

LEGISLATIVE BILL 453

Approved by the Governor April 29, 1987

Introduced by Banking, Commerce & Insurance Committee,
Remmers, 1, Chairperson; Pappas, 42;
Harris, 27; Lynch, 13; Conway, 17; Schmit, 23

AN ACT relating to banks and banking; to amend sections 8-140 and 8-148, Revised Statutes Supplement, 1986; to change provisions governing certain loans; to define a term; to change provisions relating to a bank's ownership of capital stock as prescribed; 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 8-140, Revised Statutes Supplement, 1986, be amended to read as follows:

8-140. No director, officer, or employee of any bank, no corporation in which an officer of the bank is the owner of a controlling interest, and no partnership in which an officer of the bank is a member shall be permitted to borrow any of the funds of the bank, directly or indirectly, without first having secured the approval of the board of directors at a meeting thereof, the record of which shall be made and kept as part of the records of such bank. An active officer or employee executive officer licensed as such pursuant to section 8-139 may, with such approval, borrow from the funds of the bank an amount not to exceed ten twenty thousand dollars, except that subject to sections 8-141 and 8-152 and with the specific prior approval of the board of directors, a bank (1) may (1) make an additional loan for any amount for any purpose not exceeding sixty thousand dollars to any executive officer or employee of the bank; if at the time the loan is made it is secured by a first lien, providing an equity as the Director of Banking and Finance shall by rule and regulation provide, on a dwelling which is, after making of the loan, owned or to be owned by the executive officer or employee and used by him or her as a residence and (2) may make an additional loan not exceeding twenty thousand dollars to any executive officer or employee of the bank to finance the education of such executive officer's or employee's children. Such loans shall be subject to the lending limit set

forth in section 8-141- A director who is not an executive officer, and any honorary or inactive officer, or any employee of the bank may borrow from the funds of the bank such amount as the board of directors shall approve. If any executive officer of any bank borrows from or if he or she is be or becomes indebted to any other bank financial institution, such executive officer shall by the next regularly scheduled meeting of the board of directors make a written report to the board of directors of the bank of which he or she is an executive officer stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used. Any such loans shall be subject to the lending limit set forth in section 8-141. Any officer, director, or employee of a bank or any other person who shall intentionally violate this section, or who shall aid, abet, or assist in a violation thereof, shall be guilty of a Class IV felony.

As used in this section, executive officer shall mean a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank whether or not the officer has an official title, the title designates the officer as an assistant, or the officer is serving without salary or other compensation. Executive officer shall include the chairperson of the board, the president, every vice president, the cashier, the corporate secretary, and the treasurer, unless the officer is excluded by resolution of the board of directors or by the bylaws of the bank from participating, other than in the capacity of a director, in major policymaking functions of the bank and the officer does not actually participate in such functions. A manager or assistant manager of a branch of a bank shall not be considered to be an executive officer unless such individual participates or is authorized to participate in major policymaking functions of the bank.

Sec. 2. That section 8-148, Revised Statutes Supplement, 1986, be amended to read as follows:

8-148. (1) Except as provided in subsection (2) of this section, no bank shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, nor purchase any securities convertible into stock, or, except as provided in section 8-149, the shares of any corporation, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith. Such stock so

purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale; or in default thereof, a receiver may be appointed to close up the business of the bank, except that such stock, if shares of another bank or a bank holding company, shall be so sold or disposed of as the Director of Banking and Finance shall require. In no case shall the amount of stock so held at any one time exceed ten per cent of the paid-up capital of such bank.

(2) Any bank may subscribe to invest, purchase, and own Student Loan Marketing Association stock, Government National Mortgage Association stock, or Federal National Mortgage Association stock. Such bank shall not obligate more than five per cent of its capital surplus, undivided profits, and unencumbered reserves for such stock.

Sec. 3. That original sections 8-140 and 8-148, Revised Statutes Supplement, 1986, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.