

LEGISLATIVE BILL 269

Approved by the Governor May 2, 1975

Introduced by Murphy, 17

AN ACT to amend section 8-101, Reissue Revised Statutes of Nebraska, 1943, and section 8-157, Revised Statutes Supplement, 1974, relating to banking; to define terms; to provide for banking transactions through the use of manned or unmanned electronic satellite facilities as prescribed; to provide an operative date; and to repeal the original sections.

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

Section 1. That section 8-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-101. As used in sections 8-101 to ~~8-4,422~~
8-1,129, unless the context otherwise requires:

(1) Capital or capital stock shall mean capital stock;

(2) Department shall mean the Department of Banking;

(3) Director shall mean the Director of Banking for the Department of Banking;

(4) Bank or banking corporation 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 May 9, 1933, and any corporation duly organized under the laws of this state for the purpose of conducting a bank within this state under the provisions of sections 8-101 to ~~8-4,422~~
8-1,129. Bank shall be construed to mean any such banking institution as shall be, in addition to the exercise of other powers, following the practice of repaying deposits upon check, draft, or order, and of making loans; and

(5) Order shall include orders transmitted by electronic transmission;

(6) Electronic satellite facility shall mean an off-premises unmanned facility or terminal through which banking transactions are transmitted to a bank or banks by means of an electronic impulse;

(7) Manned electronic satellite facility shall mean an off-premises facility, terminal, or place at which banking transactions are brought about with the assistance of one or more persons and transmitted to a bank or banks by means of an electronic impulse. Such person or persons shall not be employees of the bank or banks involved with such transmissions;

(8) Making loans shall include advances or credits that are initiated by means of credit card or other transaction card. Transaction card and other transactions, including transactions made pursuant to prior agreements, may be brought about and transmitted by means of an electronic impulse. Such loan transactions including transactions made pursuant to prior agreements shall be subject to sections 8-815 to 8-829, and shall be deemed loans made at the place of business of the bank;

(9) Establishing bank shall mean any bank establishing an electronic satellite facility or a manned electronic satellite facility;

(10) User bank shall mean any bank which desires to avail itself and its customers of an electronic satellite facility or manned electronic satellite facility services;

(11) Bank employees shall include bank holding company and affiliate employees;

(12) Switch shall mean an installation where a transaction impulse is received and the transaction message is immediately routed and electronically transmitted to a processing center. A switch may be a processing center;

(13) Impulse shall mean an electronic impulse;

(14) A processing center shall mean a place, designated by a user bank, capable of receiving and processing electronic impulse transactions; and

(15) Insolvent shall mean a condition in which (a) the actual cash market value of the assets of a bank is insufficient to pay its liabilities to its depositors, or (b) a bank is unable to meet the demands of its creditors in the usual and customary manner, or (c) a bank, after demand in writing by the Director of Banking, fails to make good any deficiency in its reserves as required by law, or (d) the stockholders of a bank, after written demand by the Director of Banking, fail to make good an impairment of its capital or surplus.

Sec. 2. That section 8-157, Revised Statutes Supplement, 1974, be amended to read as follows:

8-157. (1) No bank shall maintain any branch bank and, except as provided in subsection (2) or subsections (3) to (9) of this section, 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 teller office, and (b) any bank may establish and maintain not more than two detached auxiliary teller offices, to be used as motor vehicle and walkup off-street banking facilities, such offices to be within the corporate limits of the city in which such bank is located. Any bank that establishes and maintains two auxiliary teller offices shall locate one of such offices within three miles of the premises specified as its place of business in its charter. Neither shall be located within three hundred feet of another nonparticipating bank or within fifty feet of another auxiliary teller office. The services of such auxiliary teller offices whether attached to or detached from the bank shall be limited to receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, and receiving payments payable at the bank.

(3) With the approval of the director, any bank or banks may establish and maintain any number of electronic satellite facilities or manned electronic satellite facilities at which all banking transactions, defined as receiving deposits of every kind and nature and crediting such to customer accounts, cashing checks and cash withdrawals, transfer of funds from checking accounts to savings accounts, transfer of funds from savings accounts to checking accounts, transfer of funds from either checking accounts and savings accounts to accounts of other customers, payment transfers from customer accounts into accounts maintained by other bank customers or the bank, including preauthorized draft authority, preauthorized loans and credit transactions, receiving payments payable at the bank or otherwise, and such other transactions that the Director of Banking upon application, notice, and hearing may approve, may be conducted. Such electronic satellite facilities or manned electronic satellite facilities may be established only by a bank as defined in subdivision (4) of section 8-101 or by a national banking association whose main chartered office is located in the State of Nebraska. Neither such electronic satellite facilities, the manned electronic satellite facilities, nor the transactions conducted thereat shall be construed as the establishment

of a branch bank or as branch banking. Such facilities shall be available on a nondiscriminating basis for use by customers of any other bank becoming a user bank. It shall not be deemed discrimination if a facility does not offer the same transaction services as other facilities.

Any bank may become a user bank by agreeing to pay the establishing bank its pro rata transaction and other costs, including a reasonable return on capital expenditures incurred in establishing and maintaining such facilities. The establishing bank shall file with the director the information necessary to originate a transaction at any facility. Such information must contain a means of designating the bank or processor to which such transactions shall be switched, and must also contain information adequate to perform authorization of cash withdrawal and other transactions authorized by this section. The director shall make such information available to any other bank desiring to become a user bank. The establishing bank shall be responsible for transmitting transactions originating from its facility to a switch, but nothing contained in this section may be construed to provide that any in-house or auxiliary teller office premises transactions shall be required to go through a switch. The director shall refuse to approve the establishment of any electronic satellite facilities or manned electronic satellite facilities unless such facilities will be available on a nondiscriminating basis through methods and processes that the establishing bank has provided for switching transactions. Once approval is given for the facility of an establishing bank, the director, upon notice and after a hearing, may revoke the approval for the facility or may suspend the use of such facility if he determines that it is not available on a nondiscriminating basis, that the necessary information is not on file with the director, or that transactions originated by customers of user banks are not being switched to processing centers. Nothing in this section may be construed to prohibit nonbank employees from assisting in transactions originated at the facilities, and such assistance shall not be deemed to be engaging in the business of banking. Such nonbank employees may be trained in the use of the facilities by bank employees.

(4) An establishing bank shall not be deemed to make a facility available on a nondiscriminating basis if, through personnel services offered, advertising on or off the facility premises, or otherwise, it discriminates in the use of the facility against any user bank.

(5) Off-premises electronic satellite facilities and manned electronic satellite facilities may be

established and maintained by a bank or by a group of two or more banks or a combination of a bank or banks and a third party. No one, through personnel services offered, advertising on or off the facility premises, or otherwise, may discriminate in the use of the facility against any other user bank desiring to use the services of the facility.

(6) It is an intent of this section that this section shall apply to banks chartered by the State of Nebraska and all national banking associations whose main chartered offices are located in the State of Nebraska and that there be an equal opportunity to all Nebraska banks for the use of and access to a switch and that no discrimination shall exist or preferential treatment be given in either the operation of such switch or the charges for use thereof. The operation of such switch shall be with the approval of the Director of Banking. Approval of such switch shall be given by the Director of Banking when he shall determine that its design and operation are such as to provide access thereto and use thereof by any Nebraska bank without discrimination as to access or cost of its use.

(7) If the director, upon notice and hearing, determines at any time that the design or operation of a switch or provision for use thereof does discriminate against any bank in providing access thereto and use thereof either through access thereto or by virtue of the cost of its use, he may revoke his approval of such switch operation and forthwith order the discontinuance of the operation of such switch.

(8) If it shall be determined by the Director of Banking, after notice and hearing, that discrimination against any bank has taken place or that one bank has been preferred over another or that any bank or person has not complied with any of the provisions of this section, he shall forthwith issue a cease and desist order or an order for compliance within ten days from the date of the order and upon noncompliance with such order, the offending bank shall become ineligible to receive and hold any deposits of any nature of the State of Nebraska or any political subdivision thereof.

(9) The provisions of sections 8-101 and 8-157 shall apply to banks and their activities only. Nothing in such sections may be construed to provide any authority for any nonbank institution to engage in any of the banking transactions enumerated in this section. When reference is made in this section to activities by third parties, such activities shall be limited to the ownership, operation, and maintenance of electronic

satellite facilities.

(3) (10) Nothing in this section shall prohibit ordinary clearing house transactions between banks.

Sec. 3. This act shall become operative on January 1, 1976.

Sec. 4. That original section 8-101, Reissue Revised Statutes of Nebraska, 1943, and section 8-157, Revised Statutes Supplement, 1974, are repealed.