

recipients of supplemental security income, in this state shall not be less than ~~\$25~~ \$30 per month from all sources.

Provided that this personal needs allowance may be paid as part of the Minnesota supplemental aid program, notwithstanding the provisions of section 256D.37, subdivision 2, and payments to the recipients from Minnesota supplemental aid funds may be made once each three months beginning in October, 1977 covering liabilities that accrued during the preceding three months.

Sec. 2. Minnesota Statutes 1976, Section 256B.35, is amended by adding subdivisions to read:

Subd. 3. The nursing home may not commingle the patient's funds with nursing home funds or in any way use the funds for nursing home purposes.

Subd. 4. The department of public welfare is authorized to conduct field audits without notice to determine whether this section was complied with and that the funds provided residents for their personal needs were actually expended for that purpose.

The nursing home may transfer the personal allowance to someone other than the recipient only when that person certifies that the allowance is spent for the well being of the recipient.

Approved May 26, 1977.

CHAPTER 272—H.F.No.257

[Coded in Part]

An act relating to banks, trust companies and savings banks; rule making authority; fees for special investigations; accounts maintained by banking division employees; fees; banks minimum organizational capital, surplus and undivided profits; providing for certified deposit of capital funds in a custodial bank; providing for banks annual audit systems, approval and reports; state banks minimum capital requirements, establishing investigatory fee for application to acquire trust authority; trust company minimum capital requirements; relating to boards of directors of financial institutions; clarification of certain language; amending Minnesota Statutes 1976, Sections 46.01; 46.04; 46.05; 46.09; 46.131, Subdivision 2, and by adding a subdivision; 48.02; 48.10; 48.36; 48.37; 48.44; 48.67; 48.69; 300.025 and 300.20.

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

Section 1. Minnesota Statutes 1976, Section 46.01, is amended to read:

46.01 BANKS, TRUST COMPANIES AND SAVINGS BANKS; REGULATION; POWERS. Subdivision 1. The banking division shall have charge of the execution of all laws relating to state banks, savings banks, trust companies, ~~building and loan savings associations, and other financial corporations chartered institutions organized under the~~

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laws of this state, and the business thereof.

Subd. 2. The commissioner of banks may promulgate rules as necessary to administer or execute the laws relating to financial institutions subject to his supervision or examination.

Sec. 2. Minnesota Statutes 1976, Section 46.04, is amended to read:

46.04 COMMISSIONER; POWERS. The commissioner of banks, referred to in Minnesota Statutes, Chapters 46 to 59, as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, Chapter 201, were conferred by law upon the public examiner, and he shall take over all duties in relation to state banks, savings banks, trust companies, ~~building and loan~~ savings associations, and other financial ~~corporations~~ institutions within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of banks shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, ~~building and loan~~ savings associations, and other financial ~~corporations~~ institutions doing business within this state; and shall, through examiners, examine at least once a year such state banks and savings banks as are also subject to annual examinations by the federal deposit insurance corporation or the federal reserve bank and twice a year where they are not subject to such examinations. Trust companies, ~~building and loan~~ savings associations, credit unions, industrial loan and thrift companies and other financial ~~corporations~~ institutions shall be examined once a year. With the exception of industrial loan and thrift companies which do not have deposit liabilities and small loan companies, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each such ~~corporation~~ institution as to determine with reasonable certainty that the values are correctly carried on its books. Assets and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. None of the above provisions shall limit the commissioner in making additional examinations as he deems necessary or advisable. He shall investigate the methods of operation and conduct of these ~~corporations~~ institutions and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. He may make such requirements as to records as he deems necessary to facilitate the carrying out of his duties and to properly protect the public interest. He may examine, or cause to be examined by these examiners, on oath, any officer, director, trustee, owner, agent, clerk, customer, or depositor of any such financial ~~corporations~~ institution touching the affairs and business thereof, and may issue, or cause to be issued by the examiners, subpoenas, and administer, or cause to be administered by the examiners, oaths. In case of any refusal to obey any subpoena issued by him or under his direction, the refusal may at once be reported to the district court of the district in which the bank or other financial ~~corporation~~ institution is located, and this court shall enforce obedience to these subpoenas in the manner provided by law for enforcing obedience to subpoenas of the court. In all matters relating to his official duties, the commissioner of banks has the power possessed by courts of law to issue subpoenas and cause them to be served and enforced, and all officers, directors, trustees, and employees of state banks, savings banks, trust companies, ~~building and loan~~ savings associations, and

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other financial ~~corporations~~ institutions within the state, and all persons having dealings with or knowledge of the affairs or methods of these institutions, shall afford reasonable facilities for these examinations, make such returns and reports to the commissioner of banks as he may require; attend and answer, under oath, his lawful inquiries; produce and exhibit such books, accounts, documents, and property as he may desire to inspect, and in all things aid him in the performance of his duties.

Sec. 3. Minnesota Statutes 1976, Section 46.05, is amended to read:

46.05 SUPERVISION OVER FINANCIAL INSTITUTIONS. Every state bank, savings bank, trust company, ~~building and loan~~ savings association, and other financial ~~corporations~~ institutions shall be at all times under the supervision and subject to the control of the commissioner of banks. If, and whenever in the performance of his duties, the commissioner finds it necessary to make a special investigation of any financial ~~corporation~~ institution under his supervision, and other than a complete examination, he shall make a charge therefor to include only the necessary costs thereof. Such a fee shall be payable to the commissioner on his making a request for payment; ~~except such fees charged one financial institution shall not total more than \$500 in any calendar year.~~

Sec. 4. Minnesota Statutes 1976, Section 46.09, is amended to read:

46.09 STATE BANK EXAMINERS OR EMPLOYEES NOT TO HOLD BANK STOCK. Subdivision 1. No person who is a bank examiner or other officer or employee of the division of banking shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the wife, or any other member of the household of a bank examiner, or other officer or employee, shall be so interested, it shall be conclusively presumed that the bank examiner, or other officer or employee, is indirectly interested in the corporation within the meaning of this section; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provisions of this section shall not apply to the commissioner of banks.

Subd. 2. Officers, employees, and examiners of the division of banking, and members of their households, may:

(a) maintain a demand or trust account in any financial institution;

(b) maintain a savings, time or share account in any financial institution.

Officers, employees, and examiners of the division of banking may maintain accounts at financial institutions subject to examination by the commissioner of banks only to the extent that those accounts are insured by the federal deposit insurance corporation, federal savings insurance corporation, or national credit union administration.

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Sec. 5. Minnesota Statutes 1976, Section 46.131, Subdivision 2, is amended to read:

Subd. 2. Each bank, trust company, savings bank, savings, ~~building and loan~~ association, small loan company, industrial loan and thrift company ~~and~~, credit union, ~~motor vehicle sales finance company, debt prorating agency and insurance premium finance company~~ organized under the laws of this state ~~or required to be administered by the commissioner of banks~~ shall pay into the state treasury its proportionate share of the cost of maintaining the banking division.

Sec. 6. Minnesota Statutes 1976, Section 46.131, is amended by adding a subdivision to read:

Subd. 10. Each financial institution described in subdivision 2 shall pay a fee of \$25 to the commissioner of banks upon application to the commissioner for approval of a change in its certificate, charter, articles of incorporation, bylaws, powers or license. Money collected by the commissioner under this subdivision shall be deposited in the general fund.

Sec. 7. Minnesota Statutes 1976, Section 48.02, is amended to read:

48.02 CAPITAL AND SURPLUS; PREPAYMENT OF CAPITAL. ~~The capital of every bank of discount and deposit hereafter organized shall be at least \$25,000 and a surplus of at least \$5,000 in a municipality of not over 1,000 population, and at least \$50,000 and a surplus of at least \$10,000 in one over 1,000 and not over 5,000, and at least \$75,000 and a surplus of at least \$15,000 in one over 5,000 and not over 100,000, and at least \$100,000 and a surplus of at least \$20,000 in one over 100,000. The capital and surplus of every state bank hereafter organized shall be at least \$250,000. In addition thereto a deficit anticipation fund undivided profits shall be provided for in such an amount as the commissioner shall determine to be adequate under the circumstances to avoid any possible impairment of capital and surplus. The total of these outlays shall be known as capital funds, and payment thereof shall be made in full, in cash or authorized securities, deposited in an approved custodial bank, and certified to the commissioner, under oath of the president and cashier, as well as the custodial bank, before it the proposed state bank shall be authorized to commence business. The capital funds of a proposed bank shall not be less than a total amount which the commissioner considers necessary, having in mind the deposit potential for such a proposed bank and current banking industry standards as pertaining to total capital fund requirements of capital adequacy.~~

Sec. 8. Minnesota Statutes 1976, Section 48.10, is amended to read:

48.10 ANNUAL AUDIT; REPORT. The board of directors shall annually examine the books of a bank, either in person, or by appointing an examining committee, or an auditor, who may be an independent auditor or accountant. The examining committee or auditor shall be solely responsible to the directors. A report shall be made to the directors as to the scope of the examination or audit, and also to show those assets, excluding marketable securities and fixed assets, which are carried on the books for more than actual value. This report shall be retained as a permanent record or incorporated in the

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minutes of the meeting, and a copy of the report shall be sent to the commissioner of banks.

Sec. 9. Minnesota Statutes 1976, Section 48.36, is amended to read:

48.36 **APPLICATION.** Subdivision 1. Any state bank having a capital and surplus of ~~not less than \$200,000 and having its principal place of business in any municipality of less than 25,000 inhabitants; and any state bank having a capital and surplus of not less than \$250,000 and having its principal place of business in a municipality of 25,000 or more, but less than 200,000 inhabitants; and any state bank having a capital and surplus of not less than~~ not less than \$500,000 and having its principal place of business in a municipality of 200,000 or more, may exercise the powers and privileges conferred by sections 48.36 to 48.43, in addition to all other powers granted by law, upon complying with the conditions and requirements of those sections, and receiving the approval of the commissioner of banks, who may grant or reject, in his judgment, the application of any bank to acquire trust authority, and in doing so he shall take into consideration the following factors:

(1) The needs of the community for trust service of the kind applied for and the probable volume of such trust business available to the bank;

(2) The general condition of the bank, particularly the adequacy of its net capital and surplus funds in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the proposed exercise of trust powers;

(3) The general character and ability of the management of the bank;

(4) The nature of the supervision to be given to the proposed trust activities, including the qualifications and experience of the members of the proposed trust investment committee;

(5) The qualifications, experience, and character of the proposed executive officer or officers of the trust department;

(6) Whether the bank has available competent legal counsel to advise and pass upon trust matters whenever necessary; and

(7) Any other facts and circumstances that seem proper.

Subd. 2. The application required under subdivision 1 shall be in the form prescribed by the commissioner and shall be accompanied with a \$250 filing fee, which shall be deposited into the general fund.

Sec. 10. Minnesota Statutes 1976, Section 48.37, is amended to read:

48.37 **CERTIFICATES FROM COMMISSIONER.** In order to exercise the powers herein conferred, any such bank shall invest and keep invested in one or more of

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the first, second, third, fourth, seventh, and eighth classes of authorized securities, at least 50 percent of its capital if its capital be less than \$200,000; or at least 25 percent of its capital if its capital be \$200,000 or more, which securities in the amounts above provided shall be duly assigned, transferred to, and deposited with the commissioner, and shall be maintained unimpaired as a guaranty fund for the integrity of its trusts and for the faithful discharge of its duties, in connection therewith, with the right to the bank to collect the income thereof and to substitute other like authorized securities of equal amount and value. The commissioner shall carefully examine the securities offered for deposit and, if they comply with all the provisions of law applicable thereto, and, if the bank making such deposit shall possess the qualifications stated in section 48.36, he shall issue to the bank a certificate stating that it is qualified to exercise the powers herein conferred, and, upon the issuance of this certificate and while the same remains in force, the bank may exercise the powers and privileges conferred by sections 48.36 to 48.43.

In case of any increase in the capital of any bank which has qualified hereunder, this certificate shall be and become revoked and the bank shall not thereafter exercise the powers herein conferred until it shall have deposited the required proportion of its capital in authorized securities and received a new certificate that it is qualified hereunder.

Sec. 11. Minnesota Statutes 1976, Section 48.44, is amended to read:

48.44 BANKS MAY ORGANIZE AS TRUST COMPANY. Hereafter state banks which may be organized in the manner now provided by law may be organized with the additional authority to exercise the fiduciary powers and privileges set out in section 48.38; provided, that the capital and surplus of any such bank shall not be less than \$200,000, if its principal place of business is to be located in a municipality of less than 25,000 inhabitants; and that the capital and surplus of any such bank shall not be less than \$250,000, if its principal place of business is to be located in a municipality of 25,000 or more but less than 200,000 inhabitants; and that the capital and surplus of any such bank shall not be less than \$500,000, if its principal place of business is to be located in a municipality of 200,000 or more inhabitants.

Sec. 12. Minnesota Statutes 1976, Section 48.67, is amended to read:

48.67 CAPITAL OF TRUST COMPANIES. The capital of every trust company hereafter organized; having its principal place of business in any city of less than 25,000 inhabitants; shall not be less than \$200,000; the capital of every trust company hereafter organized; having its principal place of business in a city of more than 25,000 inhabitants and less than 200,000 inhabitants; shall not be less than \$250,000; the capital of every trust company hereafter organized; having its principal place of business in a city of more than 200,000 inhabitants; shall be not less than \$500,000. There shall also be provided a surplus of at least 20 percent of capital in addition to such capital amounts in each case and neither the capital nor the surplus so provided shall be reduced without the approval of the commissioner of banks. No trust company hereafter organized shall transact any business until all of its authorized capital stock and required surplus have been paid in, in cash, and at least 25 percent of the capital of all trust companies of \$200,000 or more; hereafter organized; has been invested in one or more of the first, second, third, and fourth classes of authorized securities and railroad bonds, as described by that statute.

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and also in the farm loan bonds issued by the federal land banks, federal intermediate credit banks, and the banks for cooperatives duly assigned and transferred to and deposited with the state treasurer, ~~or, if its capital stock be more than \$200,000, until at least one-fourth thereof has been so invested, assigned, transferred, and deposited.~~ The state treasurer shall submit the securities deposited to the commissioner, who shall carefully examine the securities offered for deposit and ascertain that they comply with all the provisions of law applicable thereto. Upon receipt of an order of the commissioner, the state treasurer shall issue his receipt therefor. This deposit shall be maintained unimpaired as a guaranty fund for depositors and creditors and for the faithful discharge of its duties, with the right to collect the income thereof and to substitute other like authorized securities, of equal amount and value, upon approval and order of the commissioner.

If the securities comply with the law, the commissioner shall issue his certificate of authorization for the trust company to commence business.

The capital stock of any trust company may be reduced with the approval of the commissioner, but not below the ~~respective~~ minimum amounts aforesaid, and no assets shall be returned to the stockholders unless its deposits of authorized securities after such return equal one-fourth of the reduced capital, in no event less than ~~\$100,000~~ \$125,000; nor shall the liability of any stockholder upon any existing contract be affected thereby.

When two or more trust companies have been or shall hereafter be consolidated under and pursuant to the provisions of sections 49.34 to 49.41, the capital of the consolidated trust company shall be considered as substituted for the capital of the several trust companies entering into the consolidation, and the aggregate of the securities of these trust companies on deposit with the state treasurer, pursuant to the provisions of this section, shall be increased or diminished accordingly; provided, that any company may hereafter be organized, with its principal place of business at any place within the state, with a capital of not less than \$10,000, to be paid in cash, of which 50 percent shall be invested in authorized securities and deposited with the state treasurer, as provided in this section. The powers and business of the company so organized shall be to act as assignee under any assignment for the benefit of creditors, or be appointed and act as a trustee or receiver, as a guardian, as executor of any will, or administrator of any estate, and the company so organized may accept and perform any other lawful trust over which any court, either state or federal, has jurisdiction. This company, before entering upon the duties of its trust, shall give a corporate surety bond in such sum as the court directs, with sufficient surety, conditioned for the faithful performance of its duties. The business of any company so organized shall be limited to the above matters; provided, that the company so organized with a capital stock of \$10,000 shall not use the word "trust" in the title or name of the company.

Sec. 13. Minnesota Statutes 1976, Section 48.69, is amended to read:

48.69 CERTAIN TRUST COMPANIES MAY ASSUME POWERS OF STATE BANKS. Any trust company organized under the laws of this state, and having a capital of not less than ~~\$50,000~~ \$500,000, may exercise the powers and privileges conferred by sections 48.69 to 48.73, in addition to all other powers granted by law, upon complying

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with the conditions and requirements specified in sections 48.69 to 48.73.

Sec. 14. Minnesota Statutes 1976, Section 300.025, is amended to read:

300.025 ORGANIZATION, CERTIFICATE. Any three or more persons may form a corporation for any of the purposes specified in section 47.12 by complying with the conditions hereinafter prescribed; provided, no corporation shall be formed under this section which might be formed under the Minnesota business corporation act. They shall subscribe and acknowledge a certificate specifying:

(1) The name, the general nature of its business, and the principal place of transacting the same. Such name shall distinguish it from all other corporations, domestic or foreign, authorized to do business in this state, and shall contain the word "company," "corporation," "bank," "association," or "incorporated." In the case of a state bank the name shall contain the words "state bank."

(2) The period of its duration, if limited.

(3) The names and places of residence of the incorporators.

(4) In what board its management shall be vested, the date of the annual meeting at which it shall be elected, and the names and addresses of those composing the board until the first election, a majority of whom shall always be residents of this state; ~~a majority of whom; in the case of savings banks and building and loan associations, shall always be residents of the state.~~

(5) The amount of capital stock, if any, how the same is to be paid in, the number of shares into which it is to be divided, and the par value of each share; and, if there is to be more than one class, a description and the terms of issue of each, and the method of voting thereon.

(6) The highest amount of indebtedness or liability to which the corporation shall at any time be subject.

It may contain any other lawful provision defining and regulating the powers and business of the corporation, its officers, directors, trustees, members, and stockholders provided that corporations subject to provisions of section 48.27 may show their highest amount of indebtedness to be 30 times the amount of its capital and actual surplus.

Sec. 15. Minnesota Statutes 1976, Section 300.20, is amended to read:

300.20 BOARD OF DIRECTORS, ELECTION; VACANCY, HOW FILLED. The business of every such corporation, except savings banks, shall be managed by a board of at least three directors elected by ballot by and from the stockholders or members. Any board of directors of a financial institution referred to in section 47.12 which has less than five members may be increased to not more than five members by order of the commissioner of banks. When the certificate of incorporation or the bylaws so provides a vacancy in the board of directors may be filled by the remaining directors. Not more than

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one-third of the members of the board may be so filled in any one year. The business of savings banks shall be managed by a board of at least seven trustees, residents of the county of its location this state, each of whom, before being authorized to act, shall file a written acceptance of the trust. A majority of the directors or trustees shall constitute a quorum for the transaction of business. Any action which might be taken at a meeting of the board of directors, trustees, or managers may be taken without a meeting if done in writing signed by all of the directors, trustees, or managers.

Sec. 16. Sections 1 through 6 are effective July 1, 1977. Sections 7, 9, 10, 11, 12 and 13 are effective the day following enactment. Section 8 is effective October 1, 1977. Sections 14 and 15 are effective January 1, 1979.

Approved May 26, 1977.

CHAPTER 273—H.F.No.296

[Coded in Part]

An act relating to insurance; providing for the establishment and operation of a Minnesota life and health insurance guaranty association; providing protection for policyowners, insureds, beneficiaries, and others against the failure of an insurer doing business in Minnesota; amending Minnesota Statutes 1976, Sections 60B.17, by adding a subdivision; 60B.25; 60B.26, Subdivision 2; 60B.30, by adding a subdivision; and 60B.46, Subdivision 1.

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

Section 1. [61B.01] LIFE AND HEALTH GUARANTY ASSOCIATION; CITATION. Sections 1 to 16 may be cited as the Minnesota life and health insurance guaranty association act.

Sec. 2. [61B.02] SCOPE, PURPOSE AND CONSTRUCTION. Subdivision 1. SCOPE. Sections 1 to 16 apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies or annuity contracts, issued by persons authorized at any time to transact insurance in this state. Sections 1 to 16 do not apply to:

(a) Any policy or contract or part thereof under which the risk is borne by the policyholder;

(b) Any policy or contract or part thereof assumed by an impaired insurer under a contract of reinsurance other than reinsurance for which assumption certificates have been issued;

(c) Any policy or contract issued by an assessment benefit association operating under Minnesota Statutes, Chapter 63, or a fraternal beneficiary association operating under Minnesota Statutes, Chapter 64A; or

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