

## LEGISLATIVE BILL 899

Approved by the Governor March 12, 1984

Introduced by DeCamp, 40

AN ACT relating to financial institutions; to amend sections 21-1320.01 and 21-17,120.02, Revised Statutes Supplement, 1982, and sections 8-407.03 and 8-702, Revised Statutes Supplement, 1983; to place duties on financial institutions as prescribed; to provide penalties; to allow for an extension of time; to harmonize provisions; to eliminate a provision relating to extension of time; to repeal the original sections, and also section 8-301.01, Revised Statutes Supplement, 1982; and to declare an emergency.

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

Section 1. (1) Any building and loan association organized under the provisions of Chapter 8, article 3, shall, within six months of the effective date of this act, (a) obtain and continually maintain insurance of its shares, savings, or deposits by membership in the Federal Savings and Loan Insurance Corporation, (b) merge with an institution which holds such membership and insurance, or (c) provide the notice and advertisement specified in subsection (2) of this section. Any building and loan association organized after the effective date of this act shall, prior to commencing its operations, comply with subdivision (1)(a) of this section or, upon commencing its operations, comply with subdivision (1)(c) of this section.

(2) A building and loan association may commence operation or continue to operate if it provides notice to depositors and holders of shares, savings certificates, or other similar instruments that such deposits or instruments are not insured. Such notice shall be given (a) by October 1, 1984, to all depositors and holders of such instruments created before October 1, 1984, (b) on the date any such deposit, share, savings certificate, or similar instrument is created for deposits made and instruments created on or after October 1, 1984, and (c) annually thereafter as follows: AS PROVIDED BY THE LAWS OF THE STATE OF NEBRASKA YOU ARE HEREBY NOTIFIED THAT YOUR DEPOSIT, SHARE, SAVINGS CERTIFICATE, OR OTHER SIMILAR INSTRUMENT IS NOT INSURED. Any advertising conducted by such institution shall in each case state: THE DEPOSITS, SHARES, SAVINGS CERTIFICATES, OR SIMILAR INSTRUMENTS OF THIS INSTITUTION ARE NOT INSURED. The institution shall

also display such notice in one or more prominent places in all facilities in which the institution operates. All such notices and statements shall be given in large or contrasting type in such a manner that such notices shall be conspicuous. Each willful failure to give the notice prescribed in this subsection shall constitute a Class II misdemeanor. All officers and directors of any such institution shall be jointly and severally responsible for the issuance of the notices described in this subsection in the form and manner described.

(3) The certificate of approval of any building and loan association which fails to comply with subsection (1) of this section shall be automatically forfeited and such association shall be liquidated and dissolved, either voluntarily by its board of directors under the supervision of the Department of Banking and Finance or involuntarily by the department as in cases of insolvency.

(4) A building and loan association shall file proof of compliance with subsection (1) of this section with the Department of Banking and Finance.

Sec. 2. That section 8-407.03, Revised Statutes Supplement, 1983, be amended to read as follows:

8-407.03. (1) Any industrial loan and investment company, organized under the provisions of Chapter 8, article 4, shall, prior to January 1, 1983, within six months of the effective date of this act, (a) obtain and continually maintain insurance or guaranty of its savings or certificates of indebtedness by membership in the Federal Deposit Insurance Corporation, (b) merge with an institution which holds such membership and insurance, or (c) provide the notice and advertisement specified in subsection (3) of this section. a corporation organized pursuant to the Nebraska Depository Institution Guaranty Corporation Act.

(2) Any industrial loan and investment company organized in this state after January 1, 1983 the effective date of this act, shall, prior to commencing its operations, obtain and continually maintain insurance or guaranty of its savings or certificates of indebtedness by membership in the Federal Deposit Insurance Corporation or, upon commencing its operations, provide the notice and advertisement specified in subsection (3) of this section. a corporation organized pursuant to the Nebraska Depository Institution Guaranty Corporation Act.

(3) When any company has an application for insurance or guaranty pending during an extension period granted pursuant to section 8-301.03, the date for coverage established by subsection (1) of this section shall be extended until the agency or entity before which the application is pending has rendered a final decision.

(3) An industrial loan and investment company may commence operation or continue to operate if it provides notice to depositors and holders of savings

certificates, certificates of indebtedness, or other similar instruments that such deposits or instruments are not insured. Such notice shall be given (a) by October 1, 1984, to all depositors and holders of such instruments created before October 1, 1984, (b) on the date any such deposit, savings certificate, certificate of indebtedness, or similar instrument is created for deposits made and instruments created on or after October 1, 1984, and (c) annually thereafter as follows: AS PROVIDED BY THE LAWS OF THE STATE OF NEBRASKA YOU ARE HEREBY NOTIFIED THAT YOUR DEPOSIT, SAVINGS CERTIFICATE, CERTIFICATE OF INDEBTEDNESS, OR OTHER SIMILAR INSTRUMENT IS NOT INSURED. Any advertising conducted by such institution shall in each case state: THE DEPOSITS, SAVINGS CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, OR SIMILAR INSTRUMENTS OF THIS INSTITUTION ARE NOT INSURED. The institution shall also display such notice in one or more prominent places in all facilities in which the institution operates. All such notices and statements shall be given in large or contrasting type in such a manner that such notices shall be conspicuous. Each willful failure to give the notice prescribed in this subsection shall constitute a Class II misdemeanor. All officers and directors of any such institution shall be jointly and severally responsible for the issuance of the notices described in this subsection in the form and manner described.

(4) An industrial loan and investment company shall file proof of compliance with subsection (1) or (2) of this section with the Department of Banking and Finance.

(5) Any industrial loan and investment company which fails to comply with subsection (1) or (2) of this section shall be liquidated and dissolved, either voluntarily by its board of directors under the supervision of the Department of Banking and Finance or involuntarily by the department as in cases of insolvency.

Sec. 3. That section 8-702, Revised Statutes Supplement, 1983, be amended to read as follows:

8-702. (1) ~~Except as provided in subsections (3) and (4) of this section, any~~ Any banking institution hereafter organized under the laws of this state shall (a), before a charter may be issued, enter into such contracts, incur such obligations, and generally do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges, which may at any time be available or inure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers, or liquidators, by virtue of those provisions of section 8, of the Federal Banking Act of 1933 (section 12B of the Federal Reserve Act, as amended), which establish the Federal Deposit Insurance Corporation and provide for the



insurance of deposits, or of any other provisions of that or of any other act or resolution of Congress to aid, regulate, or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor; also, such banking institution may subscribe for and acquire any stock, debentures, bonds, or other types of securities of the Federal Deposit Insurance Corporation and comply with the lawful regulations and requirements from time to time issued or made by such corporation or (b), after a charter is issued and upon commencing its operations, provide the notice and advertisement specified in subsection (3) of this section.

(2) Any Except as provided in subsections (3) and (4) of this section, any banking institution to which a charter has been issued prior to October 19, 1963 the effective date of this act, and which is not a member of the Federal Deposit Insurance Corporation shall, within one year after October 19, 1963 six months of the effective date of this act, obtain membership in such corporation and the insurance of its deposits and file proof of compliance with the Department of Banking and Finance or provide the notice and advertisement specified in subsection (3) of this section.

(3) The provisions of subsection (1) or (2) of this section shall not apply to any bank which procures a bond furnishing blanket excess fidelity coverage of one million dollars over that furnished by bonds required under section 8-110. Such bond shall be filed with and approved by the Director of Banking and Finance and remain a part of the records of the department and shall always be open to public inspection during the office hours of the department.

(4) The provisions of subsection (1), (2), or (3) of this section shall not apply to an applicant acquiring substantially all of the assets and liabilities of a cooperative credit association which (a) has been unable to comply with subsection (1) of this section because the Federal Deposit Insurance Corporation has determined that the paid-up capital stock, surplus, or paid-in undivided profits of the applicant, as approved by the department in accordance with section 8-116, are inadequate; and (b) becomes a member of a corporation formed pursuant to sections 21-17,127 to 21-17,145.

(3) A banking institution may commence operation or continue to operate if it provides notice to depositors and holders of savings certificates, certificates of indebtedness, or other similar instruments that such deposits or instruments are not insured. Such notice shall be given (a) by October 1, 1984, to all depositors and holders of such instruments created before October 1, 1984, (b) on the date any such deposit, savings certificate, certificate of indebtedness, or similar instrument is created for deposits made and instruments

created on or after October 1, 1984, and (c) annually thereafter as follows: AS PROVIDED BY THE LAWS OF THE STATE OF NEBRASKA YOU ARE HEREBY NOTIFIED THAT YOUR DEPOSIT, SAVINGS CERTIFICATE, CERTIFICATE OF INDEBTEDNESS, OR OTHER SIMILAR INSTRUMENT IS NOT INSURED. Any advertising conducted by such institution shall in each case state: THE DEPOSITS, SAVINGS CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, OR SIMILAR INSTRUMENTS OF THIS INSTITUTION ARE NOT INSURED. The institution shall also display such notice in one or more prominent places in all facilities in which the institution operates. All such notices and statements shall be given in large or contrasting type in such a manner that such notices shall be conspicuous. Each willful failure to give the notice prescribed in this subsection shall constitute a Class II misdemeanor. All officers and directors of any such institution shall be jointly and severally responsible for the issuance of the notices described in this subsection in the form and manner described.

(4) A banking institution shall file proof of compliance with subsection (1) or (2) of this section with the Department of Banking and Finance.

(5) The charter of any banking institution which fails to comply with the provisions of ~~subsection (2); (3); or (4)~~ of this section shall be automatically forfeited and such banking institution shall be liquidated and dissolved, either voluntarily by its board of directors under the supervision of the Department of Banking and Finance or involuntarily by the ~~department~~ Department of Banking and Finance as in cases of insolvency. Any banking institution whose charter is automatically forfeited under the provisions of this subsection which continues to engage in the business of banking after such forfeiture, as well as the directors and officers thereof, shall be subject to the penalties provided by law for illegally engaging in the business of banking.

Sec. 4. That section 21-1320.01, Revised Statutes Supplement, 1982, be amended to read as follows:

21-1320.01. (1) Any cooperative credit association, organized under the provisions of Chapter 21, article 13, shall, ~~prior to January 1, 1983,~~ within one year of the effective date of this act, (a) change its charter to a bank and obtain and continually maintain insurance ~~or guaranty~~ of its shares, savings, or deposits by membership in the Federal Deposit Insurance Corporation, (b) change its charter to a building and loan association and obtain and continually maintain insurance of its shares, savings, or deposits by membership in the Federal Savings and Loan Insurance Corporation, (c) change its charter to a credit union and obtain and continually maintain insurance of its shares, savings, or deposits as provided by the Federal Credit Union Act, 12 U.S.C. 1781 et seq., (d) merge with an institution which holds such

insurance, or (e) provide the notice and advertisement specified in subsection (2) of this section. Any cooperative credit association organized after the effective date of this act shall, upon commencing its operations, comply with subdivision (1)(e) of this section. a corporation organized pursuant to the Nebraska Depository Institution Guaranty Corporation Act.

(2) Any cooperative credit association organized in this state after January 1, 1983, shall, prior to commencing its operations, obtain and continually maintain insurance or guaranty of its shares, savings, or deposits by membership in a corporation organized pursuant to the Nebraska Depository Institution Guaranty Corporation Act.

(2) A cooperative credit association may commence operation or continue to operate if it provides notice to depositors and holders of shares, savings certificates, certificates of indebtedness, or other similar instruments that such deposits or instruments are not insured. Such notice shall be given (a) by April 1, 1985, to all depositors and holders of such instruments created before April 1, 1985, (b) on the date any such deposit, share, savings certificate, certificate of indebtedness, or similar instrument is created for deposits made and instruments created on or after April 1, 1985, and (c) annually thereafter as follows: AS PROVIDED BY THE LAWS OF THE STATE OF NEBRASKA YOU ARE HEREBY NOTIFIED THAT YOUR DEPOSIT, SHARE, SAVINGS CERTIFICATE, CERTIFICATE OF INDEBTEDNESS, OR OTHER SIMILAR INSTRUMENT IS NOT INSURED. Any advertising conducted by such institution shall in each case state: THE DEPOSITS, SHARES, SAVINGS CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, OR SIMILAR INSTRUMENTS OF THIS INSTITUTION ARE NOT INSURED. The institution shall also display such notice in one or more prominent places in all facilities in which the institution operates. All such notices and statements shall be given in large or contrasting type in such a manner that such notices shall be conspicuous. Each willful failure to give the notice prescribed in this subsection shall constitute a Class II misdemeanor. All officers and directors of any such institution shall be jointly and severally responsible for the issuance of the notices described in this subsection in the form and manner described.

(3) A cooperative credit association shall file proof of compliance with subsection (1) of this section with the Department of Banking and Finance.

(4) Any cooperative credit association which fails to comply with subsection (1) of this section shall be liquidated and dissolved, either voluntarily by its board of directors under the supervision of the Department of Banking and Finance or involuntarily by the department as in cases of insolvency.



Sec. 5. That section 21-17,120.02, Revised Statutes Supplement, 1982, be amended to read as follows:

21-17,120.02. (1) Any credit union, organized under the provisions of Chapter 21, article 17, shall, ~~prior to January 17, 1983, within six months of the effective date of this act, (a) obtain and continually maintain insurance or guaranty of its shares, savings, or deposits as provided by the Federal Credit Union Act, 12 U.S.C. 1781 et seq., or (b) merge with an institution which holds such insurance, or (c) provide the notice and advertisement specified in subsection (3) of this section. by membership in a corporation organized pursuant to the Nebraska Depository Institution Guaranty Corporation Act.~~

(2) Any credit union organized in this state after ~~January 17, 1983~~ the effective date of this act, shall, prior to commencing its operations, obtain and continually maintain insurance ~~or guaranty~~ of its shares, savings, or deposits as provided by the Federal Credit Union Act, 12 U.S.C. 1781 et seq., ~~or, upon commencing its operations, provide the notice and advertisement specified in subsection (3) of this section. , or by membership in a corporation organized pursuant to the Nebraska Depository Institution Guaranty Corporation Act.~~

(3) A credit union may commence operation or continue to operate if it provides notice to depositors and holders of shares, savings certificates, certificates of indebtedness, or other similar instruments that such deposits or instruments are not insured. Such notice shall be given (a) by October 1, 1984, to all depositors and holders of such instruments created before October 1, 1984, (b) on the date any such deposit, share, savings certificate, certificate of indebtedness, or similar instrument is created for deposits made and instruments created on or after October 1, 1984, and (c) annually thereafter as follows: AS PROVIDED BY THE LAWS OF THE STATE OF NEBRASKA YOU ARE HEREBY NOTIFIED THAT YOUR DEPOSIT, SHARE, SAVINGS CERTIFICATE, CERTIFICATE OF INDEBTEDNESS, OR OTHER SIMILAR INSTRUMENT IS NOT INSURED. Any advertising conducted by such institution shall in each case state: THE DEPOSITS, SHARES, SAVINGS CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, OR SIMILAR INSTRUMENTS OF THIS INSTITUTION ARE NOT INSURED. The institution shall also display such notice in one or more prominent places in all facilities in which the institution operates. All such notices and statements shall be given in large or contrasting type in such a manner that such notices shall be conspicuous. Each willful failure to give the notice prescribed in this subsection shall constitute a Class II misdemeanor. All officers and directors of any such institution shall be jointly and severally responsible for the issuance of the notices described in this subsection in the form and manner described.

(4) A credit union shall file proof of compliance with subsection (1) or (2) of this section with the Department of Banking and Finance.

(5) Any credit union which fails to comply with subsection (1) or (2) of this section shall be liquidated and dissolved, either voluntarily by its board of directors under the supervision of the Department of Banking and Finance or involuntarily by the department as in cases of insolvency.

Sec. 6. If within six months, or in the case of a cooperative credit association one year, of the effective date of this act any financial institution which is required to obtain federal insurance coverage of its deposits, shares, savings, or certificates of indebtedness as specified in section 1 of this act or section 8-407.03, 8-702, 21-1320.01, or 21-17,120.02 has an application for such coverage pending, the date for coverage required by the appropriate section shall be extended until the federal insurance agency or corporation has rendered a final decision on the application.

Sec. 7. That original sections 21-1320.01 and 21-17,120.02, Revised Statutes Supplement, 1982, and sections 8-407.03 and 8-702, Revised Statutes Supplement, 1983, and also section 8-301.01, Revised Statutes Supplement, 1982, are repealed.

Sec. 8. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.