

E AND R AMENDMENTS TO LB 251

Introduced by Guereca, 7, Chairman Enrollment and Review

1 1. Insert the following new sections:

2 **Sec. 26.** Section 44-708, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 44-708 (1) Insurers authorized to deliver or issue for delivery life
5 insurance policies in this state may deliver or issue for delivery one or
6 more funding agreements, but the delivery or issuance for delivery of
7 funding agreements shall not be deemed the business of insurance, life
8 insurance or an annuity or other line of business as set forth in section
9 44-201, a security as defined in subdivision (14) ~~(15)~~ of section 8-1101,
10 or receipt of gross premiums as set forth in section 77-908. The delivery
11 or issuance for delivery of a funding agreement by an admitted life
12 insurer in this state shall constitute a lawful activity of that insurer
13 that is reasonably related to and incidental to its insurance activities
14 as provided in this section. However, this section shall not authorize
15 any insurer to transact, under the guise of funding agreements, any line
16 of insurance not authorized by its certificate of authority.

17 (2) No amounts shall be guaranteed or credited under any funding
18 agreement except upon reasonable assumptions as to investment income and
19 expenses and on a basis equitable to all holders of funding agreements of
20 a given class.

21 (3) Amounts paid to the insurer, and proceeds applied under optional
22 modes of settlement, under funding agreements may be allocated by the
23 insurer to one or more separate accounts.

24 (4) The Director of Insurance may adopt and promulgate rules and
25 regulations to implement this section, including rules and regulations
26 setting forth the terms and conditions under which an insurer may issue
27 funding agreements.

1 (5) Notwithstanding any other provision of law, the director shall
2 have sole authority to regulate the issuance and sale of funding
3 agreements, including the persons selling funding agreements on behalf of
4 insurers.

5 (6) Nothing in this section is intended to affect the order in which
6 allowed claims shall be given preference under section 44-4842. Holders
7 of funding agreements shall retain the priority in allowance of claims
8 described in subdivision (2) of section 44-4842.

9 (7) For purposes of this section, funding agreement means an
10 agreement that authorizes an admitted life insurer to accept funds and
11 that provides for an accumulation of those funds for the purpose of
12 making one or more payments at future dates in amounts that are not based
13 on mortality or morbidity contingencies. Funding agreement does not
14 include any agreement in connection with the funding of one or more
15 payments that are excludable from the gross income of the recipient under
16 section 104(a)(2) of the Internal Revenue Code.

17 **Sec. 27.** Section 45-101.04, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 45-101.04 The limitation on the rate of interest provided in section
20 45-101.03 shall not apply to:

21 (1) Other rates of interest authorized for loans made by any
22 licensee or permittee operating under a license or permit duly issued by
23 the Department of Banking and Finance pursuant to the Credit Union Act,
24 the Nebraska Installment Loan Act, subsection (4) of section 8-319, or
25 sections 8-815 to 8-829;

26 (2) Loans made to any corporation, partnership, limited liability
27 company, or trust;

28 (3) The guarantor or surety of any loan to a corporation,
29 partnership, limited liability company, or trust;

30 (4) Loans made when the aggregate principal amount of the
31 indebtedness is twenty-five thousand dollars or more of the borrower to

1 any one financial institution, licensee, or permittee;

2 (5) Loans insured, guaranteed, sponsored, or participated in, either
3 in whole or part, by any agency, department, or program of the United
4 States or state government;

5 (6) Loans or advances of money, repayable on demand, which are made
6 solely upon securities, as defined in subdivision (14) ~~(15)~~ of section
7 8-1101, pledged as collateral for such repayment and in which such loans
8 or advances are used by the borrower only for the purchase of securities
9 as so defined. It shall be lawful to contract for and receive any rate of
10 interest on such transaction as the parties thereto may expressly agree;

11 (7) Interest charges made on open credit accounts by a person who
12 sells goods or services on credit when the interest charges do not exceed
13 one and one-third percent per month for any charges which remain unpaid
14 for more than thirty days following rendition of the statement of
15 account;

16 (8) A minimum charge of ten dollars per loan which may be charged by
17 the lender in lieu of all interest charges;

18 (9) Loans described in subsection (4) of section 8-319 made by a
19 state or federal savings and loan association at a rate not to exceed
20 nineteen percent per annum;

21 (10) Loans made primarily for business or agricultural purposes or
22 secured by real property when such loans are made (a) by a licensee,
23 registrant, or permittee operating under a license, registration, or
24 permit duly issued by the Department of Banking and Finance except for
25 licensees operating under the Nebraska Installment Loan Act, (b) by any
26 financial institution insured by the Federal Deposit Insurance
27 Corporation or the National Credit Union Administration, or (c) by any
28 insurance company organized under the laws of this state and subject to
29 regulation by the Department of Insurance;

30 (11) Loans secured solely by real property when such loans are (a)
31 made by licensees operating under the Nebraska Installment Loan Act and

1 (b) made to finance or refinance the purchase of the property or
2 construction on or improvements to the property, if the Department of
3 Banking and Finance has the authority to examine such loans for
4 compliance with sections 45-101.02 and 45-101.03. A licensee making a
5 loan pursuant to this subdivision may obtain an interest in any fixtures
6 attached to such real property and any insurance proceeds payable in
7 connection with such real property or the loan;

8 (12) Loans secured by a reverse mortgage pursuant to section
9 45-702.01;

10 (13) Interest charges made on any goods or services sold under an
11 installment contract pursuant to the Nebraska Installment Sales Act.
12 Subject to section 45-338, it shall be lawful to contract for and receive
13 any rate of interest on such contract as the parties may expressly agree
14 to in writing; or

15 (14) Fees which may be charged by a licensee for services pursuant
16 to the Delayed Deposit Services Licensing Act.

17 **Sec. 30.** Section 59-1715, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 59-1715 A seller-assisted marketing plan shall not include a
20 security as defined by subdivision (14) ~~(15)~~ of section 8-1101.

21 2. On page 1, line 2, after "21-1728," insert "44-708, 45-101.04,";
22 in line 3 after "45-724," insert "59-1715,"; and in line 11 after the
23 first comma insert "securities,".

24 3. On page 29, line 7, after "may" insert "use".

25 4. On page 63, line 31, after "21-1728," insert "44-708, 45-101.04,"
26 and after "45-724," insert "59-1715,".

27 5. Renumber the remaining sections accordingly.