

Nebraska's Guaranteed Deposits Law

Enacted By a Democratic Legislature
and Signed By a Democratic Governor

House roll number 423—a bill for an act for the regulation, supervision and control of the business of banking, and to provide penalties for its violation, repealing chapter eight of the compiled statutes of Nebraska of 1907, and all acts and parts of acts inconsistent herewith. Be it Enacted by the Legislature of the State of Nebraska:

Section 1. The business of banking, or the receiving of deposits of money or instruments of credit subject to be repaid upon check, draft, certificate, pass-book or order; the discounting, negotiating of promissory notes, drafts, bills of exchange, and other evidences of debt; and the loaning of money upon personal or other security, is hereby declared to be a quasi-public business and subject to regulation and control by the state.

Sec. 2. It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking business within this state on and after the taking effect of this act, except by means of a corporation duly organized for such purpose under the laws of this state. It shall be unlawful for any corporation to receive money upon deposit or transact a banking business under the laws of this state until said corporation shall have complied with all the provisions and requirements of this act. Any violation of the provisions of this section shall subject the corporation, partnership, firm or individual so offending to a penalty of twenty-five (\$25.00) dollars for each day of the continuation of such offense, and be cause for the appointment of a receiver as hereinafter provided, to wind up such banking business.

Sec. 3. The term "bank" or "banking corporation" as used in this act, shall be construed to mean any incorporated banking institution which shall have been incorporated under the laws of this state as they existed prior to the taking effect of this act, and to such banking institutions as shall hereafter become incorporated under the provisions of this act. The term "commercial bank" shall be construed to mean any such banking institution as shall, in addition to the exercise of other powers, follow the practice of re-paying deposits upon check, draft, or order, and of making commercial loans chiefly; the term "savings bank" shall be construed to mean any such banking institution as shall, in addition to the exercise of other powers, follow the practice of re-paying deposits only upon the presentation of pass-books, and whose loans are chiefly made on real estate security.

Sec. 4. The term "lawful money" as used in this act shall be construed to mean all coin, United States notes, treasury notes, gold certificates, silver certificates, national bank notes, and all other forms of money issued by or which may hereafter be issued by or under the authority of the United States as a circulating medium, and shall also be construed to mean any form of certificate which is now or may hereafter be declared to be lawful money of the United States.

Sec. 5. There is hereby created a state banking board which shall consist of the following state officers: The governor, who shall be ex-officio chairman thereof; the auditor of public accounts and the attorney general, a majority of whom shall constitute a quorum for the transaction of business. Said board shall have general supervision and control of banks and banking under the laws of this state and no person or persons shall be permitted to engage in or transact a banking business save corporations having complied with the provisions of this act. Provided, however, that this act is not intended to apply to banks organized under the banking laws of the United States. Said board shall be and constitute the state banking board, and successor to the state banking board as now existing, as such entitled to all the records, books, files and papers thereof, and shall exercise all the powers and discharge all the duties of such board under the laws of this state.

Sec. 6. The governor shall appoint a secretary of the said banking board, who shall be an elector of the state, and who, at the time of his appointment, shall have had, at least, three years practical experience in actual banking, and who shall receive a salary of three thousand dollars (\$3,000.00) per year, and a clerk of said board, who shall receive a salary of fifteen hundred dollars (\$1,500.00) per year, and who shall be a competent book-keeper and an expert accountant, and one other assistant, if necessary, who shall hold their respective offices at the pleasure of the governor, and perform the duties hereinafter enjoined upon them, and such other duties as usually devolve upon such offices. The governor shall also appoint a suitable person, or persons, having had at least three years actual experience in practical banking, to make an examination of and into the affairs of every corporation transacting a banking business and subject to the provisions of this act, as often as shall be deemed necessary or proper by the said state banking board, and at least twice in each year. But no person thus appointed shall be permitted to examine the affairs of any bank in which he has a personal interest, or of which he is, or within one year next preceding his appointment was an officer or employe, and any and all persons appointed under the provisions of this section shall be subject to removal at the pleasure of the governor. Said bank examiners so appointed shall perform all the duties and exercise all the functions of bank examiners under the laws of this state. Such secretary and bank examiners shall each enter into a bond, to the state of Nebraska, before taking their respective offices, with surety or sureties to be approved by the governor, the secretary's to be in the sum of \$25,000.00 and each examiner's in the sum of \$25,000.00.

Sec. 7. The said banking board shall procure and keep a seal, upon which shall be engraved the coat of arms of the state and the words "State Banking Board of Nebraska" and all charters and

orders issued by said board shall be attested by said seal and the signatures of the said chairman and secretary.

Sec. 8. Any bank examiner so appointed shall have power to make a thorough examination into all the books, papers and affairs of any corporation, transacting a banking business in this state, and, in so doing, to administer oaths and affirmations, and to examine on oath or affirmation the officers, agents, and clerks of such corporation, touching the matters which they may be authorized and directed to inquire into and examine, and to summon, and by attachment compel the attendance of any person or persons in this state to testify under oath before them in relation to the affairs of such corporation. The person or persons making such examination shall make a full and detailed report of the condition of such corporation, to the state banking board. Provided, that any examiner appointed under the provisions of this act who shall knowingly and wilfully make any false or fraudulent report of the condition of any bank which shall have been examined by him, with the intent to aid or abet the officers, owners or agents of such bank, in continuing to operate an insolvent bank; or if any such examiner shall receive or accept any bribe or gratuity, given for the purpose of inducing him to not file any report of an examination of any bank made by him, or who shall neglect to make an examination of any bank by reason of having received or accepted any bribe or gratuity, he shall be deemed guilty of a felony, and, on conviction thereof, shall be imprisoned in the state penitentiary for not less than two, nor more than ten years. Provided, further, that such bank examination shall be in the presence of at least two of the board of directors of the bank undergoing said examination, and it shall be the duty of the examiner to incorporate in his report herein referred to, the names of the directors in whose presence the examination was made, and such examination shall include, at least annually, a verification from sources outside of said bank of at least ten per cent in number of the deposits and loans.

Sec. 9. Every person thus appointed to examine into the affairs of banking corporations, shall receive as compensation for his services at the rate of eighteen hundred (\$1800) dollars per annum and all necessary traveling expenses incurred and actually paid out in the performance of his duties as such examiner, not to exceed one thousand (\$1,000) dollars per annum, such traveling expenses to be paid out of the general fund, upon his filing with the state auditor an itemized report of such expenses approved by the state banking board, or any two members thereof. Every bank thus examined shall pay to the state treasurer, for credit of general fund, within ten days after the completion of such examination, the following fees:

For banks with a capital of fifteen thousand (\$15,000) dollars or less, fifteen (\$15) dollars; for banks with a capital of more than fifteen thousand (\$15,000) dollars and less than fifty thousand (\$50,000) dollars, twenty (\$20) dollars; for banks with a capital of fifty thousand (\$50,000) dollars and less than one hundred fifty thousand (\$150,000) dollars, thirty (\$30) dollars; and for banks with one hundred fifty thousand (\$150,000) dollars or more, fifty (\$50) dollars; provided that not more than two such fees shall be paid in any one calendar year. The examiner shall report to the state treasurer and state banking board within five days from the completion of examination, the date thereof and the amount of fee due. Every person appointed as such examiner shall make, at the end of every year, to the state banking board a detailed report under oath, of all fees reported by him under this act, and of all his necessary traveling expenses in the performance of his duties as such examiner; and shall give a bond in the sum of twenty-five thousand (\$25,000) dollars, executed by himself with one surety where such surety is an incorporated surety company authorized by the laws of this state to transact such business and with at least two sufficient sureties where such sureties are natural persons, to be approved by the governor, conditioned for the faithful performance of his duties as such examiner.

Sec. 10. Any duly qualified bank examiner appointed as aforesaid shall have authority when ordered by the state banking board to take possession of any bank doing business under the laws of this state, and to retain possession of such bank for a time sufficient to make a thorough examination into its affairs and financial condition and if, upon such examination, it be found by said examiner, that said bank is insolvent, or is conducting its business in an unsafe or unauthorized manner, or is endangering the interest of its depositors, then such examiner shall have full power and authority to hold and retain possession of all the money, rights, credits, assets, and property of every description belonging to such bank, as court against such bank or corporation whose property has been taken by such examiner, until the state banking board can receive and act on the report made by the examiner of said bank, and have a receiver appointed as hereinafter provided.

Sec. 11. It shall be unlawful for any person or corporation to conduct a bank or to engage in or transact a banking business in this state without having first obtained a charter from the state banking board in the manner hereinafter provided, which charter shall issue only to corporations, duly organized for the transaction of such business.

Sec. 12. A majority of the members of the board of directors of any banking corporation transacting business under the provisions of this act must be residents of the county wherein such bank is located, or of the counties immediately adjacent thereto, and every director of a bank having a capital of more than fifty thousand dollars

(\$50,000) every director must own and hold in his own name and right not less than three thousand dollars (\$3,000) of the paid-up capital stock. Provided, however, that the provisions of this section shall not apply to banks operating at the taking effect of this act. Provided, however, that the ownership of five shares of the capital stock of a savings bank shall qualify the owner to be elected as a director of such bank.

Sec. 13. The paid-up capital stock required, to entitle a corporation to a charter under the provisions of this act, shall be as follows:

In no case less than ten thousand dollars; where the bank is located in a village or town of more than one hundred and not less than five hundred inhabitants, not less than fifteen thousand dollars; in towns or villages of five hundred or more, and less than one thousand inhabitants, not less than twenty thousand dollars; in towns or villages of one thousand or more, and less than two thousand inhabitants, not less than twenty-five thousand dollars; in cities or villages of two thousand or more, and less than five thousand inhabitants, not less than thirty-five thousand dollars; in cities of five thousand or more, and less than twenty-five thousand inhabitants, not less than fifty thousand dollars; in cities of twenty-five thousand or more, and less than one hundred thousand inhabitants, not less than one hundred thousand dollars; in cities of one hundred thousand or more inhabitants, not less than two hundred thousand dollars. Provided, however, that the minimum paid-up capital of a savings bank shall be fifteen thousand (\$15,000) dollars. Where a savings bank is located in a city of more than fifty thousand (50,000) and less than one hundred thousand (100,000) inhabitants, the paid-up capital shall be not less than thirty-five thousand (\$35,000) dollars. In cities of one hundred thousand (100,000) or more inhabitants, the paid-up capital of savings banks shall be not less than seventy-five thousand dollars, and such paid in capital, including the initial and subsequent payments shall consist, at the time, of lawful money, credit with depository banks, to be approved by the state banking board, national, state, county or municipal bonds, bank furniture and the necessary bank building, and the lot or lots upon which such building is situated, which said lot or lots shall be free from incumbrance; but national, state, county and municipal bonds shall not constitute, in the aggregate, more than one-half, nor the bank building and the lot or lots upon which it is situated, together with the bank furniture and fixtures more than one-third of the paid in capital, nor shall such furniture and fixtures constitute more than one-tenth thereof. Provided, however, that the provisions of this section shall not apply to banking corporations organized and engaged in the business of banking at and prior to the taking effect of this act.

Section 14. Every corporation transacting a banking business under the laws of this state, shall, within sixty days after the taking effect of this act, file with the state banking board, a full, complete and detailed report of its condition, as provided for in section 15 of this act, and it shall be the duty of the state banking board upon examination of the report and approval of the same, if satisfied that such corporation meets the requirements of this act, to issue to said banking corporation, a certificate stating that said banking corporation has complied with the laws of this state for the protection of bank depositors, and that its depositors are protected by the depositors' guarantee fund of the state of Nebraska. Every banking corporation receiving such certificate shall conspicuously display the same in its place of business and said banking corporation may print or engrave upon its stationery and advertising matter, words to the effect that its depositors are protected by the depositors' guarantee fund of the state of Nebraska. The printing or engraving of a false statement of the fact last before this named, is hereby declared to be a violation of the provisions of this act.

Section 15. Every corporation, organized for and desiring to transact a banking business, shall before commencing such business, make under oath, and transmit to the state banking board, a full, complete, and detailed statement of: First, the name of the proposed bank; second, a certified copy of the articles of incorporation; third, the names of the stockholders; fourth, the county, city, town or village in which the said proposed bank is located; fifth, the nature of proposed banking business, whether commercial or savings; sixth, the amount of paid-up capital stock, and the items of money and property included in said amount.

Sec. 16. Whenever, after the examination and approval by the state banking board, of the statement provided for in section 15 of this act, the corporation shall file with the state banking board the oath of the president, or cashier, that the capital stock has been paid in as provided for, and in compliance with section 13 of this act, then the state banking board, if, upon investigation, it shall be satisfied that the parties requesting said charters are parties of integrity and responsibility, shall, upon the payment of certain fees as hereinafter provided, issue to said corporation the certificate provided for in section 14 and a charter to transact the business provided for in its articles of incorporation. The fees for such charters to engage in the business of banking shall be as follows: For banks having a capital of twenty-five thousand dollars (\$25,000) or less, the fee shall be twenty-five dollars (\$25); for banks having a capital of twenty-five thousand dollars (\$25,000) up to and including fifty thousand dollars (\$50,000) the fee shall be twenty-five dollars (\$25) and fifty cents (\$.50) for each additional thousand above twenty-five thousand dollars (\$25,000); for banks having a capital in excess of fifty thousand dollars (\$50,000) the fee shall be thirty-seven and fifty one-hundredths dollars (\$37.50) and twenty-five cents (\$.25) for each additional thousand above fifty thousand dollars (\$50,000). The above fees shall be paid to the state banking board and by them paid to the state treasurer who shall place the same in the general fund of the state. On payment of the required fees and the receipt of the charter the proposed bank may begin to transact a banking business.

Sec. 17. Every corporation transacting a banking business hereunder shall make to the state banking board not less than four (4) reports dur-