

Sec. 33. **EFFECTIVE DATE.** This act is effective the day following enactment.

Approved April 23, 1980

* See the amendment to section 2 in Laws 1980, Chapter 618, Section 25.

CHAPTER 604—H.F.No. 2268

An act relating to financial institutions; authorizing examinations of certain bank holding companies; providing for the institution of cease and desist proceedings and the issuance of temporary orders; requiring commissioner to report on federal usury preemption; amending Minnesota Statutes 1978, Section 46.24; Chapter 47, by adding sections; and Minnesota Statutes, 1979 Supplement, Section 46.04.

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

Section 1. Minnesota Statutes, 1979 Supplement, Section 46.04, is amended to read:

46.04 COMMISSIONER; POWERS. Subdivision 1. 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, savings associations, and other financial 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, savings associations, and other financial institutions doing business within this state; and shall, through examiners, examine at least once in every 18 month period the state banks and savings banks as are also subject to annual examinations by the federal deposit insurance corporation or the federal reserve bank. If any state bank or savings bank is not examined by one of these federal agencies annually, the commissioner shall examine the bank or savings bank, so that the bank or savings bank is examined at least once annually by either one of these federal agencies or the commissioner. Trust companies, savings associations, credit unions, industrial loan and thrift companies and other financial 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 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~~ limits the

Changes or additions indicated by underline deletions by ~~strikeout~~

commissioner in making additional examinations as he deems necessary or advisable. He shall investigate the methods of operation and conduct of these 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 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 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, savings associations, and other financial 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~~ any books, accounts, documents, and property as he may desire to inspect, and in all things aid him in the performance of his duties.

Subd. 2. With respect to specific transactions between a bank holding company and a state bank affiliate, the commissioner of banks shall have the authority to examine the records of such holding company that directly pertain to such transactions to the same extent such holding company were a state bank or trust company. For purposes of this subdivision, a bank holding company is defined as a company registered as such with the Federal Reserve System pursuant to the Bank Holding Company Act of 1956, as amended.

Sec. 2. Minnesota Statutes 1978, Section 46.24, is amended to read:

46.24 CEASE AND DESIST PROCEEDINGS; INJUNCTIVE RELIEF.
Subdivision 1. NOTICE OF CHARGES, ISSUANCE, CONTENTS; HEARING; CEASE AND DESIST ORDER, ISSUANCE, SERVICE, CONTENTS. If in the opinion of the commissioner any institution or a director, officer, employee, agent or other person participating in the conduct of the affairs of the institution is engaging, or has engaged, or the commissioner has reasonable cause to believe that the institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution or is violating, has violated, or the commissioner has reasonable cause to believe that the institution or a director, officer, employee, agent or other person participating in the conduct of the affairs of the institution is about to violate a law or rule, or a condition imposed in writing by the commissioner in connection with the granting of any application or other request by the institution or any written agreement entered into with the

Changes or additions indicated by underline deletions by ~~strikeout~~

commissioner, the commissioner may issue and serve upon the institution or director, officer, employee, agent or other person, a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or violation, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or a director, officer, employee, agent or other person participating in the conduct of the affairs of the institution. The hearing shall be not earlier than ten days nor later than 30 days after service of the notice unless an earlier or a later date is set by the commissioner at the request of the institution any party so served. Unless the institution appears party or parties so served appear at the hearing by a duly authorized representative, it they shall be are deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing the commissioner finds that any unsafe or unsound practice or violation specified in the notice of charges has been established, the commissioner may issue and serve upon the institution or a director, officer, employee, agent or other person participating in the conduct of the affairs of the institution an order to cease and desist from any such the practice or violation. By provisions which may be mandatory or otherwise, the order may require the institution and or its directors, trustees, officers, employees and agents and other persons participating in the conduct of the affairs of the institution to cease and desist from the same and to take affirmative action to correct the conditions resulting from any such the practice or violation.

Subd. 2. **EFFECTIVE DATE.** A cease and desist order shall become is effective at the expiration of 30 days after the service of the order upon the institution or other person concerned, except in the case of an order issued upon consent which shall become is effective at the time specified therein, and shall remain remains effective and enforceable as provided therein, except to the extent it is stayed, modified, terminated or set aside by the action of the commissioner or a reviewing court.

Subd. 3. **TEMPORARY CEASE AND DESIST ORDERS.** (1) Whenever the commissioner of banks determines that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or a director, officer, employee, agent, or other person participating in the conduct of the affairs of the institution pursuant to subdivision 1, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of the institution's depositors prior to the completion of the proceedings conducted pursuant to subdivision 1, the commissioner may issue a temporary order requiring the institution or a director, officer, employee, agent, or other person to cease and desist from the violation or practice and to take affirmative action to prevent insolvency, dissipation, condition, or prejudice pending completion of the proceedings. The order becomes effective upon service upon the institution or a director, officer, employee, agent, or other person participating in the conduct of the affairs of the institution and, unless set aside, limited, or suspended by a court in proceedings authorized by clause (2), remains effective

and enforceable pending the completion of the administrative proceedings pursuant to the notice and until the time the commissioner dismisses the charges specified in the notice, or if a cease and desist order is issued against the institution or a director, officer, employee, agent or other person, until the effective date of the order.

(2) Within ten days after the institution concerned or a director, officer, employee, agent, or other person participating in the conduct of the affairs of the institution has been served with a temporary cease and desist order, the institution or a director, officer, employee, agent, or other person may apply to the appropriate district court for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or a director, officer, employee, agent, or other person under subdivision 1, and the court has jurisdiction to issue an injunction.

Sec. 3. Minnesota Statutes 1978, Chapter 47, is amended by adding a section to read:

[47.202] COMMISSIONER'S REPORT ON FEDERAL PREEMPTION. The commissioner shall, in his next annual report to the legislature, as required by section 47.20, subdivision 12; include an analysis of the effect of the provisions of P. L. 96-211, Title V, Part A on real estate lending in Minnesota.

Sec. 4. Minnesota Statutes 1978, Chapter 47, is amended by adding a section to read:

[47.203] FEDERAL PREEMPTION OVERRIDE. The provisions of P. L. 96-211, Title V, Part A, Section 501 (a)(1), do not apply with respect to a loan, mortgage, credit sale or advance made in this state after the effective date of this section, nor with respect to a loan, mortgage, credit sale or advance secured by real property located in this state and made after the effective date of this section.

Sec. 5. **EFFECTIVE DATE.** Section 4 is effective December 31, 1981.

Approved April 23, 1980

CHAPTER 605—H.F.No. 2302

An act relating to financial institutions; requiring all checks and drafts drawn on certain accounts to clearly display the month and year the account was opened; specifying exclusions; providing a penalty.

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

Section 1. **[48.511] CHECKING ACCOUNTS; DISCLOSURE.** All checks, drafts or similar negotiable or non-negotiable instruments or orders of withdrawal which are drawn against funds held by a financial institution in a consumer

Changes or additions indicated by underline deletions by ~~strikeout~~