

Title 46 - DEPARTMENT OF BANKING AND FINANCE

Chapter 6 - INTEREST ON CERTIFICATES OF INDEBTEDNESS

001 The Director of Banking and Finance, pursuant to authority delegated to him by Section 8-401.01, R.R.S. Nebraska, 1943, prescribes the following regulations for carrying out the provisions of Section 8-410 R.R.S. Nebraska, 1943.

001.01 Definitions

001.01A Paid-up time certificates of indebtedness. This term means a certificate of indebtedness issued in fixed denomination and evidenced by an instrument which provides on its face that the amount is payable:

001.01A1 On a certain date, specified in the instrument, not less than 7 days after date; or

001.01A2 At the expiration of a certain specified time not less than 7 days after the date of the instrument.

001.01B Paid-up certificates of Indebtedness--Open Account. This term means a paid-up certificate of indebtedness, other than a paid-up time certificate of indebtedness, with respect to which there is in force a written contract with the certificate holder that neither the whole nor any part of such certificate may be withdrawn, prior to the date of maturity, which shall be not less than 7 days after the date of the certificate, or prior to the expiration of the period of notice which must be given by the certificate holder in writing not less than 7 days in advance of withdrawals.

FILED
Allen J. [Signature]
Secretary of State

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APPROVED:

Date 3-14-86

[Signature]
Governor

APPROVED

[Signature]
Assistant Attorney General

001.01C Installment Certificates of Indebtedness. This term means an installment certificate of indebtedness issued in passbook or other form and under such term which will allow the holder to add or withdraw funds from time to time as he may desire, except the industrial loan and investment company may require at least a 7-day notice of any such withdrawal.

001.02 Maximum Rates of Interest Payable on Certificates of Indebtedness.

Pursuant to the provisions of Section 8-410 R.R.S. Nebraska 1943, effective January 1, 1986, industrial loan and investment companies may pay interest on any certificate of indebtedness, either paid-up or installment, at any rate. the following maximum rates of interest per annum may be paid by industrial loan and investment companies on certificates of indebtedness.

~~001.02A~~ ~~Certificates of Indebtedness of \$100,000 or more. There is no maximum rate of interest prescribed on any certificate of indebtedness of \$100,000 or more.~~

~~001.02B~~ ~~Fixed Ceiling Paid-up Certificates of Indebtedness of Less than \$100,000. With additional explanations provided in paragraphs 001.02A, 001.02C, 001.02D, and 001.02E of this section, an industrial loan and investment company may pay interest on any paid-up certificate of indebtedness at a rate not in excess of the applicable rate under the following schedule:~~

Account	Required Interest	Minimum Rate	Deposit Ceiling
PTD Accounts	\$0-999	5 3/4%	
Ceiling Free PTD Accounts	\$1,000	None	
Installment Certificate of Indebtedness	None	6 1/2%	
Money Market Installment or Paid-Up Certificate of Indebtedness	\$1,000	None	
Paid-Up Certificate of Indebtedness - 7-31 days	\$0-999	6 1/2%	

~~Paid Up Certificate of
Indebtedness 7-31 days~~

~~\$1,000 None~~

~~All Paid Up Certificates of
Indebtedness of more than
31 days~~

~~None None~~

~~*The industrial loan and investment companies may continue to
issue governmental units paid up certificates of indebtedness of
less than \$1,000 with maturities or required notice periods of 7
to 31 days, subject to the current ceiling of eight percent in
effect for such certificates of indebtedness.~~

~~001.02C I.R.A. Certificates of Indebtedness.
Except as provided in paragraphs 001.02A, 001.02B,
001.02D, and 001.02E of this section, any industrial
loan and investment company may pay interest on
I.R.A. certificates of indebtedness (open account or
time account) at a rate of interest equal to the
highest rate permissible under this rule for paid up
certificates of indebtedness under \$100,000 with
maturities in excess of six months.~~

~~001.02D Paid Up Time Certificates of Indebtedness
of \$1,000 with a maturity of 7 to 31 days or a
maturity in excess of 31 days. An industrial loan
and investment company may pay any rate of interest
on any nonnegotiable paid up time certificate of
indebtedness that either:~~

~~001.02D1 has an original maturity or required
notice period prior to withdrawal of more than
31 days; or,~~

~~001.02D2 is in an amount of \$1,000 or more and
7 to 31 days.~~

~~An industrial loan and investment company may permit
additions to be made to any paid up certificate of
indebtedness issued pursuant to this section at any
time prior to its maturity without extending the
maturity of all or a portion of the entire balance
in the account.~~

~~001.02E Installment Certificates of Indebtedness.
No industrial loan and investment company shall pay
interest at a rate in excess of 6 1/2 percent on any
installment certificate of indebtedness, except as
provided below.~~

~~001.02E1 In the case of a certificate of indebtedness issued with payable through draft privileges, no industrial loan and investment company shall pay a rate in excess of:~~

~~001.02E1a 5 3/4 percent for the following accounts:~~

~~001.02E1a(1) All individuals, including sole proprietorships, and trust or fiduciary accounts in which the entire beneficial interest is held by individuals;~~

~~001.02E1a(2) Nonprofit organizations that are described in sections 501(c)(3) through (13) and (19), and 528 of the Internal Revenue Code;~~

~~001.02E1a(3) Governmental units; and,~~

~~001.02E1a(4) A payable through draft account established at an industrial loan and investment company prior to October 15, 1981, that represents funds of a nonqualifying entity that previously qualified to maintain a payable through draft account with interest payable thereon, may continue to be maintained with such interest; or,~~

~~001.02E1b At any interest rate:~~

~~001.02E1b(1) On any account described in paragraph 001.02E1a(1), 001.02E1a(2), 001.02E1a(3), and 001.02E1a(4) of this section subject to the conditions of this paragraph with an initial balance of no less than \$1,000 and an average balance (as computed in paragraph 001.02E1b(2) of this section) of no less than \$1,000. However, for an account with an average balance of less than \$1,000, an industrial loan and investment company shall not pay interest in excess of the rate~~

~~specified in paragraph 001.02E1a of this section for the entire computation period, as described in paragraph 001.02E1b(2).~~

~~001.02E1b(2) The average balance in paragraph 001.02E1b(1) may be calculated on the basis of this average daily balance over any computation period selected by an industrial loan and investment company which is not longer than one month. (For purposes of this paragraph 001.02E1b(2), "month" shall mean, at the institution's option, a calendar month or statement cycle. A statement cycle is normally 28 to 31 days, but may occasionally be as long as 35 days.~~

~~001.02E1b(3) An industrial loan and investment company may not obligate itself to pay any interest rate or obligate itself to employ any method of calculation of an interest rate on this account for a period longer than one month. An industrial loan and investment company may not condition the interest rate paid upon the period of time the funds remain in this account, if that period is longer than one month.~~

~~001.02E1b(4) Industrial loan and investment companies must reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in this account. If such a requirement for a notice period is imposed by the institution on an account holder, it must be applied equally to all other account holders holding an account subject to this paragraph 001.02E1b at the same institution.~~

~~001.02E1b(5) An industrial loan and investment company is not permitted to lend funds to an account holder to meet the \$1,000~~

~~balance requirements of this section 001.02E1b.~~

~~001.02E1c Zero (0) percent (no interest allowed) for the following accounts:~~

~~001.02E1c(1) Accounts issued to any other party, including corporations, partnerships, and non-qualifying governmental units.~~

~~001.02E2 An industrial loan and investment company may pay any rate of interest on an installment certificate of indebtedness under the following conditions:~~

~~001.02E2a On an account with an initial balance of no less than \$1,000 and an average balance (as computed in paragraph 001.02E1b of this section) of no less than \$1,000. However, for an account with an average balance of less than \$1,000, the interest rate shall not be in excess of 6 percent for the entire computation period, as described in 001.02E1b of this section.~~

~~001.02E2b The average balance for this account may be calculated on the basis of the average daily balance over any computation period selected by an institution, which is not longer than one month. (For purposes of this paragraph and paragraphs 001.02E2c and 001.02E2d of this section, a "month" shall mean, at an industrial loan and investment company's option, either a calendar month or a statement cycle of at least four weeks but not longer than 31 days.)~~

~~001.02E2c An industrial loan and investment company is not required to establish a maturity on this account. However, it may do so provided that the maturity is not longer than one month. Furthermore, an industrial loan and investment company may not obligate itself to employ any method of calculation of the interest rate paid upon the period of time funds remain on~~

~~deposit in this account, if that period is longer than one month.~~

~~001.02E2d Industrial loan and investment companies must reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in this account. If such a requirement for a notice period is imposed by an industrial loan and investment company, it must be applied equally to all other account holders holding this account at the same institution.~~

~~001.02E2e Industrial loan and investment companies are not required to limit the number of transfers of funds from this account to another account of the same account holder when made by mail, messenger, automated teller machine or in person. Industrial loan and investment companies are not required to limit the number of withdrawals (i.e., payments directly to the account holder) from this account when made by mail, telephone (via bank draft mailed to the account holder), messenger, automated teller machine or in person. Industrial loan and investment companies must restrict all preauthorized (including automatic) transfers of funds from this account to a maximum of six per month. Three of such transfers may be draft or similar device drawn by the account holder to third parties. Telephone transfers to third parties or to another account of the same account holder are regarded as preauthorized transfers. There is no required minimum denomination for the transfers allowed by this section.~~

~~001.02E2f In order to ensure that no more than the permitted number of transfers are made, industrial loan and investment companies must either:~~

~~001.02E2f(1) Prevent transfers of funds in this account which are in excess of the limits established by this section, or~~

~~001.02E2f(2) Adopt procedures to monitor those transfers on an ex post basis and contact customers who exceed the limits established by this section on more than an occasional basis. For customers who continue to violate those limits after being contacted by the industrial loan and investment company, the institution will be required to either close the account or take away the account's transfer and draft capacities.~~

~~001.02E2g Industrial loan and investment companies, at their option, may use on a consistent basis either the date on a payable through draft or the date it is paid in applying the limit on payable through drafts established by this section.~~

~~001.02E2h The rate of interest or other charges imposed on an overdraft credit arrangement on an account to which withdrawals from this account can be paid must be not less than those imposed on overdrafts for customers who do not maintain this account.~~

~~001.02E2i Industrial loan and investment companies may offer the account authorized by this section to any account holder.~~

~~001.02E2j Industrial loan and investment companies are not required to impose restrictions on the number of additional accounts (including sweeps from other accounts) into this account.~~

~~001.02E2k An industrial loan and investment company is not permitted to lend funds to an account holder to meet the \$1,000 balance requirements of this account.~~

001.03 Payment of Paid-Up Certificates of Indebtedness Before Maturity.

001.03A Penalty for Early Withdrawal. The following minimum early withdrawal penalties apply

only to paid-up certificates of indebtedness contracts entered into, renewed, or extended prior to September 30, 1983, and that have not been renewed or extended on or after October 1, 1983.

~~Where a paid-up certificate of indebtedness with an original maturity of three months or more to one year, or any portion thereof, is paid before maturity, a certificate holder shall forfeit an amount at least equal to three months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the certificate, regardless of the length of time the funds withdrawn have remained in the certificate. Where a paid-up certificate of indebtedness with an original maturity of less than three months, or any portion thereof, is paid before maturity, a certificate holder shall forfeit an amount at least equal to the amount of interest that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the certificate had the funds remained in the certificate until maturity.~~ Where a paid-up certificate of indebtedness with an original maturity of more than one year, or any portion thereof, is paid before maturity, a certificate holder shall forfeit an amount at least equal to six months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the certificate, regardless of the length of time the funds withdrawn have remained in the certificate.

(Penalties for early withdrawals of paid-up certificates of indebtedness are governed by the restrictions in effect at the time the contract is entered into. If existing paid-up certificates of indebtedness contracts are extended or renewed (whether by automatic renewal or otherwise), so as to increase the rate of interest paid, the restriction in effect at the time of extension or renewal will apply. With the consent of the certificate holder, restrictions that become effective after the date of the contract may be applied.)

Where necessary to comply with the requirements of this section, any interest already paid to or for the account of the certificate holder shall be deducted from the amount requested to be withdrawn.

Any amendment of a paid-up certificate of indebtedness contract that results in an increase in

the rate of interest paid or in a reduction in the maturity of the paid-up certificate of indebtedness constitutes a payment of the paid-up certificate of indebtedness before maturity.

001.03A1 A paid-up certificate of indebtedness may be paid before maturity without a reduction or forfeiture of interest as prescribed by this section in the following circumstances:

001.03A1a Where the Director determines that general economic conditions in areas of Nebraska officially designated disaster areas by the President of the United States warrant a temporary suspension of the penalty and gives industrial loan and investment companies permission to permit early withdrawal of paid-up certificates of indebtedness without penalty upon a showing that the certificate holder has suffered a loss related to disaster; or,

001.03A1b Where an industrial loan and investment company pays all or a portion of a certificate of indebtedness representing funds contributed to an Individual Retirement Account or Keough plan under 26 U.S.C. 401 when the individual for whose benefit the account is maintained attains age 59 1/2 or thereafter, or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) Section 72 (m)(7)).

001.03A2 A paid-up certificate of indebtedness must be paid before maturity without a forfeiture of interest as prescribed by this section in the following circumstances:

001.03A2a Where an industrial loan and investment company pays all or a portion of a paid-up certificate of indebtedness upon the death or court-declared incompetence of any owner of the paid-up certificate of indebtedness funds (see "owner," paragraph 001.02A2b(1) of this section); or

001.03A2b(1) For the purpose of this section, an "owner" of paid-up certificates of indebtedness funds is any individual who at the time of his or her death or

determination of incompetence, has beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto.

001.03A2b(2) In the event the owner of a certificate of indebtedness in an Individual Retirement Account or a Keough plan under 26 U.S.C 401 revokes such account or plan within seven (7) days of the date of establishment, interest shall be paid on the account or plan.

001.03B Penalty for Early Withdrawal. The following minimum early withdrawal penalties shall apply to paid-up certificate of indebtedness contracts entered into, renewed or extended on or after October 1, 1983:

001.03B1 Where a paid-up certificate of indebtedness with an original maturity or required notice period of 7 to 31 days, or any portion thereof, is paid before maturity, a certificate holder shall forfeit an amount equal to the greater of: (i) all interest earned on the amount withdrawn from the most recent of the date of certificate of indebtedness, date of maturity, or date on which notice was given, or (ii) all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or the required notice period.

001.03B2 Where a paid-up certificate of indebtedness with an original maturity or required notice period of 32 days to one year, or any portion thereof is paid before maturity, a certificate holder shall forfeit an amount at least equal to one month's interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple) interest rate being paid on the certificate of indebtedness, regardless of the length of time the funds withdrawn have remained on deposit.

001.03B3 Where a paid-up certificate of indebtedness with an original maturity or required notice period of more than one year, or any portion thereof is paid before maturity, the certificate holder shall forfeit an amount at

least equal to three months' interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple) interest rate being paid on the certificate of indebtedness, regardless of the length of time the funds withdrawn have remained on deposit.

001.03B4 A paid-up certificate of indebtedness may be paid before maturity without a reduction or forfeiture of interest as prescribed by this section in the following circumstances:

001.03B4a Where the Director determines that general economic conditions in areas of Nebraska officially designated disaster areas by the President of the United States warrant a temporary suspension of the penalty and gives industrial loan and investment companies permission to permit early withdrawal of paid-up certificates of indebtedness without penalty upon a showing that the certificate holder has suffered a loss related to disaster; or,

001.03B4b Where an industrial loan and investment company pays all or a portion of a certificate of indebtedness representing funds contributed to an Individual Retirement Account or Keough plan under 26 U.S.C. 402 when the individual for whose benefit the account is maintained attains age 59 1/2 or thereafter, or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) Section 72 (m)(7)).

001.03B5 A paid-up certificate of indebtedness must be paid before maturity without a forfeiture of interest as prescribed by this section in the following circumstances:

001.03B5a Where an industrial loan and investment company pays all or a portion of a paid-up certificate of indebtedness upon the death court-declared incompetence of any owner of the paid-up certificate of indebtedness funds (see "owner," paragraph 001.02A2b(1) of this section); or

001.03B5a(1) For the purpose of this section, an "owner" of paid-up certificates of indebtedness funds is any individual who at the time of his or her death or determination of incompetence, has beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto.

001.03B5b In the event the owner of a certificate of indebtedness in an Individual Retirement Account or a Keogh plan under 26 U.S.C. 401 revokes such account or plan within seven (7) days of the date of establishment, no penalty shall be assessed and no interest shall be paid on the account or plan.

001.03B6 Any amendment of a paid-up certificate of indebtedness contract that results in an increase in the rate of interest paid or in a reduction in the maturity of the paid-up certificate of indebtedness before maturity.

001.03C Notwithstanding paragraph 001.03A, where a paid-up certificate of indebtedness of \$1,000 to less than \$100,000, with an original maturity of 91 days, that has been issued, renewed or extended before October 1, 1983, but not renewed or extended on or after that date, is paid before maturity, a certificate holder shall forfeit an amount equal to at least all interest earned on the amount withdrawn.

001.03D Notwithstanding paragraph 001.03A, where a nonnegotiable paid-up certificate of indebtedness of \$1,000 or more, with an original maturity or required notice period of 7 to 31 days, that has been issued, renewed or extended before October 1, 1983, but not renewed or extended on or after that date, is paid before maturity, the certificate holder shall forfeit an amount equal to at least the greater of:

001.03D1 all interest earned on the amount withdrawn from the most recent of the date of certificate of indebtedness, date of maturity, or date on which notice was given; or,

001.03D2 all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or required notice period.

001.03E Where all or any part of a paid-up certificate of indebtedness issued under this section is withdrawn within ~~one~~ seven business days after the maturity date of the deposit or the date of expiration of notice of withdrawal, no early withdrawal penalty is required to be applied on the amount withdrawn.

001.03F Disclosure of Early Withdrawal Penalty. At the time a certificate holder enters into a paid-up certificate of indebtedness contract with an industrial loan and investment company, the company shall provide a written statement of the effect of the penalty prescribed in paragraphs 001.03A through 001.03D of this section, which shall:

001.03F1 State clearly that the customer has contracted to keep his funds in the certificate for the stated maturity, and

001.03F2 Described fully and clearly how such penalty provisions apply to paid-up certificates of indebtedness in the event the company, notwithstanding the contract provisions, permits payment before maturity. Such statements shall be expressly called to the attention of the customer.

001.04 Loans Upon Security of Certificates of Indebtedness. An industrial loan and investment company may make a loan to the holder of a certificate of indebtedness upon the security of such certificate, provided that the rate of interest on such loan shall be not less than 1% per annum in excess of the rate of interest on the certificate of indebtedness.

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Allen J. Beaumont
Secretary of State
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APPROVED:
Date 3-14-86
Bob Kerrey
Governor

L. Roy W. Jones
ASSISTANT SECRETARY OF STATE

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