

NORTHWESTERN Banker Newsletter

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Chapter 12, Clear Title Bring Concern

By **BEN HALLER, JR.**
Publisher

AGRICULTURAL developments continue to dominate community bank news in the upper midwest. Bankers continue to be the "beneficiaries" of a Congress seeking election-year ways to assist some farmers so long as it doesn't cost the government any more money. With this defend-the-budget caveat in its aid-the-farmer-at-the-expense-of-lenders mentality, Congress has presented the banking community with a Thanksgiving "turkey" titled Chapter 12, and a Christmas sock lump of coal named UCC Clear Title revision.

State bankers associations in the upper midwest have been pushing aggressively for state law changes to lessen the impact of the federally mandated UCC Clear Title changes, which become effective December 24. Section 1324 of the 1985 Farm Bill changed the federal lien law and created two alternatives for a lender to use when taking collateral on a loan: 1. Direct prenotification sent to all possible buyers of farm products if a lien exists. 2. Development of a USDA certified central notification system. All of this is aimed at undermining the UCC farm exception which protects a lender's se-

cured lien on an ag loan. Farm buyer groups banded together to assault this historical lender position and after listening to their snow job, Congress quickly voted to undermine the banking system's ability to lend deposit money with security.

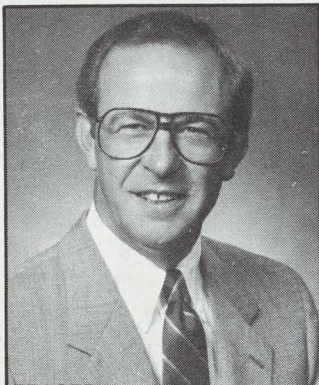
The 50-member association of Secretaries of State was the sole ally of banks in their effort to fend off this unwarranted law change. In a few states—Oregon and Montana, for example—central notification systems have been put in place. At a special session of the Nebraska legislature, called by Governor Bob Kerrey at the request of the Nebraska Bankers Association to consider this subject, LB 1 was passed and signed by the Governor on November 20 to put into operation Nebraska's central filing system that is already in place in the Secretary of State's office. The amount of work by NBA that went into this effort was unbelievable, and was supported by the Nebraska Independent Bankers Association and First-Tier bank attorneys, NBA noted. Nebraska's system awaits USDA approval. It will be financed by lenders and buyers. Printout or tapes will be available to buyers.

In Iowa, special sessions to inform bankers of the current status of state law that must be followed

starting December 24 were held throughout the state. The Iowa Bankers Association has filed a lawsuit contesting the constitutionality of the law enacted by the Iowa legislature last spring to govern the notification procedure in Iowa. Whereas the new federal law stipulates that lenders may make direct notification to buyers statewide of liens on their customers, the Iowa law says the lender may notify *only* those potential buyers whose names are supplied to the lender by the borrower. If the bank notifies off-list buyers, it can be fined \$200 per infraction. The IBA will petition the legislature to opt instead for a central notification system, since the computerized central filing at the Secretary of State's office has been in place since 1980.

Minnesota is on a prenotification system, but is looking at the recently approved Nebraska central filing system. North Dakota legislature approved a computerized central notification system in the spring of 1985 and it became operational January 1, 1986. Final approval from USDA is being awaited at this time. South Dakota, like many other states, is going with direct notification as provided in the federal law.

What could be the most damaging of all farm legislation is the new Chapter 12 bankruptcy proposed by Iowa Senator Charles Grassley and enacted by Congress as part of the recent bill to provide for 52 more



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Mark Conway

bankruptcy judges. Senator Grassley and other members of Congress refused to listen to banker association spokesmen who warned this could be the death knell for some banks, as well as cutting off credit for many, if not all, marginal farm borrowers. It permits a farm borrower to write down his loan in bankruptcy court to current value and the lender, essentially, is stuck with the balance of the loan and must write it off. Adding insult to injury is the fact that *if* that land later appreciates in value the lender may never again come back and reclaim any of that value—it would all belong to the borrower who wound up not paying for it!

We attended a press conference in Des Moines November 25 when Iowa Governor Terry Branstad hosted Republican Governors and Congressmen from several states, including some from as far away as

Texas and Oregon. We asked Senator Dole how Congress could continue attacking the community banks that are expected to provide local ag credit, citing Chapter 12 and the Clear Title revision, as well as the pending bailout of the Farm Credit System. He generalized, as usual, and stated, "If any problems develop, we'll certainly look into them, of course." Before he could be asked what would be done to rebuild those banks which are maimed or killed by such legislation, he immediately turned away. The only person among the 15 or so leaders present who made any direct response was Nebraska Congressman Doug Bereuter, who has proved himself a supporter of and totally understanding of the needs of community banks. He has proposed legislation to establish a secondary market for commercial long-term agricultural real estate and informed us after the

press conference that he will pursue it again in the coming session.

Apparently the only thing that will grab federal legislators' attention is failure of some farmers to obtain credit because of the onerous provisions of these bills. The fact that some banks may fail because of them probably won't make an impact on them, unfortunately; only failure of the bills to help farmers will attract their attention, such as cutting off credit. □

Iowa News

The Iowa Bankers Association's consumer services committee is sponsoring a Home Equity Lending Workshop on Dec. 18 at the Marriott Hotel in Des Moines. The one-day seminar will be conducted by Mike Moebs, chairman of G.M. Moebs Associates, Lincolnwood, Ill. He is an experienced lender who has made home equity loans. Katherine Schmidt, an attorney with the Des Moines law firm Davis, Hockenberg, Wine, Brown, Koehn, Shors, will give a presentation on the documentation and compliance of the home equity line of credit. Registration fees in advance are \$115 for members, \$150 for subscribers and \$175 for nonmembers. After Dec. 12, the fee will be \$20 additional. Cost includes lunch, breaks and handout material.

* * *

URBANDALE: Thomas A. Fix has been elected president and chief executive officer of First Interstate Bank of Urbandale. Previously employed by First Bank in Austin, Minn., as vice president, he will join the bank on Dec. 8. Loma Woodburn has been elected as vice president and manager of the bank's real estate lending division. She had previously managed the residential loan production section of Brenton Mortgages, Inc., Des Moines.

WATERLOO: Roger P. Olesen has been elected chairman of the Peoples Bank and Trust Company. A member of the bank board since 1979, he is president of Jens Olesen and Sons Construction Company and of Olesen-Simonsen Realty.

WEBSTER CITY: Steve Doering has joined the First State Bank as vice president and trust officer. He had most recently been employed at Production Credit Association in Iowa Falls. He is replacing Tim Neuroth who has resigned to accept a position in private business.

It's easier to talk Iowa banking with people who live it — people like Donald H. Jordahl and the correspondent staff at Bankers Trust.

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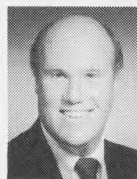
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Asking \$20,000 Range

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Do you need a seasoned commercial lender who can get the job done? This knowledgeable team player is technically competent and has 10 + years exp in commercial lending. An effective communicator who can get along with the customer base. This loyal hardworker has been with only one employer.

Asking \$36,000 Range

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Do you need a cash flow lender that can jump in with both feet? This results oriented leader has 4 + years ag lending experience with a medium sized bank. Has excellent business instincts and exercises sound credit judgement. Has completed the Northwest Ag Credit School and several other education seminars. Willing to relocate.

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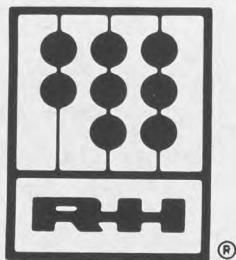
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Nebraska News

Due to low registration, the Nebraska Bankers Association's bank management committee has cancelled the 1986 Security Awareness Workshops which had been planned at five sites during the first two weeks of December. Registration fees will be refunded. The committee plans to consider whether to reschedule the program at a later date.

FREMONT: H.W. "Bud" Hendriksen has retired as president of First National Bank Trust Co., Fremont. He will continue as a member of the bank's board and the bank's trust and audit committee and will maintain an office at the bank. Succeeding Mr. Hendriksen is James A. Hansen.

HARVARD: Gerald D. Stahl, former executive vice president of Harvard State Bank has passed away at the age of 67. Mr. Stahl joined the bank in 1954 and retired in 1984.

OMAHA: Arthur S. Meyers and Steven G. Wickard have been named vice presidents at FirsTier Bank Omaha. Mr. Meyers joined the bank in 1965 and was named an assistant vice president in 1971. In 1983 he was promoted to manager of production control and recently was named the director of human resources. Mr. Wickard joined the bank in 1984 as assistant vice president. He is currently a lending officer in the corporate lending group.

Minnesota News

MINNEAPOLIS: The FBS Capital Markets Group has announced the formation of FBS Capital Market Funding, Inc., a new subsidiary of

First Bank System created to structure and issue securities backed by a variety of financial assets. William E. Waldusky has been named managing director of the firm, and Bobbie Euler has been appointed controller and financial officer.

MINNEAPOLIS: Maurice G. Dykema has been named senior vice president and group manager of development at Norwest Information Services, Inc. Mr. Dykema has held various positions since joining the company in 1973. He most recently served as vice president and group manager of systems.

South Dakota News

The South Dakota Bankers Association and the American Bankers Association will co-sponsor the third annual "Bank Compliance Symposium '87," teleconference on Jan. 29, 1987. The location will be at the Holiday Inn City Centre in Sioux Falls. The symposium is designed to provide an annual forum in which compliance officers, administrators and bank counsel can be appraised of regulatory and legislative developments. Featured speakers will be

the nation's top banking officials, the Federal Reserve Board, Comptroller of the Currency and Department of Treasury. The teleconference will be broadcast live from Washington, D.C. to sites across the U.S. Early registration is encouraged. If there are not at least 50 registrants by Dec. 28, the Sioux Falls location will have to be cancelled. Advance registration fee is \$120. Registration on site will be \$130.

Wisconsin News

MADISON: Jennifer N. Kraemer has been appointed vice president and director of human resources at First Wisconsin National Bank of Madison. Ms. Kraemer joined the bank in 1982. She replaces Mary M. Graye, who retired recently after 28 years with the bank.

Wyoming News

CASPER: First Interstate Bank of Casper has promoted James P. Miller to vice president and manager of loan review and compliance. He had been assistant vice president and loan review officer for the bank.

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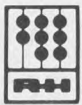
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