

## LEGISLATIVE BILL 703

Approved by the Governor April 7, 1988

Introduced by Pappas, 42; Hall, 7

AN ACT relating to banks and banking; to amend sections 77-2318.01, 77-2320, and 77-2326.04 to 77-2326.08, Reissue Revised Statutes of Nebraska, 1943, and section 8-157, Revised Statutes Supplement, 1987; to change provisions relating to the establishment of auxiliary offices and the acquisition of banks as prescribed; to authorize depository banks to pledge or grant security interests in certain assets, bonds, and securities as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 8-157, Revised Statutes Supplement, 1987, be amended to read as follows:

8-157. (1) No bank shall maintain any branch bank, and except as provided in subsections (2) to (5) of this section and section 8-122.01, the general business of every bank shall be transacted at the place of business specified in its charter.

(2) With the approval of the director (a) any bank may maintain an attached auxiliary office if such office is physically connected by a pneumatic tube or tubes or a walkway, tunnel, or any other electronic, mechanical, or structural connection or attachment for the public use of the bank and is within two hundred feet of the building containing the premises specified as its place of business in its charter or any adjacent connected building housing a continuation of the operations of the bank's main office ~~and is not within three hundred feet of another bank or another bank's auxiliary or detached office~~ and (b) any bank may establish and maintain not more than five detached auxiliary offices at which all banking transactions allowed by law may be made. Such auxiliary offices shall be within the corporate limits of the city in which such bank is located or if the bank is located within the zoning jurisdiction of a city of the primary class, such auxiliary offices may also be within the

corporate limits of such city. Any bank that establishes and maintains two or more auxiliary offices shall locate one of such offices within three miles of the premises specified as its place of business in its charter. No auxiliary office shall be located within three hundred feet of another bank or within fifty feet of another auxiliary office. Any detached auxiliary office established and maintained by a bank pursuant to the acquisition or merger of an institution under sections 8-1506 to 8-1510 shall not count against the number or location of detached auxiliary offices permitted under this section.

(3) With the approval of the director, a bank may acquire another bank in Nebraska as the result of a purchase or merger so long as the acquired bank has been chartered for more than ~~three years~~ eighteen months and the acquired institution and its detached auxiliary offices are converted to auxiliary offices of the acquiring bank. Such auxiliary offices shall not count against the number of locations of detached auxiliary offices permitted under subsections (1) and (2) of this section.

(4) With the approval of the director and subject to the limitations specified in this subsection, a single bank may establish one detached auxiliary office within the corporate limits of any municipality in which a financial institution has closed and ceased doing business within the preceding two years if no other financial institution operates an office within such municipality. If thirty days or less have elapsed since the financial institution ceased operation, the director shall only approve the establishment of a detached auxiliary office by a bank which has its place of business, as specified in its charter, in the same county as or in a contiguous county to the county in which such municipality is located. If more than thirty days have elapsed since the financial institution ceased operation, the director may approve the establishment of a detached auxiliary office by any bank located within Nebraska.

For the purposes of this subsection:

(a) An unmanned electronic terminal shall not be deemed to be an office operated by a financial institution; and

(b) Financial institution shall mean a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, or other institution offering electronic terminal transactions.

(5) The name given to any detached bank or branch bank established and maintained pursuant to this section shall not be substantially similar to the name of any existing bank or branch bank which is unaffiliated with the newly created bank or branch bank and is located in the same municipality. The name of such newly created bank or branch bank shall be approved by the director.

Sec. 2. That section 77-2318.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2318.01. The county treasurer may deposit in any bank of the county in which he or she is treasurer in excess of the amounts authorized in section 77-2318 when (1) the depository bank secures the deposits by a pledge of or grant of a security interest in the assets of the bank in the manner and within the limitations provided for county judges, county clerks, and clerks of the district court in sections 77-2326.04 to 77-2326.09; and (2) the same is approved by a formal resolution of the county board.

Sec. 3. That section 77-2320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2320. In lieu of a bond as provided in sections 77-2316 to 77-2319, any bank making application to become a depository under the provisions of sections 77-2312 to 77-2324 may: (1) Deposit ~~deposi~~ with the county clerk ~~{1}~~ (a) United States Government bonds, (b) ~~{2}~~ United States Government guaranteed bonds or notes, (c) ~~{3}~~ bonds or notes of United States governmental agencies including bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration, (d) ~~{4}~~ bonds of any state or municipal subdivision which are fully defeased as to principal and interest by any combination of bonds or notes provided in subdivisions ~~{1} to {3}~~ (a) to (c) of this ~~section~~ subdivision, (e) bonds of the State of Nebraska or of any state whose bonds are purchased by the state investment officer of this state for investment of the Permanent School Fund, (f) ~~{6}~~ warrants of the State of Nebraska, (g) ~~{7}~~ county bonds, municipal bonds, or school district bonds of any county, city, village, or school district in the State of Nebraska issued under the direction of and with the approval of the Auditor of Public Accounts, (h) ~~{8}~~ securities issued under the

authority of the Federal Farm Loan Act, ~~7~~ or ~~(9)~~ (i) warrants of the county or any city, village, or school district in the county; or (2) pledge or grant a security interest in assets of the bank as provided in section 77-2318.01.

Sec. 4. That section 77-2326.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.04. (1) No deposits in excess of the amount insured by the Federal Deposit Insurance Corporation shall be made to accumulate in any bank designated as a depository bank; unless and until the county judge, clerk of the county court, or clerk of the district court, as the case may be, shall have has required of and received from such bank as security for the prompt repayment by the bank of their his or her respective deposits by the bank; in excess of the amount insured by the Federal Deposit Insurance Corporation either a surety bond in form and with corporate sureties approved by formal resolution of the county board or in lieu thereof a pledge of or grant of a security interest in:

(1) A pledge of bonds (a) Bonds, notes, certificates of indebtedness, or treasury bills of the United States Government of any issue;

(b) (2) Obligations fully and unconditionally guaranteed both as to principal and interest by the United States or bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration;

(c) (3) Bonds of any county, city, village, or school district of this state which have been issued and registered as required by law; or

(d) (4) Registered warrants of any county, city, or school district of this state.

(2) The delivery by the bank designated as a depository bank to the county judge, clerk of the county court, or clerk of the district court, as the case may be, of a written receipt or acknowledgment from a Federal Reserve Bank or branch thereof or some other bank or trust company in this state, other than the bank granting the security interest, that includes the name and title of such public officer, describes securities identified on the books or records of the depository bank, and provides that the securities or the proceeds of securities will be delivered only upon surrender of the receipt or the acknowledgment duly executed by the

public officer designated thereon and by the authorized representative of the depository bank shall, together with such public officer's actual and continued possession of such receipt or acknowledgment, constitute a valid and perfected security interest in favor of such public officer in and to the securities so identified. Article 9 of the Uniform Commercial Code shall not apply to any security interest arising under this section.

Sec. 5. That section 77-2326.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.05. The deposits secured by a surety bond shall at no time exceed the amount of the penal sum of such surety bond, and deposits secured by a pledge of or grant of a security interest in securities shall at no time exceed the market value of the securities thus pledged or secured.

Sec. 6. That section 77-2326.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.06. Every depository bank ~~is~~ authorized to may secure deposits by a pledge of or grant of a security interest in the assets of the bank or by furnishing a surety bond as provided in section 77-2326.04 and otherwise ~~to~~ enter into and become a party to any contract or arrangement not inconsistent with the provisions hereof this section, as may be reasonably necessary or proper to render fully effective the provisions of section 77-2326.04.

Sec. 7. That section 77-2326.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.07. The clerk of the district court, county judge, and clerk of the county court shall at all times keep and certify to the county board a complete and correct list and description of the securities pledged or in which a security interest has been granted by any depository bank to secure the respective deposits of their respective offices. Bonds and securities pledged or in which a security interest has been granted shall be delivered to and held by some Federal Reserve Bank or branch thereof or some other responsible bank or trust company within this state, other than the pledgor or the bank granting the security interest, as designated by the county board, with appropriate joint custody and the pledge agreement or security interest as described in subsection (2) of section 77-2326.04 in a form approved by the ~~said~~ county board.

Sec. 8. That section 77-2326.08, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.08. The depository bank pledging or granting a security interest in bonds or securities under sections 77-2326.01 to 77-2326.09 shall have the right to substitute therefor from time to time other and different bonds and securities of equal value within the foregoing requirements, and to withdraw all or any part of such bonds or securities so pledged or in which a security interest has been granted upon repayment to the county judge, clerk of the county court, ~~and~~ clerk of the district court, or any of such officers and reduction of their respective accounts in the amount of the value of the bonds or securities thus withdrawn. Each depository bank shall furnish directly to the county board a sworn monthly statement of the funds of the county judge, clerk of the county court, and the clerk of the district court on deposit in such depository.

Sec. 9. That original sections 77-2318.01, 77-2320, and 77-2326.04 to 77-2326.08, Reissue Revised Statutes of Nebraska, 1943, and section 8-157, Revised Statutes Supplement, 1987, are repealed.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.