

LEGISLATIVE BILL 626

Approved by the Governor June 13, 1995

Introduced by Kristensen, 37

AN ACT relating to financial institutions; to define terms; to provide for the confidentiality of compliance review documents as prescribed; and to declare an emergency.

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

Section 1. For purposes of sections 1 to 5 of this act, the following definitions are used:

(1) Depository institution means a state-chartered or federally chartered financial institution located in this state that is authorized to maintain deposit accounts;

(2) Compliance review committee means:

(a) An audit, loan review, or compliance committee appointed by the board of directors of a depository institution; or

(b) Any other person to the extent the person acts in an investigatory capacity at the direction of a compliance review committee;

(3) Compliance review documents means written reports prepared for or created by a compliance review committee for the purpose of ascertaining compliance with federal or state statutory or regulatory requirements or for the performance of any function described in subdivisions (1) through (3) of section 2 of this act, which is not a policy otherwise in violation of any other state or federal regulatory requirements;

(4) Loan review committee means a person or group of persons who, on behalf of a depository institution, reviews loans held by the depository institution for the purpose of assessing the credit quality of the loans, compliance with the depository institution's loan policies, and compliance with applicable laws and rules and regulations; and

(5) Person means an individual, group of individuals, board, committee, partnership, firm, association, corporation, limited liability company, or other entity.

Sec. 2. Sections 1 to 5 of this act apply to a compliance review committee whose functions are to evaluate and seek to improve:

(1) Loan underwriting standards;

(2) Asset quality;

(3) Financial reporting to federal or state regulatory agencies; or

(4) Compliance with federal or state statutory or regulatory requirements.

Sec. 3. Except as provided in section 4 of this act:

(1) Compliance review documents are confidential and are not discoverable or admissible in evidence in any civil action arising out of matters evaluated by the compliance review committee. Compliance review committee members shall treat compliance review documents and all proceedings of the compliance review committee as confidential and shall not be compelled to testify regarding such confidential documents or proceedings in any civil action arising out of matters evaluated by the compliance review committee, except that information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or admissibility in any civil action merely because such information, documents, or records were evaluated by the compliance review committee; and

(2) Compliance review documents delivered to a federal or state governmental agency are to remain confidential and are not discoverable or admissible in evidence in any civil action arising out of matters evaluated by the compliance review committee.

Sec. 4. Section 3 of this act does not apply to any information required by statute or rule and regulation to be maintained by or provided to a governmental agency while the information is in the possession of the governmental agency to the extent applicable law expressly authorizes its disclosure.

Sec. 5. Sections 1 to 4 of this act are not to be construed to limit the discovery or admissibility in any civil action of any documents that are not compliance review documents and shall not preclude a depository institution's primary state or federal regulator from obtaining compliance review documents.

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