 or indirectly for soliciting any security holder in this state or (b) the
4 issuer first files a notice specifying the terms of the offer and the
5 director does not by order disallow the exemption within the next five
6 full business days;

7 (12) Any offer, but not a sale, of a security for which registration
8 statements have been filed under both the Securities Act of Nebraska and
9 the Securities Act of 1933 if no stop order or refusal order is in effect
10 and no public proceeding or examination looking toward such an order is
11 pending under either the Securities Act of Nebraska or the Securities Act
12 of 1933;

13 (13) The issuance of any stock dividend, whether the corporation
14 distributing the dividend is the issuer of the stock or not, if nothing
15 of value is given by the stockholders for the distribution other than the
16 surrender of a right to a cash dividend when the stockholder can elect to
17 take a dividend in cash or stock;

18 (14) Any transaction incident to a right of conversion or a
19 statutory or judicially approved reclassification, recapitalization,
20 reorganization, quasi-reorganization, stock split, reverse stock split,
21 merger, consolidation, or sale of assets;

22 (15) Any transaction involving the issuance for cash of any evidence
23 of ownership interest or indebtedness by a cooperative formed as a
24 corporation under section 21-1301 or 21-1401 or a limited cooperative
25 association formed under the Nebraska Limited Cooperative Association Act
26 if the issuer has first filed a notice of intention to issue with the
27 director and the director has not by order, mailed to the issuer by
28 certified or registered mail within ten business days after receipt
29 thereof, disallowed the exemption;

30 (16) Any transaction in this state not involving a public offering
31 when (a) there is no general or public advertising or solicitation, (b)

1 no commission or remuneration is paid directly or indirectly for
2 soliciting any prospective buyer, except to a registered agent of a
3 registered broker-dealer or registered issuer-dealer, (c) a notice
4 generally describing the terms of the transaction and containing a
5 representation that the conditions of this exemption are met is filed by
6 the seller with the director within thirty days after the first sale for
7 which this exemption is claimed, except that failure to give such notice
8 may be cured by an order issued by the director in his or her discretion,
9 (d) a filing fee of two hundred dollars is paid at the time of filing the
10 notice, and (e) any such transaction is effected in accordance with rules
11 and regulations of the director relating to this section when the
12 director finds in adopting and promulgating such rules and regulations
13 that the applicability of sections 8-1104 to 8-1107 is not necessary or
14 appropriate in the public interest or for the protection of investors.
15 For purposes of this subdivision, not involving a public offering means
16 any offering in which the seller has reason to believe that the
17 securities purchased are taken for investment and in which each offeree,
18 by reason of his or her knowledge about the affairs of the issuer or
19 otherwise, does not require the protections afforded by registration
20 under sections 8-1104 to 8-1107 in order to make a reasonably informed
21 judgment with respect to such investment;

22 (17) Any security issued in connection with an employees' stock
23 purchase, savings, option, profit-sharing, pension, or similar employees'
24 benefit plan, including any securities, plan interests, and guarantees
25 issued under a compensatory benefit plan or compensation contract,
26 contained in a record, established by the issuer, its parents, its
27 majority-owned subsidiaries, or the majority-owned subsidiaries of the
28 issuer's parent for the participation of their employees, if no
29 commission or other remuneration is paid or given directly or indirectly
30 for soliciting any prospective buyer except to a registered agent of a
31 registered broker-dealer. This subdivision shall apply to offers and

1 sales to the following individuals:

2 (a) Directors; general partners; trustees, if the issuer is a
3 business trust; officers; consultants; and advisors;

4 (b) Family members who acquire such securities from those persons
5 through gifts or domestic relations orders;

6 (c) Former employees, directors, general partners, trustees,
7 officers, consultants, and advisors if those individuals were employed by
8 or providing services to the issuer when the securities were offered; and

9 (d) Insurance agents who are exclusive insurance agents of the
10 issuer, or the issuer's subsidiaries or parents, or who derive more than
11 fifty percent of their annual income from those organizations;

12 (18) Any interest in a common trust fund or similar fund maintained
13 by a bank or trust company organized and supervised under the laws of any
14 state or a bank organized under the laws of the United States for the
15 collective investment and reinvestment of funds contributed to such
16 common trust fund or similar fund by the bank or trust company in its
17 capacity as trustee, personal representative, administrator, or guardian
18 and any interest in a collective investment fund or similar fund
19 maintained by the bank or trust company for the collective investment of
20 funds contributed to such collective investment fund or similar fund by
21 the bank or trust company in its capacity as trustee or agent which
22 interest is issued in connection with an employee's savings, pension,
23 profit-sharing, or similar benefit plan or a self-employed person's
24 retirement plan, if a notice generally describing the terms of the
25 collective investment fund or similar fund is filed by the bank or trust
26 company with the director within thirty days after the establishment of
27 the fund. Failure to give the notice may be cured by an order issued by
28 the director in his or her discretion;

29 (19) Any transaction in which a United States Series EE Savings Bond
30 is given or delivered with or as a bonus on account of any purchase of
31 any item or thing;

1 (20) Any transaction in this state not involving a public offering
2 by a Nebraska issuer selling solely to Nebraska residents, when (a) any
3 such transaction is effected in accordance with rules and regulations of
4 the director relating to this section when the director finds in adopting
5 and promulgating such rules and regulations that the applicability of
6 sections 8-1104 to 8-1107 is not necessary or appropriate in the public
7 interest or for the protection of investors, (b) no commission or
8 remuneration is paid directly or indirectly for soliciting any
9 prospective buyer, except to a registered agent of a registered broker-
10 dealer or registered issuer-dealer, (c) a notice generally describing the
11 terms of the transaction and containing a representation that the
12 conditions of this exemption are met is filed by the seller with the
13 director no later than twenty days prior to any sales for which this
14 exemption is claimed, except that failure to give such notice may be
15 cured by an order issued by the director in his or her discretion, (d) a
16 filing fee of two hundred dollars is paid at the time of filing the
17 notice, and (e) there is no general or public advertising or
18 solicitation;

19 (21) Any transaction by a person who is an organization described in
20 section 501(c)(3) of the Internal Revenue Code as defined in section
21 49-801.01 involving an offering of interests in a fund described in
22 section 3(c)(10)(B) of the Investment Company Act of 1940 solely to
23 persons who are organizations described in section 501(c)(3) of the
24 Internal Revenue Code as defined in section 49-801.01 when (a) there is
25 no general or public advertising or solicitation, (b) a notice generally
26 describing the terms of the transaction and containing a representation
27 that the conditions of this exemption are met is filed by the seller with
28 the director within thirty days after the first sale for which this
29 exemption is claimed, except that failure to give such notice may be
30 cured by an order issued by the director in his or her discretion, and
31 (c) any such transaction is effected by a trustee, director, officer,

1 employee, or volunteer of the seller who is either a volunteer or is
2 engaged in the overall fundraising activities of a charitable
3 organization and receives no commission or other special compensation
4 based on the number or the value of interests sold in the fund;

5 (22) Any offer or sale of any viatical settlement contract or any
6 fractionalized or pooled interest therein in a transaction that meets all
7 of the following criteria:

8 (a) Sales of such securities are made only to the following
9 purchasers:

10 (i) A natural person who, either individually or jointly with the
11 person's spouse, (A) has a minimum net worth of two hundred fifty
12 thousand dollars and had taxable income in excess of one hundred twenty-
13 five thousand dollars in each of the two most recent years and has a
14 reasonable expectation of reaching the same income level in the current
15 year or (B) has a minimum net worth of five hundred thousand dollars. Net
16 worth shall be determined exclusive of home, home furnishings, and
17 automobiles;

18 (ii) A corporation, partnership, or other organization specifically
19 formed for the purpose of acquiring securities offered by the issuer in
20 reliance upon this exemption if each equity owner of the corporation,
21 partnership, or other organization is a person described in subdivision
22 (22)(a)(i) of this section;

23 (iii) A pension or profit-sharing trust of the issuer, a self-
24 employed individual retirement plan, or an individual retirement account,
25 if the investment decisions made on behalf of the trust, plan, or account
26 are made solely by persons described in subdivision (22)(a)(i) of this
27 section; or

28 (iv) An organization described in section 501(c)(3) of the Internal
29 Revenue Code as defined in section 49-801.01, or a corporation,
30 Massachusetts or similar business trust, or partnership with total assets
31 in excess of five million dollars according to its most recent audited

1 financial statements;

2 (b) The amount of the investment of any purchaser, except a
3 purchaser described in subdivision (a)(ii) of this subdivision, does not
4 exceed five percent of the net worth, as determined by this subdivision,
5 of that purchaser;

6 (c) Each purchaser represents that the purchaser is purchasing for
7 the purchaser's own account or trust account, if the purchaser is a
8 trustee, and not with a view to or for sale in connection with a
9 distribution of the security;

10 (d)(i) Each purchaser receives, on or before the date the purchaser
11 remits consideration pursuant to the purchase agreement, the following
12 information in writing:

13 (A) The name, principal business and mailing addresses, and
14 telephone number of the issuer;

15 (B) The suitability standards for prospective purchasers as set
16 forth in subdivision (a) of this subdivision;

17 (C) A description of the issuer's type of business organization and
18 the state in which the issuer is organized or incorporated;

19 (D) A brief description of the business of the issuer;

20 (E) If the issuer retains ownership or becomes the beneficiary of
21 the insurance policy, an audit report from an independent certified
22 public accountant together with a balance sheet and related statements of
23 income, retained earnings, and cash flows that reflect the issuer's
24 financial position, the results of the issuer's operations, and the
25 issuer's cash flows as of a date within fifteen months before the date of
26 the initial issuance of the securities described in this subdivision. The
27 financial statements shall be prepared in conformity with generally
28 accepted accounting principles. If the date of the audit report is more
29 than one hundred twenty days before the date of the initial issuance of
30 the securities described in this subdivision, the issuer shall provide
31 unaudited interim financial statements;

1 (F) The names of all directors, officers, partners, members, or
2 trustees of the issuer;

3 (G) A description of any order, judgment, or decree that is final as
4 to the issuing entity of any state, federal, or foreign governmental
5 agency or administrator, or of any state, federal, or foreign court of
6 competent jurisdiction (I) revoking, suspending, denying, or censuring
7 for cause any license, permit, or other authority of the issuer or of any
8 director, officer, partner, member, trustee, or person owning or
9 controlling, directly or indirectly, ten percent or more of the
10 outstanding interest or equity securities of the issuer, to engage in the
11 securities, commodities, franchise, insurance, real estate, or lending
12 business or in the offer or sale of securities, commodities, franchises,
13 insurance, real estate, or loans, (II) permanently restraining,
14 enjoining, barring, suspending, or censuring any such person from
15 engaging in or continuing any conduct, practice, or employment in
16 connection with the offer or sale of securities, commodities, franchises,
17 insurance, real estate, or loans, (III) convicting any such person of, or
18 pleading nolo contendere by any such person to, any felony or misdemeanor
19 involving a security, commodity, franchise, insurance, real estate, or
20 loan, or any aspect of the securities, commodities, franchise, insurance,
21 real estate, or lending business, or involving dishonesty, fraud, deceit,
22 embezzlement, fraudulent conversion, or misappropriation of property, or
23 (IV) holding any such person liable in a civil action involving breach of
24 a fiduciary duty, fraud, deceit, embezzlement, fraudulent conversion, or
25 misappropriation of property. This subdivision does not apply to any
26 order, judgment, or decree that has been vacated or overturned or is more
27 than ten years old;

28 (H) Notice of the purchaser's right to rescind or cancel the
29 investment and receive a refund;

30 (I) A statement to the effect that any projected rate of return to
31 the purchaser from the purchase of a viatical settlement contract or any

1 fractionalized or pooled interest therein is based on an estimated life
2 expectancy for the person insured under the life insurance policy; that
3 the return on the purchase may vary substantially from the expected rate
4 of return based upon the actual life expectancy of the insured that may
5 be less than, may be equal to, or may greatly exceed the estimated life
6 expectancy; and that the rate of return would be higher if the actual
7 life expectancy were less than, and lower if the actual life expectancy
8 were greater than, the estimated life expectancy of the insured at the
9 time the viatical settlement contract was closed;

10 (J) A statement that the purchaser should consult with his or her
11 tax advisor regarding the tax consequences of the purchase of the
12 viatical settlement contract or any fractionalized or pooled interest
13 therein; and

14 (K) Any other information as may be prescribed by rule and
15 regulation or order of the director; and

16 (ii) The purchaser receives in writing at least five business days
17 prior to closing the transaction:

18 (A) The name, address, and telephone number of the issuing insurance
19 company and the name, address, and telephone number of the state or
20 foreign country regulator of the insurance company;

21 (B) The total face value of the insurance policy and the percentage
22 of the insurance policy the purchaser will own;

23 (C) The insurance policy number, issue date, and type;

24 (D) If a group insurance policy, the name, address, and telephone
25 number of the group and, if applicable, the material terms and conditions
26 of converting the policy to an individual policy, including the amount of
27 increased premiums;

28 (E) If a term insurance policy, the term and the name, address, and
29 telephone number of the person who will be responsible for renewing the
30 policy if necessary;

31 (F) That the insurance policy is beyond the state statute for

1 contestability and the reason therefor;

2 (G) The insurance policy premiums and terms of premium payments;

3 (H) The amount of the purchaser's money that will be set aside to
4 pay premiums;

5 (I) The name, address, and telephone number of the person who will
6 be the insurance policyowner and the person who will be responsible for
7 paying premiums;

8 (J) The date on which the purchaser will be required to pay premiums
9 and the amount of the premium, if known; and

10 (K) Any other information as may be prescribed by rule and
11 regulation or order of the director;

12 (e) The purchaser may rescind or cancel the purchase for any reason
13 by giving written notice of rescission or cancellation to the issuer or
14 the issuer's agent within (i) fifteen calendar days after the date the
15 purchaser remits the required consideration or receives the disclosure
16 required under subdivision (d)(i) of this subdivision and (ii) five
17 business days after the date the purchaser receives the disclosure
18 required by subdivision (d)(ii) of this subdivision. No specific form is
19 required for the rescission or cancellation. The notice is effective when
20 personally delivered, deposited in the United States mail, or deposited
21 with a commercial courier or delivery service. The issuer shall refund
22 all the purchaser's money within seven calendar days after receiving the
23 notice of rescission or cancellation;

24 (f) A notice of the issuer's intent to sell securities pursuant to
25 this subdivision, signed by a duly authorized officer of the issuer and
26 notarized, together with a filing fee of two hundred dollars, is filed
27 with the department before any offers or sales of securities are made
28 under this subdivision. Such notice shall include:

29 (i) The issuer's name, the issuer's type of organization, the state
30 in which the issuer is organized, the date the issuer intends to begin
31 selling securities within or from this state, and the issuer's principal

1 business;

2 (ii) A consent to service of process; and

3 (iii) An audit report of an independent certified public accountant
4 together with a balance sheet and related statements of income, retained
5 earnings and cash flows that reflect the issuer's financial position, the
6 results of the issuer's operations, and the issuer's cash flows as of a
7 date within fifteen months before the date of the notice prescribed in
8 this subdivision. The financial statements shall be prepared in
9 conformity with generally accepted accounting principles and shall be
10 examined according to generally accepted auditing standards. If the date
11 of the audit report is more than one hundred twenty days before the date
12 of the notice prescribed in this subdivision, the issuer shall provide
13 unaudited interim financial statements;

14 (g) No commission or remuneration is paid directly or indirectly for
15 soliciting any prospective purchaser, except to a registered agent of a
16 registered broker-dealer or registered issuer-dealer; and

17 (h) At least ten days before use within this state, the issuer files
18 with the department all advertising and sales materials that will be
19 published, exhibited, broadcast, or otherwise used, directly or
20 indirectly, in the offer or sale of a viatical settlement contract in
21 this state;

22 (23) Any transaction in this state not involving a public offering
23 by a Nebraska issuer selling solely to Nebraska residents when:

24 (a) The proceeds from all sales of securities by the issuer in any
25 two-year period do not exceed seven hundred fifty thousand dollars or
26 such greater amount as from time to time may be set in accordance with
27 rules and regulations adopted and promulgated by the director to adjust
28 the amount to reflect changes in the Consumer Price Index for All Urban
29 Consumers as prepared by the United States Department of Labor, Bureau of
30 Labor Statistics, and at least eighty percent of the proceeds are used in
31 Nebraska;

1 (b) No commission or other remuneration is paid or given directly or
2 indirectly for soliciting any prospective buyer except to a registered
3 agent of a registered broker-dealer;

4 (c) The issuer, any partner or limited liability company member of
5 the issuer, any officer, director, or any person occupying a similar
6 status of the issuer, any person performing similar functions for the
7 issuer, or any person holding a direct or indirect ownership interest in
8 the issuer or in any way a beneficial interest in such sale of securities
9 of the issuer, has not been:

10 (i) Found by a final order of any state or federal administrative
11 agency or a court of competent jurisdiction to have violated any
12 provision of the Securities Act of Nebraska or a similar act of any other
13 state or of the United States;

14 (ii) Convicted of any felony or misdemeanor in connection with the
15 offer, purchase, or sale of any security or any felony involving fraud or
16 deceit, including, but not limited to, forgery, embezzlement, obtaining
17 money under false pretenses, larceny, or conspiracy to defraud;

18 (iii) Found by any state or federal administrative agency or court
19 of competent jurisdiction to have engaged in fraud or deceit, including,
20 but not limited to, making an untrue statement of a material fact or
21 omitting to state a material fact; or

22 (iv) Temporarily or preliminarily restrained or enjoined by a court
23 of competent jurisdiction from engaging in or continuing any conduct or
24 practice in connection with the purchase or sale of any security or
25 involving the making of any false filing with any state or with the
26 Securities and Exchange Commission;

27 (d)(i) At least fifteen business days prior to the offer or sale,
28 the issuer files a notice with the director, which notice shall include:

29 (A) The name, address, telephone number, and email address of the
30 issuer;

31 (B) The name and address of each person holding direct or indirect

1 ownership or beneficial interest in the issuer;

2 (C) The amount of the offering; and

3 (D) The type of security being offered, the manner in which
4 purchasers will be solicited, and a statement made upon oath or
5 affirmation that the conditions of this exemption have been or will be
6 met.

7 (ii) Failure to give such notice may be cured by an order issued by
8 the director in his or her discretion;

9 (e) Prior to payment of consideration for the securities, the
10 offeree receives a written disclosure statement containing (i) a
11 description of the proposed use of the proceeds of the offering; (ii) the
12 name of each partner or limited liability company member of the issuer,
13 officer, director, or person occupying a similar status of the issuer or
14 performing similar functions for the issuer; and (iii) the financial
15 condition of the issuer;

16 (f) The purchaser signs a subscription agreement in which the
17 purchaser acknowledges that he or she:

18 (i) Has received the written disclosure statement;

19 (ii) Understands the investment involves a high level of risk; and

20 (iii) Has the financial resources to withstand the total loss of the
21 money invested; and

22 (g) The issuer, within thirty days after the completion of the
23 offering, files with the department a statement indicating the number of
24 investors, the total dollar amount raised, and the use of the offering
25 proceeds; or

26 (24)(a) An offer or a sale of a security made after August 30, 2015,
27 by an issuer if the offer or sale is conducted in accordance with all the
28 following requirements:

29 (i) The issuer of the security is a business entity organized under
30 the laws of Nebraska and authorized to do business in Nebraska;

31 (ii) The transaction meets the requirements of the federal exemption

1 for intrastate offerings in section 3(a)(11) of the Securities Act of
2 1933 and Rule 147 adopted under the Securities Act of 1933, or complies
3 with Rule 147A adopted under the Securities Act of 1933;

4 (iii) Except as provided in subdivision (c) of this subdivision, the
5 sum of all cash and other consideration to be received for all sales of
6 the security in reliance on the exemption under this subdivision,
7 excluding sales to any accredited investor, does not exceed the following
8 amount:

9 (A) If the issuer has not undergone, and made available to each
10 prospective investor and the director the documentation resulting from, a
11 financial audit of its most recently completed fiscal year that complies
12 with generally accepted accounting principles, one million dollars, less
13 the aggregate amount received for all sales of securities by the issuer
14 within the twelve months before the first offer or sale made in reliance
15 on the exemption under this subdivision; or

16 (B) If the issuer has undergone, and made available to each
17 prospective investor and the director the documentation resulting from, a
18 financial audit of its most recently completed fiscal year that complies
19 with generally accepted accounting principles, two million dollars, less
20 the aggregate amount received for all sales of securities by the issuer
21 within the twelve months before the first offer or sale made in reliance
22 on the exemption under this subdivision;

23 (iv) The issuer does not accept more than five thousand dollars from
24 any single purchaser except that such limitation shall not apply to an
25 accredited investor;

26 (v) Unless waived by written consent by the director, not less than
27 ten days before the commencement of an offering of securities in reliance
28 on the exemption under this subdivision, the issuer must do all the
29 following:

30 (A) Make a notice filing with the department on a form prescribed by
31 the director;

1 (B) Pay a filing fee of two hundred dollars. However, no filing fee
2 is required to file amendments to the form;

3 (C) Provide the director a copy of the disclosure document to be
4 provided to prospective investors under subdivision (a)(xi) of this
5 subdivision;

6 (D) Provide the director a copy of an escrow agreement with a bank,
7 regulated trust company, savings bank, savings and loan association, or
8 credit union authorized to do business in Nebraska in which the issuer
9 will deposit the investor funds or cause the investor funds to be
10 deposited. The bank, regulated trust company, savings bank, savings and
11 loan association, or credit union in which the investor funds are
12 deposited is only responsible to act at the direction of the party
13 establishing the escrow agreement and does not have any duty or
14 liability, contractual or otherwise, to any investor or other person;

15 (E) The issuer shall not access the escrow funds until the aggregate
16 funds raised from all investors equals or exceeds the minimum amount
17 specified in the escrow agreement; and

18 (F) An investor may cancel the investor's commitment to invest if
19 the target offering amount is not raised before the time stated in the
20 escrow agreement;

21 (vi) The issuer is not, either before or as a result of the
22 offering, an investment company, as defined in section 3 of the
23 Investment Company Act of 1940, an entity that would be an investment
24 company but for the exclusions provided in section 3(c) of the Investment
25 Company Act of 1940, or subject to the reporting requirements of section
26 13 or 15(d) of the Securities Exchange Act of 1934;

27 (vii) The issuer informs all prospective purchasers of securities
28 offered under an exemption under this subdivision that the securities
29 have not been registered under federal or state securities law and that
30 the securities are subject to limitations on resale. The issuer shall
31 display the following legend conspicuously on the cover page of the

1 disclosure document:

2 IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN
3 EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE
4 MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY
5 ANY FEDERAL OR STATE SECURITIES COMMISSION, DEPARTMENT, OR DIVISION OR
6 OTHER REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE
7 NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT.
8 ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE
9 SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND
10 MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (e) OF
11 SEC RULE 147 OR SUBSECTION (e) OF RULE 147A ADOPTED UNDER THE SECURITIES
12 ACT OF 1933 AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO
13 REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY
14 WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN
15 INDEFINITE PERIOD OF TIME.;

16 (viii) The issuer requires each purchaser to certify in writing or
17 electronically as follows:

18 I understand and acknowledge that I am investing in a high-risk,
19 speculative business venture. I may lose all of my investment, or under
20 some circumstances more than my investment, and I can afford this loss.
21 This offering has not been reviewed or approved by any state or federal
22 securities commission, department, or division or other regulatory
23 authority and no such person or authority has confirmed the accuracy or
24 determined the adequacy of any disclosure made to me relating to this
25 offering. The securities I am acquiring in this offering are illiquid,
26 there is no ready market for the sale of such securities, it may be
27 difficult or impossible for me to sell or otherwise dispose of this
28 investment, and, accordingly, I may be required to hold this investment
29 indefinitely. I may be subject to tax on my share of the taxable income
30 and losses of the company, whether or not I have sold or otherwise
31 disposed of my investment or received any dividends or other

1 distributions from the company.;

2 (ix) The issuer obtains from each purchaser of a security offered
3 under an exemption under this subdivision evidence that the purchaser is
4 a resident of Nebraska and, if applicable, is an individual accredited
5 investor;

6 (x) All payments for purchase of securities offered under an
7 exemption under this subdivision are directed to and held by the
8 financial institution specified in subdivision (a)(v)(D) of this
9 subdivision. The director may request from the financial institutions
10 information necessary to ensure compliance with this section. This
11 information is not a public record and is not available for public
12 inspection;

13 (xi) The issuer of securities offered under an exemption under this
14 subdivision provides a disclosure document to each prospective investor
15 at the time the offer of securities is made to the prospective investor
16 that contains all the following:

17 (A) A description of the company, its type of entity, the address
18 and telephone number of its principal office, its history, its business
19 plan, and the intended use of the offering proceeds, including any
20 amounts to be paid, as compensation or otherwise, to any owner, executive
21 officer, director, managing member, or other person occupying a similar
22 status or performing similar functions on behalf of the issuer;

23 (B) The identity of all persons owning more than twenty percent of
24 the ownership interests of any class of securities of the company;

25 (C) The identity of the executive officers, directors, managing
26 members, and other persons occupying a similar status or performing
27 similar functions in the name of and on behalf of the issuer, including
28 their titles and their prior experience;

29 (D) The terms and conditions of the securities being offered and of
30 any outstanding securities of the company; the minimum and maximum amount
31 of securities being offered, if any; either the percentage ownership of

1 the company represented by the offered securities or the valuation of the
2 company implied by the price of the offered securities; the price per
3 share, unit, or interest of the securities being offered; any
4 restrictions on transfer of the securities being offered; and a
5 disclosure of any anticipated future issuance of securities that might
6 dilute the value of securities being offered;

7 (E) The identity of any person who has been or will be retained by
8 the issuer to assist the issuer in conducting the offering and sale of
9 the securities, including any portal operator but excluding persons
10 acting solely as accountants or attorneys and employees whose primary job
11 responsibilities involve the operating business of the issuer rather than
12 assisting the issuer in raising capital;

13 (F) For each person identified as required in subdivision (a)(xi)(E)
14 of this subdivision, a description of the consideration being paid to the
15 person for such assistance;

16 (G) A description of any litigation, legal proceedings, or pending
17 regulatory action involving the company or its management;

18 (H) The names and addresses of each portal operator that will be
19 offering or selling the issuer's securities under an exemption under this
20 subdivision;

21 (I) The Uniform Resource Locator for each funding portal that will
22 be used by the portal operator to offer or sell the issuer's securities
23 under an exemption under this subdivision; and

24 (J) Any additional information material to the offering, including,
25 if appropriate, a discussion of significant factors that make the
26 offering speculative or risky. This discussion must be concise and
27 organized logically and may not be limited to risks that could apply to
28 any issuer or any offering;

29 (xii) The offering or sale exempted under this subdivision is made
30 exclusively through one or more funding portals and each funding portal
31 is subject to the following:

1 (A) Before any offer or sale of securities, the issuer must provide
2 to the portal operator evidence that the issuer is organized under the
3 laws of Nebraska and is authorized to do business in Nebraska;

4 (B) Subject to subdivisions (a)(xii)(C) and (E) of this subdivision,
5 the portal operator must register with the department by filing a
6 statement, accompanied by a two-hundred-dollar filing fee, that includes
7 the following information:

8 (I) Documentation which demonstrates that the portal operator is a
9 business entity and authorized to do business in Nebraska;

10 (II) A representation that the funding portal is being used to offer
11 and sell securities pursuant to the exemption under this subdivision; and

12 (III) The identity and location of, and contact information for, the
13 portal operator;

14 (C) The portal operator is not required to register as a broker-
15 dealer if all of the following apply with respect to the funding portal
16 and its portal operator:

17 (I) It does not offer investment advice or recommendations;

18 (II) It does not solicit purchases, sales, or offers to buy the
19 securities offered or displayed on the funding portal;

20 (III) It does not compensate employees, agents, or other persons for
21 the solicitation or based on the sale of securities displayed or
22 referenced on the funding portal;

23 (IV) It is not compensated based on the amount of securities sold,
24 and it does not hold, manage, possess, or otherwise handle investor funds
25 or securities;

26 (V) The fee it charges an issuer for an offering of securities on
27 the funding portal is a fixed amount for each offering, a variable amount
28 based on the length of time that the securities are offered on the
29 funding portal, or a combination of the fixed and variable amounts;

30 (VI) It does not identify, promote, or otherwise refer to any
31 individual security offered on the funding portal in any advertising for

1 the funding portal;

2 (VII) It does not engage in any other activities that the director,
3 by rule and regulation or order, determines are prohibited of the funding
4 portal; and

5 (VIII) Neither the portal operator, nor any director, executive
6 officer, general partner, managing member, or other person with
7 management authority over the portal operator, has been subject to any
8 conviction, order, judgment, decree, or other action specified in Rule
9 506(d)(1) adopted under the Securities Act of 1933, that would disqualify
10 an issuer under Rule 506(d) adopted under the Securities Act of 1933,
11 from claiming an exemption specified in Rule 506(a) to Rule 506(c)
12 adopted under the Securities Act of 1933. However, this subdivision does
13 not apply if both of the following are met:

14 (1) On a showing of good cause and without prejudice to any other
15 action by the Director of Banking and Finance, the director determines
16 that it is not necessary under the circumstances that an exemption is
17 denied; and

18 (2) The portal operator establishes that it made a factual inquiry
19 into whether any disqualification existed under this subdivision but did
20 not know, and in the exercise of reasonable care, could not have known,
21 that a disqualification existed under this subdivision. The nature and
22 scope of the requisite inquiry will vary based on the circumstances of
23 the issuer and the other offering participants;

24 (D) If any change occurs that affects the funding portal's
25 registration exemption, the portal operator must notify the department
26 within thirty days after the change occurs;

27 (E) A registered broker-dealer who also serves as a portal operator
28 must register with the department as a portal operator pursuant to
29 subdivision (a)(xii)(B) of this subdivision, except that the fee for
30 registration shall be waived;

31 (F) The issuer and the portal operator must maintain records of all

1 offers and sales of securities effected through the funding portal and
2 must provide ready access to the records to the department, upon request.
3 The records of a portal operator under this subdivision are subject to
4 the reasonable periodic, special, or other audits or inspections by a
5 representative of the director, in or outside Nebraska, as the director
6 considers necessary or appropriate in the public interest and for the
7 protection of investors. An audit or inspection may be made at any time
8 and without prior notice. The director may copy, and remove for audit or
9 inspection copies of, all records the director reasonably considers
10 necessary or appropriate to conduct the audit or inspection. The director
11 may assess a reasonable charge for conducting an audit or inspection
12 under this subdivision;

13 (G) The portal operator shall limit web site access to the offer or
14 sale of securities to only Nebraska residents;

15 (H) The portal operator shall not hold, manage, possess, or handle
16 investor funds or securities; and

17 (I) The portal operator may not be an investor in any Nebraska
18 offering under this subdivision.

19 (b) An issuer of a security, the offer and sale of which is exempt
20 under this subdivision, shall provide, free of charge, a quarterly report
21 to the issuer's investors until no securities issued under an exemption
22 under this subdivision are outstanding. An issuer may satisfy the
23 reporting requirement of this subdivision by making the information
24 available on a funding portal if the information is made available within
25 forty-five days after the end of each fiscal quarter and remains
26 available until the succeeding quarterly report is issued. An issuer
27 shall file each quarterly report under this subdivision with the
28 department and, if the quarterly report is made available on a funding
29 portal, the issuer shall also provide a written copy of the report to any
30 investor upon request. The report must contain all the following:

31 (i) Compensation received by each director and executive officer,

1 including cash compensation earned since the previous report and on an
2 annual basis and any bonuses, stock options, other rights to receive
3 securities of the issuer or any affiliate of the issuer, or other
4 compensation received; and

5 (ii) An analysis by management of the issuer of the business
6 operations and financial condition of the issuer.

7 (c) An offer or a sale under this subdivision to an officer,
8 director, partner, trustee, or individual occupying similar status or
9 performing similar functions with respect to the issuer or to a person
10 owning ten percent or more of the outstanding shares of any class or
11 classes of securities of the issuer does not count toward the monetary
12 limitations in subdivision (a)(iii) of this subdivision.

13 (d) The exemption under this subdivision may not be used in
14 conjunction with any other exemption under the Securities Act of
15 Nebraska, except for offers and sales to individuals identified in the
16 disclosure document, during the immediately preceding twelve-month
17 period.

18 (e) The exemption under this subdivision does not apply if an issuer
19 or any director, executive officer, general partner, managing member, or
20 other person with management authority over the issuer, has been subject
21 to any conviction, order, judgment, decree, or other action specified in
22 Rule 506(d)(1) adopted under the Securities Act of 1933, that would
23 disqualify an issuer under Rule 506(d) adopted under the Securities Act
24 of 1933, from claiming an exemption specified in Rule 506(a) to Rule
25 506(c) adopted under the Securities Act of 1933. However, this
26 subdivision does not apply if both of the following are met:

27 (i) On a showing of good cause and without prejudice to any other
28 action by the Director of Banking and Finance, the director determines
29 that it is not necessary under the circumstances that an exemption is
30 denied; and

31 (ii) The issuer establishes that it made a factual inquiry into

1 whether any disqualification existed under this subdivision but did not
2 know, and in the exercise of reasonable care, could not have known, that
3 a disqualification existed under this subdivision. The nature and scope
4 of the requisite inquiry will vary based on the circumstances of the
5 issuer and the other offering participants.

6 (f) For purposes of this subdivision:

7 (i) Accredited investor means a bank, a savings institution, a trust
8 company, an insurance company, an investment company as defined in the
9 Investment Company Act of 1940, a pension or profit-sharing trust or
10 other financial institution or institutional buyer, an individual
11 accredited investor, or a broker-dealer, whether the purchaser is acting
12 for itself or in some fiduciary capacity;

13 (ii) Funding portal means an Internet web site that is operated by a
14 portal operator for the offer and sale of securities pursuant to this
15 subdivision;

16 (iii) Individual accredited investor means (A) any director,
17 executive officer, or general partner of the issuer of the securities
18 being offered or sold, or any director, executive officer, or general
19 partner of a general partner of that issuer, (B) any manager of a limited
20 liability company that is the issuer of the securities being offered or
21 sold, (C) any natural person whose individual net worth, or joint net
22 worth with that person's spouse, at the time of his or her purchase,
23 exceeds one million dollars, excluding the value of the primary residence
24 of such person, or (D) any natural person who had an individual income in
25 excess of two hundred thousand dollars in each of the two most recent
26 years or joint income with that person's spouse in excess of three
27 hundred thousand dollars in each of those years and has a reasonable
28 expectation of reaching the same income level in the current year; and

29 (iv) Portal operator means an entity authorized to do business in
30 this state which operates a funding portal and has registered with the
31 department as required by this subdivision.

1 Sec. 5. Original sections 8-1101, 8-1101.01, 8-1103, and 8-1111,
2 Revised Statutes Supplement, 2017, are repealed.

3 Sec. 6. Since an emergency exists, this act takes effect when
4 passed and approved according to law.