

CHAPTER 166—S.F.No.1055

[Coded in Part]

An act relating to financial institutions; authorizing and regulating face amount certificate investment companies; amending Minnesota Statutes 1974, Chapter 54, by adding sections; and Sections 49.01, Subdivision 2; 54.26; and 54.27; repealing Minnesota Statutes 1974, Chapter 59, and Sections 54.28; 54.29; and 54.293.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 54.26, is amended to read:

54.26 FACE AMOUNT CERTIFICATE INVESTMENT COMPANIES; SUPERVISION BY COMMISSIONER. No person and no copartnership, association, or corporation, whether local or foreign, heretofore organized or which may hereafter be organized; doing business as a so-called investment, loan, thrift, benefit, cooperative, home, securities, trust, or guarantee company for the licensing, control, and management of which there is no law now in force in this state, and which such persons, copartnership, association, or corporation shall solicit or receive payments to be made to himself or itself either in a lump sum or periodically, or on the instalment plan, and which issues therefor, or has issued therefor and has or shall have outstanding, so-called bonds, debentures, shares, coupons, thrift certificates, certificates of membership or other evidences of obligation or agreement or pretended agreement to return to the holders or owners thereof money or anything of value at some future date, shall solicit or transact any such business in this state, unless such person, copartnership, association or corporation shall at all times keep and maintain a paid-up capital or capital and surplus of \$100,000; or shall keep on deposit with the commissioner of banks, authorized securities in an amount equal to the cash surrender value of all investment contract liabilities on investment contracts held by residents of this state and shall submit to the commissioner of banks on the first day of each month a verified report in writing which shall set forth the total amount of the cash surrender value of all investment contract liabilities on investment contracts held by residents of this state; such deposit at no time shall be less than \$50,000. Every such person, copartnership, association or corporation, whether local or foreign, which shall be hereafter authorized to do business with an original paid-in capital of less than \$100,000 shall at all times be required to maintain and keep on deposit with the commissioner of banks authorized securities in an amount equal to the cash surrender value of all investment contract liabilities on investment contracts held by residents of this state; and shall have first complied with the provisions of section 54.20; provided, that existing permits heretofore issued under section 54.20 shall continue in full force and effect.

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Face amount certificate investment companies as defined by the Federal Investment Company Act of 1940, organized and doing business under the laws of this state, or having their principal place of business within this state, and other investment companies having face amount certificates outstanding, which companies are not subject to Section 28 of the Investment Company Act of 1940, shall be under the supervision of the commissioner of banks.

Sec. 2. Minnesota Statutes 1974, Section 54.27, is amended to read:

54.27 EXAMINATION OF BOOKS AND ACCOUNTS BY COMMISSIONER. The persons, copartnerships, associations, and corporations mentioned or enumerated in section 54.26 are hereby put under the supervision of the commissioner of banks. The powers, authority, privileges, and duties conferred upon him for the purpose of examining, supervising, controlling, and regulating the action of, and for the liquidation of, each and every class of financial institution to the full extent to which he may at any time lawfully exercise them, shall each and all, so far as applicable, be exercised by him personally or by deputy in the examination, supervision, control, regulation, and liquidation of the persons, copartnerships, associations, and corporations first hereinbefore mentioned. The fees for examination shall be determined as follows: For each examination, a minimum fee of \$50 plus an amount equal to 5.5 cents for each \$1,000 of assets in excess of \$150,000 and not exceeding \$500,000; a minimum fee of \$75 where the assets exceed \$500,000 and do not exceed \$2,000,000 plus 5.5 cents on each \$1,000 of assets in excess of \$150,000; a minimum fee of \$100 where the assets exceed \$2,000,000 and do not exceed \$5,000,000 plus 5.5 cents on each \$1,000 of assets in excess of \$150,000; a minimum fee of \$150 where the assets exceed \$5,000,000, plus 5.5 cents on each \$1,000 of assets in excess of \$150,000 and not exceeding \$5,000,000, plus 4.4 cents on each \$1,000 of assets in excess of \$5,000,000 and not exceeding \$20,000,000, and plus 3.3 cents on each \$1,000 of assets in excess of \$20,000,000 and the actual necessary expenses incurred by the commissioner of banks in and tending toward the performance of his duties and the exercise of his powers herein referred to shall be paid by the persons, copartnerships, associations, and corporations examined and supervised. Subdivision 1. The commissioner, with reference to face amount certificate investment companies, as defined in Minnesota Statutes 1974, Section 54.26, shall have the supervisory power to make periodic examinations of the books and accounts of such companies for the purpose of determining

(a) that face amount certificate investment companies maintain certificate reserves and deposits of qualified assets in accordance with the requirements of the Federal Investment Company Act of 1940 and the rules and regulations thereunder, and that other investment companies described in Minnesota Statutes 1974, Section 54.26 maintain certificate reserves and deposits of qualified assets as if they were subject to the Federal Investment Company Act of 1940 and rules and reg-

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ulations thereunder so far as the same may be appropriate and except as hereinafter provided, and

(b) that the accounting principles of all face amount certificate companies conform to generally accepted accounting principles for face amount certificate companies which are promulgated by the United States Securities and Exchange Commission. The accounting principles for investment companies shall include, where appropriate, any statements of investments or assets in a manner which relates historical cost of such investments or assets or other information required by the United States Securities and Exchange Commission. Assets maintained on deposit by companies not subject to Section 28(c) of the Investment Company Act of 1940 shall consist of first mortgages and first deeds of trust on improved real estate, government bonds, state bonds, municipal bonds, obligations issued or guaranteed in whole or in part by the United States government or by a government chartered institution or agency, assets of the kind which life insurance companies were permitted, by the laws of the state of New York as of January 1, 1949, to acquire or hold, and such other assets as the commissioner may by rule or order approve for such purpose. The commissioner shall, in recognizing approved assets in rule making, give consideration to assets of the kind which life insurance companies were permitted to invest in or hold under the provisions of the code of the District of Columbia.

Subd. 2. Investments required to be maintained on deposit by a company subject to section 54.26 shall be maintained within this state, provided, however, that where qualified investments are maintained on deposit by such company in respect of its liabilities under certificates issued to or held by residents of any state as required by the statutes of such state or any official or agency thereof, or are maintained outside of this state pursuant to any requirement of the federal government under the Investment Company Act of 1940, or otherwise, the amount so on deposit shall be deducted from the amount of qualified investments required to be maintained on deposit within this state.

Sec. 3. Minnesota Statutes 1974, Chapter 54, is amended by adding a section to read:

[54.294] ANNUAL EXAMINATION; INFORMATIONAL REPORTS; COST OF EXAMINATION. Subdivision 1. Examination of the face amount certificate companies described in Minnesota Statutes 1974, Section 54.26, shall be carried out on an annual basis by the commissioner. In conducting such examination, the commissioner may utilize reports which have been audited and attested to by independent certified public accountants. The procedures employed by the independent certified public accountants shall conform to generally accepted auditing standards. Each face amount certificate investment company shall file with the commissioner copies of its prospectuses, semi-annual and annual reports to shareholders, S-1 registration statements and amendments thereto, and annual reports to the United States Se-

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curities and Exchange Commission, all as filed pursuant to the requirements of the Securities Act of 1933, as amended and the rules and regulations adopted pursuant thereto, the Securities Exchange Act of 1934, as amended and the rules and regulations adopted pursuant thereto, and the Investment Company Act of 1940, as amended and the rules and regulations adopted pursuant thereto. The commissioner may accept as filed copies of the foregoing material previously filed with the commissioner of securities of the department of commerce. Other face amount certificate investment companies described in Minnesota Statutes 1974, Section 54.26, shall file with the commissioner copies of their semi-annual and annual reports, which annual reports have been audited and attested to by independent certified public accountants as to assets maintained on deposit and the value thereof, and semi-annual and annual reports, which annual reports have been certified by independent certified public accountants, as to certificate liabilities.

Subd. 2. Face amount certificate investment companies subject to the supervision of the commissioner of banks shall pay to the commissioner of banks the actual necessary expenses incurred by the commissioner of banks in the performance of his duties and the exercise of his powers of examination, including all salaries, wages, and expenses of examiners employed by the commissioner to make examinations provided for by law. In addition, such companies shall be assessed and shall pay examination fees in accordance with the provisions of section 46.131.

Sec. 4. Minnesota Statutes 1974, Chapter 54, is amended by adding a section to read:

[54.295] DECLARATION OF CREDIT. When the amount of any additional or other credit, which under the terms of an outstanding face amount certificate issued by a company described in section 54.26, is payable solely in the discretion of the board of directors of the issuer, is computed on a basis which is reduced because of any loan outstanding from the issuer to the certificate holder during the period for which the credit is declared, the reduction in the amount of the credit paid to the certificate holder shall not constitute interest paid by the borrowing certificate holder or be considered in any way for the purposes of any law pertaining to the declaration or distribution of corporate dividends or prescribing or limiting interest rates upon loans.

Sec. 5. Minnesota Statutes 1974, Chapter 54, is amended by adding a section to read:

[54.296] RULES AND REGULATIONS. The commissioner may promulgate such rules and regulations as are reasonably necessary to carry out and make effective the provisions and purposes of this chapter pursuant to Minnesota Statutes 1974, Chapter 15.

Sec. 6. Minnesota Statutes 1974, Chapter 54, is amended by adding changes or additions indicated by underline deletions by ~~strikeout~~

ing a section to read:

[54.297] APPLICATION FOR RECEIVER. When in the judgment of the commissioner grounds for liquidation as set forth in Minnesota Statutes 1974, Section 49.04, exist or are about to occur, the commissioner may make application to the district court in which a company defined in Minnesota Statutes 1974, Section 54.26, is situated for the appointment of a receiver or conservator.

Sec. 7. Minnesota Statutes 1974, Section 49.01, Subdivision 2, is amended to read:

Subd. 2. "Financial institution" means and includes a bank, a savings bank, a trust company, a savings, building and loan association, a credit union, and an industrial loan and thrift company ; ~~and an investment company .~~

Sec. 8. Minnesota Statutes 1974, Chapter 59, and Sections 54.28; 54.29; and 54.293, are repealed.

Approved May 17, 1975.

CHAPTER 167—S.F.No.1098

An act relating to natural resources; clarifying the authority of the commissioner of natural resources to designate and manage certain waters for wildlife use; reporting of game taken; providing certain limitations on the taking of fox; and altering certain seasons for the taking of deer; amending Minnesota Statutes' 1974, Sections 97.48, Subdivision 11; 98.51, Subdivision 1; 100.26, Subdivision 1; and 100.27, Subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 97.48, Subdivision 11, is amended to read:

Subd. 11. **NATURAL RESOURCES; PUBLIC WATERS MANAGEMENT; DEER AND FOX; LIMITATIONS AND SEASONS.** The commissioner shall set aside and reserve for any period he deems advisable, ~~any-public~~ waters of the state, in the aid of propagation and protection of any wild animals. ~~South of U.S. Trunk Highway No. 12~~ The commissioner shall have the further authority to ~~set aside, reserve,~~ designate and manage ~~any-public~~ waters for their primary wildlife use and benefit ; ~~The commissioner may reserve, set aside, and designate such waters only~~ after giving notice and holding a public hearing , provided that this authority shall not be used to restrict fishing methods or fishing seasons . The hearing shall be held in the county where the major portion of the waters are located. Notice of the hearing shall be

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