

**257.33 DUTIES OF COMMISSIONER OF PUBLIC WELFARE.**

It shall be the duty of the commissioner of public welfare to offer appropriate social services to any pregnant woman who is in need of social services under criteria prescribed by rule of the commissioner. The commissioner shall also offer appropriate social services to the woman and her child after the birth of the child. Every birth to a minor shall be reported by the hospital where the birth occurs, within three working days after the birth. The hospital shall make the report to the commissioner on a form provided by the department of public welfare and shall notify the minor that the report has been made.

Approved May 27, 1981

**CHAPTER 258 — H.F.No. 182**

*An act relating to commerce; revising the small loan act; increasing the loan amount which determines the necessity of obtaining a license; increasing the amount of liquid assets which must be maintained by a licensee; allowing certain purchasers of accounts to obtain a license; providing for the regulation of closings of licensees on holidays and weekends; providing for examinations at the commissioner's discretion; allowing the use of certain mechanical or electronic data processing methods to be used as books of account; allowing alternative compliance on certain rates of charge statements; allowing certain loans to be secured by real estate; restating maximum rates and charges; regulating licensee provisions concerning certain insurance in connection with loans made; allowing industrial loan and thrifts to make secured or unsecured loans on the terms, rates, and conditions permitted licensees; providing remedies; defining terms; providing for miscellaneous clarifications and revisions; amending Minnesota Statutes 1980, Sections 53.04, by adding a subdivision; 56.01; 56.02; 56.04; 56.07; 56.09; 56.10; 56.11; 56.12; 56.14; 56.15, Subdivision 1; 56.16; 56.17; 56.18; 56.19; 56.26; 334.02; 334.03; and proposing new law coded in Minnesota Statutes, Chapter 56; repealing Minnesota Statutes 1980, Sections 53.04, Subdivisions 3, 4, 6, and 7; 53.051; 56.06; 56.13; 56.15, Subdivision 2; and 56.20.*

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

Section 1. **[56.001] DEFINITIONS.**

Subdivision 1. TERMS. When used in this chapter, the terms defined in this section have the meanings given them, unless their context requires a different meaning.

Subd. 2. ACTUARIAL METHOD. "Actuarial method" means the method of allocating payments made on a loan between the principal amount and interest whereby a payment is applied first to the accumulated interest and then to the unpaid principal amount.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

**Subd. 3. APPLICABLE CHARGE.** “Applicable charge” means the amount of interest attributable to each monthly installment period of the loan contract. The applicable charge is computed as if each installment period were one month and any charge for extending the first installment period beyond one month is ignored. The applicable charge for any installment period is that which would have been made for the period had the loan been made on an interest-bearing basis at the single annual percentage rate permitted by section 11, subdivision 1, paragraph (b), based upon the assumption that all payments were made according to schedule. For convenience in computation, the licensee may round the single annual rate to the nearest one quarter of one percent.

**Subd. 4. COMMISSIONER.** “Commissioner” means the commissioner of banks.

**Subd. 5. INTEREST.** “Interest” means all charges payable directly or indirectly by a borrower which are imposed directly or indirectly by the licensee as an incident to the loan, however denominated, including interest, discount, loan fee, or credit or investigation fee, but shall not include permissible default or deferment charges, lawful fees for any security taken, insurance charges or premiums, court costs, or other charges specifically authorized by law.

**Subd. 6. INTEREST-BEARING LOAN.** “Interest-bearing loan” means a loan in which the debt is expressed as the principal amount and interest is computed, charged, and collected on unpaid principal balances outstanding from time to time, for the time outstanding.

**Subd. 7. PRECOMPUTED LOAN.** “Precomputed loan” means a loan in which the debt is a sum comprising the principal amount and the amount of interest computed actuarially in advance on the assumption that all scheduled payments will be made when due.

**Subd. 8. PERSON.** “Person” includes individuals, copartnerships, associations, and corporations.

**Subd. 9. PRINCIPAL AMOUNT.** “Principal amount” means the amount of cash paid to, or paid or payable for, the account of the borrower.

## Sec. 2. [56.002] APPLICATION.

This chapter does not apply to a person doing business under and as permitted by any law of this state or of the United States relating to banks, building and loan associations, savings and loan associations, trust companies, licensed pawnbrokers, or credit unions. Notwithstanding the provisions of section 3, an industrial loan and thrift company under chapter 53 may contract for and receive the charges, including those in section 15, authorized by this chapter without being licensed pursuant to this chapter, but shall comply with

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

all other provisions of this chapter when contracting for or receiving charges on loans regulated by this chapter.

Sec. 3. Minnesota Statutes 1980, Section 56.01, is amended to read:

**56.01 NECESSITY OF LICENSE.**

Except as authorized by this chapter and without first obtaining a license from the commissioner, no person, ~~copartnership, association, or corporation~~ shall engage in the business of making loans of money, credit, goods, or things in action, in the amount or of the value of ~~\$1,200~~ \$35,000 or less, and charge, contract for, or receive on ~~any such~~ the loan a greater rate of interest, discount, or consideration ~~therefor~~ than the lender would be permitted by law to charge if he were not a licensee ~~hereunder, except as authorized by this chapter and without first obtaining a license from the commissioner of banks, hereinafter called the commissioner.~~ The word "person," as used in this chapter, includes individuals, ~~copartnerships, associations, and corporations,~~ unless the context requires a different meaning under this chapter.

Sec. 4. Minnesota Statutes 1980, Section 56.02, is amended to read:

**56.02 APPLICATION FEE.**

Application for license shall be in writing, under oath, and in the form prescribed by the commissioner, and contain the name and the address, both of the residence and place of business, of the applicant and, if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality, with street and number, if any, where the business is to be conducted, and such further information as the commissioner may require. The applicant at the time of making application, shall pay to the commissioner the sum of \$250 as a fee for investigating the application, and the additional sum of \$150 as an annual license fee for a period terminating on the last day of the current calendar year; provided, that if the application is filed after June 30 in any year the additional sum shall be only \$75. In addition to the annual license fee, every licensee hereunder shall pay to the commissioner the actual costs of each examination, as provided for in section 56.10. All moneys collected by the commissioner under this chapter shall be turned over by him to the state treasurer and credited by the treasurer to the general fund of the state.

Every applicant shall also prove, in form satisfactory to the commissioner, that he or it has available for the operation of the business at the location specified in the application, liquid assets of at least ~~\$25,000~~ \$50,000.

Sec. 5. Minnesota Statutes 1980, Section 56.04, is amended to read:

**56.04 INVESTIGATION; ISSUANCE OF LICENSE; DENIAL; REFUNDS.**

Upon the filing of the application and payment of these fees, the commissioner shall investigate the facts, and if he shall find (1) that the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a copartnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter, and (2) that allowing the applicant to engage in business will promote the convenience and advantage of the community in which the business of the applicant is to be conducted, and (3) that the applicant has available for the operation of the business, at the specified location, liquid assets of at least ~~\$25,000~~ \$50,000 (the foregoing facts being conditions precedent to the issuance of a license under this chapter), he shall thereupon issue and deliver a license to the applicant to make loans, in accordance with the provisions of this chapter, at the location specified in the application; ~~which license shall remain in full force and effect until it is surrendered by the licensee, or revoked and suspended, as hereinafter provided.~~ If the commissioner shall not so find, he shall not issue a license and he shall notify the applicant of the denial and return to the applicant the sum paid by the applicant as a license fee, retaining the \$250 investigation fee to cover the costs of investigating the application. The commissioner shall approve or deny every application for license hereunder within 60 days from the filing thereof with the fees.

If the application is denied, the commissioner shall, within 20 days thereafter, file in his office a written decision and findings with respect thereto containing the evidence and the reasons supporting the denial, and forthwith serve upon the applicant a copy thereof.

There is hereby appropriated to such persons as are entitled to such refund, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.

Should substantially all of a licensee's outstanding loan accounts subject to this chapter be sold, the purchaser of the accounts, if otherwise fully qualified, may obtain a license, without establishing convenience and advantage, in the same municipality upon surrender of the seller's license to the commissioner.

Sec. 6. Minnesota Statutes 1980, Section 56.07, is amended to read:  
**56.07 CONTROL OVER LOCATION.**

Not more than one place of business shall be maintained under the same license, but the commissioner may issue more than one license to the same licensee upon compliance with all the provisions of this chapter governing an original issuance of a license, for each such new license.

When a licensee shall wish to change his place of business to a street address ~~other than~~ that in the same municipality designated in his license, he

**Changes or additions are indicated by underline, deletions by ~~strikeout~~.**

shall give written notice thereof 30 days in advance to the commissioner, who shall investigate the facts and, if he shall find that allowing the licensee to engage in business in the new location will promote the convenience and advantage of the community in which the licensee desires to conduct his business, he shall attach to the license, in writing, his approval of within 30 days of receipt of such notice, issue an amended license approving the change and the date thereof, which shall be authority for the operation of the business under the license at the new location; if the commissioner shall not so find, he shall deny the licensee permission so to change the location of his place of business, in the manner specified and subject to the provisions contained in the second to the last paragraph of section 56.04. No change in the place of business of a licensee to a location outside of the original municipality shall be permitted under the same license.

A licensed place of business shall be open during regular business hours each weekday, except for legal holidays and for any weekday the commissioner grants approval to the licensee to remain closed. A licensed place of business may be open on Saturday, but shall be closed on Sunday.

Sec. 7. Minnesota Statutes 1980, Section 56.09, is amended to read:

#### 56.09 REVOCATION OF LICENSE.

The commissioner shall, upon ten days' notice to the licensee stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, revoke any license issued hereunder if he shall find that:

(1) The licensee has failed to pay the annual license fee required under the provisions of this chapter, or to comply with any demand, ruling, or requirement of the commissioner lawfully made pursuant to and within the authority of this chapter; or that

(2) The licensee has violated any material provision of this chapter or any rule or regulation lawfully made by the commissioner under and within the authority of this chapter; or that

(3) Any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the commissioner in refusing originally to issue the license.

The commissioner may, upon three days' notice and a hearing, suspend any license for a period not exceeding 30 days, pending investigation.

The commissioner may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if he shall find that the grounds for revocation or suspension are of general application to all offices, or to more than one office, operated by the licensee, he shall revoke or suspend all of the licenses issued to the licensee or the licenses as the grounds apply to, as the case may be.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Any licensee may surrender any license by delivering to the commissioner written notice that he thereby surrenders the license, but the surrender shall not affect the licensee's civil or criminal liability for acts committed prior to the surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked, or suspended in accordance with the provisions of this chapter, but the commissioner shall have authority, on his own initiative, to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the commissioner in refusing originally to issue the license under this chapter.

When the commissioner shall revoke or suspend a license issued pursuant to this chapter, he shall forthwith file in his office a written order to that effect and findings with respect thereto containing the evidence and the reasons supporting the revocation or suspension, and forthwith serve upon the licensee a copy thereof.

Sec. 8. Minnesota Statutes 1980, Section 56.10, is amended to read:

#### 56.10 EXAMINATIONS.

For the purpose of discovering violations of this chapter or securing information lawfully required by him hereunder, the commissioner may, at any time, either personally or by a person or persons duly designated by him, investigate the loans and business and examine the books, accounts, records, and files used therein, of every licensee and of every person who shall be engaged in the business described in section 56.01, whether the person shall act or claim to act as principal or agent, or under or without the authority of this chapter. For that purpose the commissioner and his duly designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The commissioner and all persons duly designated by him shall have authority to require the attendance of and to examine, under oath, all persons whomsoever whose testimony he may require relative to the loan or the business or to the subject matter of any examination, investigation, or hearing.

~~The commissioner shall make such an examination of the affairs, business, office, and records of each licensee at least once each year. Each licensee shall pay to the commissioner such amount as may be required under~~

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

section 46.131, and the commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

Sec. 9. Minnesota Statutes 1980, Section 56.11, is amended to read:

**56.11 BOOKS OF ACCOUNT; ANNUAL REPORT.**

The licensee shall keep and use in his business such books, accounts, and records as will enable the commissioner to determine whether the licensee is complying with the provisions of this chapter and with the rules and regulations lawfully made by the commissioner hereunder. Every licensee shall preserve such books, accounts, and records, including cards used in the card system, if any, for at least two years after making the final entry on any loan recorded therein. Accounting systems maintained in whole or in part by mechanical or electronic data processing methods which provide information equivalent to that otherwise required are acceptable for this purpose.

Each licensee shall annually on or before the fifteenth day of March, except in odd numbered years and then on or before the seventh day of February, file a report with the commissioner giving such relevant information as the commissioner reasonably may require concerning the business and operations during the preceding calendar year of each licensed place of business, conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the commissioner, who shall make and publish annually an analysis and recapitulation of such reports.

Sec. 10. Minnesota Statutes 1980, Section 56.12, is amended to read:

**56.12 ADVERTISING; TAKING OF SECURITY; PLACE OF BUSINESS.**

No licensee or other person shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action; ~~in the amount or of the value of \$1,200 or less, at a greater rate of charge than lenders not licensed hereunder would be permitted by law to make;~~ which is false, misleading, or deceptive. The commissioner may order any licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

The commissioner may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers. A statement of rates of charge that meets the requirements of the federal Truth-in-Lending Act and regulations thereunder shall be deemed full compliance with this section.

~~No~~ A licensee shall may take a lien upon real estate as security for any loan exceeding \$2,700 in principal amount made under this chapter; except such

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

lien as is created by law upon the recording of a judgment. No loan secured by a first lien on a borrower's primary residence shall be made pursuant to this section if the proceeds of the loan are used to finance the purchase of the borrower's primary residence, other than a mobile home. If the proceeds of the loan are used to finance the purchase of the borrower's primary residence, the licensee shall consent to the subsequent transfer of the real estate if the existing borrower continues after transfer to be obligated for repayment of the entire remaining indebtedness. The licensee shall release the existing borrower from all obligations under the loan instruments, if the transferee (1) meets the standards of credit worthiness normally used by persons in the business of making loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the property used as collateral, and (2) executes an agreement in writing with the licensee whereby the transferee assumes the obligations of the existing borrower under the loan instruments. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument. A licensee may charge a fee not in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan is assumed by the transferee and the existing borrower continues after the transfer to be obligated for repayment of the entire assumed indebtedness. A licensee may charge a fee not in excess of one percent of the remaining unpaid principal balance in the event the remaining indebtedness is assumed by the transferee and the existing borrower is released from all obligations under the loan instruments, but in no event shall the fee exceed \$150.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, ~~except as may be authorized, in writing, by~~ if the commissioner ~~upon his finding finds~~ that the character of the other business is such that ~~the granting of such authority~~ it would not facilitate evasions of this chapter or of the rules and regulations lawfully made hereunder. The commissioner may promulgate rules dealing with such other businesses.

No licensee shall transact the business or make any loan provided for by this chapter under any other name or at any other place of business than that named in the license. No licensee shall take any confession of judgment or any power of attorney. No licensee shall take any note, or promise to pay, or security that does not accurately disclose the ~~actual~~ principal amount of the loan, the time for which it is made, and the agreed rate or amount of charge, nor any instrument in which blanks are left to be filled in after execution. Nothing herein is deemed to prohibit the making of loans by mail.

Sec. 11. **[§6.131] MAXIMUM RATES AND CHARGES.**

Subdivision 1. INTEREST RATES AND CHARGES. (a) On any loan in the principal amount of \$35,000 or less, a licensee may contract for and

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

receive interest, calculated according to the actuarial method, not exceeding the equivalent of the greater of any of the following:

(1) the total of: (i) 33 percent per year on that part of the unpaid balance of the principal amount not exceeding \$350; and (ii) 19 percent per year on that part of the unpaid balance of the principal amount exceeding \$350; or

(2) 21.75 percent per year on the unpaid balance of the principal amount.

(b) Interest shall be contracted for and earned as provided in paragraph (a), clause (1) or at the single annual percentage rate that would earn the same total interest at maturity of the contract as would be earned by the application of the graduated rates provided in paragraph (a), clause (1), when the debt is paid according to the agreed terms and the calculations are made according to the actuarial method. Loans may be interest-bearing or precomputed.

(c) To compute time on interest-bearing and precomputed loans, including, but not limited to the calculation of interest, a day shall be considered 1/30 of a month when calculation is made for a fraction of a calendar month. A year shall be 12 calendar months. A calendar month shall be that period from a given date in one month to the same numbered date in the following month, and if there is no same numbered date, to the last day of the following month.

(d) With respect to interest-bearing loans:

(1) Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding. Each payment shall be applied first to the accumulated interest and the remainder of the payment applied to the unpaid principal balance; provided however, that if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest shall not be payable in advance or compounded. However, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the new loan contract may include any unpaid interest which has accrued. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in paragraph (e), clause (3). The resulting loan contract shall be deemed a new and separate loan transaction for all purposes.

(e) With respect to precomputed loans:

(1) Loans shall be repayable in substantially equal and consecutive monthly installments of principal and interest combined, except that the first installment period may be longer than one month by not more than 15 days.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days; and provided further that monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until the loan is fully paid. Payments shall be applied in the order in which they become due.

(3) When any loan contract is paid in full by cash, renewal or refinancing, or a new loan, one month or more before the final installment due date, a licensee shall refund or credit the borrower with the total of the applicable charges for all fully unexpired installment periods, as originally scheduled or as deferred, which follow the day of prepayment; if the prepayment is made other than on a scheduled payment date, the nearest scheduled installment payment date shall be used in the computation; provided further, if the prepayment occurs prior to the first installment due date, the licensee may retain 1/30 of the applicable charge for a first installment period of one month for each day from the date of the loan to the date of prepayment, and shall refund or credit the borrower with the balance of the total interest contracted for. If the maturity of the loan is accelerated for any reason and judgment is entered, the licensee shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

(f) If an installment, other than the final installment, is not paid in full within ten days of its scheduled due date, a licensee may contract for and receive a default charge not exceeding five percent of the amount of the installment, but not less than \$2.

(g) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a licensee may grant a deferment and may collect a deferment charge as provided in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one-month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred payment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. Should a loan be prepaid in full during a deferment period, the licensee shall make or credit to the borrower a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(h) If two or more installments are delinquent one full month or more on any due date, and if the contract so provides, the licensee may reduce the unpaid balance by the refund credit which would be required for prepayment in full on the due date of the most recent maturing installment in default. Thereafter, and in lieu of any other default or deferment charges, the single annual percentage rate permitted by paragraph (b) may be charged on the unpaid balance until fully paid.

(i) Following the final installment as originally scheduled or deferred, the licensee, for any loan contract which has not previously been converted to interest-bearing under paragraph (h), may charge interest on any balance remaining unpaid, including unpaid default or deferment charges, at the single annual percentage rate permitted by paragraph (b) until fully paid.

**Subd. 2. ADDITIONAL CHARGES.** In addition to the charges provided for by this section and section 15, no further or other amount whatsoever, shall be directly or indirectly charged, contracted for, or received for the loan made, except actual out of pocket expenses of the licensee to realize on a security after default, and except for the following additional charges which may be included in the principal amount of the loan:

(a) Lawful fees and taxes paid to any public officer to record, file, or release security;

(b) With respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section; provided the costs do not exceed one percent of the principal amount or \$250, whichever is greater:

(1) Fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;

(2) An amount not to exceed \$150, if not paid to the licensee, an employee of the licensee, or a person related to the licensee, for fees for preparation of a mortgage, settlement statement, or other documents, fees for notarizing mortgages and other documents, and appraisal fees.

**Subd. 3. SPLITTING.** No licensee shall induce or permit any borrower to split up or divide any loan or permit any person to become obligated, directly or contingently, or both, under more than one contract of loan at the same time for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this section.

**Subd. 4. ADJUSTMENT OF DOLLAR AMOUNTS.** (a) The dollar amounts in this section, section 56.01 and section 56.12 shall change periodically, as provided in this section, according to and to the extent of changes in the implicit price deflator for the gross national product, 1972 = 100, compiled by the United States department of commerce, and hereafter referred to as the index. The index for December, 1980 is the reference base index.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more, but;

(1) the portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts appearing in this act on the date of enactment; and

(2) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to the act as a result of earlier application of this section.

(c) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the department of commerce. If the index is superseded, the index referred to in this section is the one represented by the department of commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(d) The commissioner shall announce and publish:

(1) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (b); and

(2) promptly after the changes occur, changes in the index required by paragraph (c) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if he relies on dollar amounts either determined according to paragraph (b), clause (2) or appearing in the last publication of the commissioner announcing the then current dollar amounts.

Subd. 5. ATTORNEY'S FEES. No term of writing may provide for the payment by the debtor of attorney's fees.

Sec. 12. Minnesota Statutes 1980, Section 56.14, is amended to read:

#### **56.14 DUTIES OF LICENSEE.**

Every licensee shall:

Deliver to the borrower (or if there are two or more borrowers to one of them) at the time any loan is made a statement ~~(upon which there shall be printed a copy of subdivisions 4 and 5 of section 56.13),~~ showing in clear and

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

distinct terms the amount and date of the loan contract, the schedule of installment payments or a description thereof, the nature of the security, if any, for the loan, the name and address of one of the borrowers and of the licensee, and the agreed rate of charge; and if charges are precomputed and added to the principal of the loan the statement shall also show the amount of the note and the principal amount of the loan and shall contain a copy of paragraph (a) of subdivision 4 of section 56.13 making the disclosures and furnishing the information required by the federal Truth-in-Lending Act with respect to the contract of loan. A copy of the loan contract may be delivered in lieu of a statement if it discloses the required information:

Give to the borrower a plain and complete receipt for all payments made on account of any loan wherein charges are computed and paid on unpaid principal balances for the time actually outstanding, at the time the payments are made, specifying the amount applied to charges and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of the loan; give to the borrower a receipt for all payments made in cash on account of any loan wherein precomputed charges have been added to the principal of the loan specifying the amount of the payment applied to principal and charges combined, the amount applied to default or extension charges, if any, and stating the unpaid balance, if any, of the precomputed loan contract;

Permit payment to be made in advance in any amount on any contract of loan at any time, but the licensee may apply such payment first to all charges in full at the agreed rate up to the date of the payment;

Upon repayment of the loan in full, mark indelibly every obligation and security, other than a mortgage or security agreement which secures a new loan to the licensee, signed by the borrower with the word "Paid" or "Canceled," and release any mortgage or security agreement which no longer secures a loan to the licensee, restore any pledge, and cancel and return any note, and any assignment given to the licensee which does not secure a new loan to the licensee within 20 days after such repayment;

Display prominently in each licensed place of business a full and accurate schedule, to be approved by the commissioner, of the charges to be made and the method of computing the same. Furnish a copy of the contract of loan to any person obligated on it or who may become obligated on it at any time upon the request of that person;

Show in the loan contract or statement of loan the rate or rates of charge on which the charge in the contract is based, expressed in terms of rate or rates per annum. Such rate expression shall be printed in at least 8 point type on the loan statement or copy of the loan contract given to the borrower.

Sec. 13. Minnesota Statutes 1980, Section 56.15, Subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

### 56.15 LIMITATION ON AMOUNT AND INSURANCE OF CHARGES.

Subdivision 1. No licensee shall, directly or indirectly, charge, contract for, or receive any interest, discount, charges, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use or forbearance of money, goods, or things in action, or upon the loan, use or sale of credit, of the amount or value of more than ~~\$1,200~~ that regulated by this chapter. The foregoing prohibition shall also apply to any licensee who permits any person, as borrower, or otherwise, to owe, directly or contingently, or both, to the licensee at any time a sum of more than ~~\$1,200~~ that regulated by this chapter for principal.

#### Sec. 14. [56.155] INSURANCE IN CONNECTION WITH LOAN.

Subdivision 1. AUTHORIZATION. No licensee shall, directly or indirectly, sell or offer for sale any insurance in connection with any loan made under this chapter except as and to the extent authorized by this section. The sale of credit life and credit accident and health insurance shall be subject to the provisions of chapter 62B, except that the term of the insurance may exceed 60 months if the term of the loan exceeds 60 months. Life, accident, and health insurance, or any of them, may be written upon or in connection with any loan but shall not be required as additional security for the indebtedness. If the debtor chooses to procure credit life insurance or credit accident and health insurance as security for the indebtedness, he shall have the option of furnishing this security through existing policies of insurance owned or controlled by him or of furnishing the coverage through any insurer authorized to transact business in this state. A statement in substantially the following form in bold face type of a minimum size of 12 points shall be provided to the borrower before the transaction is completed:

CREDIT LIFE INSURANCE AND CREDIT DISABILITY INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT. YOU MAY BUY ANY INSURANCE FROM ANYONE YOU CHOOSE OR YOU MAY USE EXISTING INSURANCE. THE CREDIT LIFE INSURANCE AND CREDIT DISABILITY INSURANCE AVAILABLE THROUGH THIS LENDER HAD AN ACTUAL LOSS RATIO DURING THE CALENDAR YEAR LAST REPORTED TO THE DEPARTMENT OF COMMERCE OF ..... PERCENT. THIS MEANS THAT, ON THE AVERAGE, \$..... OF EVERY \$100 IN PREMIUMS PAID TO THE INSURANCE COMPANY WERE RETURNED AS BENEFITS TO POLICYHOLDERS DURING THAT YEAR.

The licensee shall have 30 days after the insurance company submits its report of losses to the department of commerce for the previous calendar year to change its disclosure to reflect the current loss ratio.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The licensee shall disclose whether or not the benefits shall commence as of the first day of disability and shall further disclose the number of days that an insured obligor must be disabled, as defined in the policy, before benefits, whether retroactive or nonretroactive, shall commence. In case there are multiple obligors under a transaction subject to this chapter, no policy or certificate of insurance providing credit accident and health benefits shall be procured by or through a licensee upon more than one of the obligors. In case there are multiple obligors under a transaction subject to this chapter, no policy or certificate of insurance providing credit life insurance shall be procured by or through a licensee upon more than two of the obligors in which case they shall be insured jointly. The premium or identifiable charge for the insurance shall not exceed that filed by the insurer with the insurance division of the department of commerce. The charge, computed at the time the loan is made for the full term of the loan contract on the total amount required to pay principal and charges, may be deducted from the proceeds or may be included as part of the principal of any loan. If a borrower procures insurance by or through a licensee, the statement required by section 56.14 shall disclose the cost to the borrower and the type of insurance, and the licensee shall cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. No licensee shall decline new or existing insurance which meets the standards set out in this section nor prevent any obligor from obtaining such insurance coverage from other sources. Notwithstanding any other provision of this chapter, any gain or advantage to the licensee or to any employee, affiliate, or associate of the licensee from such insurance or the sale or provision thereof shall not be deemed to be additional or further charges in connection with the loan; nor shall any of the provisions pertaining to insurance contained in this section be deemed prohibited by any other provision of this chapter.

Subd. 2. PROPERTY INSURANCE. A licensee may require the obligors to provide insurance on real or personal property security against reasonable risks of loss, damage, and destruction. The amount and term of the insurance shall be reasonable in relation to the value of the security, but the amount and term of the insurance shall not exceed the amount and term of the loan. The purchase of such insurance through the licensee or from an agent, broker, or insurer specified by the licensee shall not be required.

Sec. 15. Minnesota Statutes 1980, Section 56.16, is amended to read:

**56.16 OVERAGES DEEMED INTEREST.**

The payment of ~~\$4,200~~ \$4,200 or less in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall, for the purposes of regulation under this chapter, be deemed a loan secured by the assignment, and the amount by which the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

assigned compensation exceeds the amount of the consideration actually paid shall, for the purposes of regulation under this chapter, be deemed interest or charges upon the loan from the date of the payment to the date the compensation is payable. This transaction shall be governed by, and subject to, the provisions of this chapter.

Sec. 16. Minnesota Statutes 1980, Section 56.17, is amended to read:

**56.17 LIMITATION; ASSIGNMENT OF WAGES; ~~CHATTEL~~ MORTGAGES SECURITY AGREEMENT.**

No assignment of, or order for payment of, any salary, wages, commissions, or other compensation for services earned or to be earned, given to secure any loan made by any licensee under this chapter, shall be valid unless the principal amount of the loan is \$1,200 or less and is paid to the borrower simultaneously with its execution; ~~nor shall any assignment or order, or any chattel mortgage security agreement~~ or other lien on household furniture then in the possession and use of the borrower, be valid unless it is in writing, signed in person by the borrower, nor if the borrower is married, unless it is signed in person by both husband and wife; provided, that written assent of a spouse shall not be required when husband and wife have been living separate and apart for a period of at least five months prior to the making of the assignment, order, ~~mortgage security agreement~~, or lien.

Under any assignment or order for the payment of future salary, wages, commissions, or other compensation for services, given as security for a loan made by any licensee under this chapter, a sum not to exceed ten percent of the borrower's salary, wages, commissions, or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time for each payment to the borrower of salary, wages, commissions, or other compensation for services, from the time that a copy of the assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon the loan and a printed copy of this section is served upon the employer; provided, that this section shall not be construed as giving the assignee any greater rights than he has under section 181.05.

Sec. 17. Minnesota Statutes 1980, Section 56.18, is amended to read:

**56.18 UNLICENSED PERSONS NOT TO MAKE LOANS.**

No person, except as authorized in this chapter, shall, directly or indirectly, charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a ~~licensee~~ authorized hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount ~~of value of \$1,200 or less~~ regulated by this chapter.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The foregoing prohibition shall apply to any person who, by any device, subterfuge, or pretense, shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this chapter for any such loan, use or forbearance of money, goods, or things in action, or for any such loan, use or sale of credit.

No loan of the amount or value of \$1,200 or less made by a person not authorized hereunder in an amount regulated by this chapter for which a greater rate of interest, consideration, or charges than is permitted by this chapter the laws of this state has been charged, contracted for, or received, wherever made, shall be enforced by a licensee in this state, and every person in anywise participating therein in this state shall be subject to the provisions of this chapter, provided, that the foregoing shall not apply to loans legally made in any state which then has in effect a regulatory small loan law similar in principle to this chapter another state.

Sec. 18. Minnesota Statutes 1980, Section 56.19, is amended to read:

**56.19 VIOLATION.**

Subdivision 1. CRIMINAL PENALTY. Any person and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any of the provisions of sections 56.01, 56.12, 56.13, 56.14, 56.17, ~~or~~ 56.18, and sections 11 and 12 shall be guilty of a gross misdemeanor.

~~Any contract of loan not invalid for any other reason, in the making or collection of which any act shall have been done which constitutes a misdemeanor under this section, shall be void, and the lender shall have no right to collect or receive any principal, interest, or charges whatsoever.~~

Subd. 2. PENALTY FOR USURIOUS INTEREST. The taking, receiving or charging by a lender of a rate of interest greater than is allowed by state law shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In the case the greater rate of interest has been paid, the person paying it, or his legal representatives, may recover, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the lender taking or receiving the interest, if the action is commenced within two years from the time the usurious transaction occurred.

Subd. 3. UNLICENSED LENDERS. If a person has violated this chapter by not obtaining a license when required to make loans subject to this chapter, the loan is void and the debtor is not obligated to pay any amounts owing. The debtor may recover from such persons all amounts paid. No action may be brought under this subdivision more than one year after the date of the last scheduled payment on the loan.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 4. REMEDIES EXCLUSIVE. The remedies set forth in this section are exclusive and, except as otherwise provided in this chapter, a violation of any provision of this chapter does not impair rights on a debt.

Sec. 19. Minnesota Statutes 1980, Section 56.26, is amended to read:

**56.26 LIMITATIONS CONTINUATION OF LICENSING.**

The provisions of sections 56.01 to 56.25 shall not apply to any person, as defined therein, doing business under and as permitted by any law of this state, or of the United States, relating to building and loan associations, credit unions, or licensed pawnbrokers. All persons licensed under the provisions of Minnesota Statutes, Chapter 56 on the effective date of this act are licensed to make loans regulated by this act, and the commissioner shall, upon request, within 90 days deliver evidence of licensing to the requester.

Sec. 20. Minnesota Statutes 1980, Section 53.04, is amended by adding a subdivision to read:

Subd. 3a. The right to make loans, secured or unsecured, at the rates and on the terms and other conditions permitted licensees under Minnesota Statutes 1980, Chapter 56. The right to extend credit or lend money and to collect and receive charges therefor as provided by Minnesota Statutes 1980, Chapter 334, or in lieu thereof to charge, collect, and receive interest at the rate of 21.75 percent per annum. Nothing in this subdivision shall be deemed to supersede, repeal, or amend any provision of section 53.05.

Sec. 21. Minnesota Statutes 1980, Section 334.02, is amended to read:

**334.02 USURIOUS INTEREST; RECOVERY.**

Every person who for any such loan or forbearance shall have paid or delivered any greater sum or value than in section 334.01 allowed to be received may, by himself or his personal representatives, recover in an action against the person who shall have received the same, or his personal representatives, the full amount of interest or premium so paid, with costs, if action is brought within two years after such payment or delivery. This section does not apply when the loan or forbearance is made by a lender and the lender is liable for the penalty provided in section 48.196 and chapter 56 in connection with the loan or forbearance. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings and loan association, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, an industrial loan and thrift company organized under chapter 53, a licensed lender under chapter 56, or a mortgagee or lender approved or certified

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

Sec. 22. Minnesota Statutes 1980, Section 334.03, is amended to read:

**334.03 USURIOUS CONTRACTS INVALID; EXCEPTIONS.**

All bonds, bills, notes, mortgages, and all other contracts and securities, and all deposits of goods, or any other thing, whereupon or whereby there shall be reserved, secured, or taken any greater sum or value for the loan or forbearance of any money, goods, or things in action than prescribed, except such instruments which are taken or received in accordance with and in reliance upon the provisions of any statute, shall be void except as to a holder in due course. No merely clerical error in the computation of interest, made without intent to avoid the provisions of this chapter, shall constitute usury. Interest at the rate of one-twelfth of eight percent for every 30 days shall not be construed to exceed eight percent per annum; nor shall the payment of interest in advance of one year, or any less time, at a rate not exceeding eight percent per annum constitute usury; and nothing herein shall prevent the purchase of negotiable mercantile paper, usurious or otherwise, for a valuable consideration, by a purchaser without notice, at any price before the maturity of the same, when there has been no intent to evade the provisions of this chapter, or where such purchase has not been a part of the original usurious transactions; but where the original holder of a usurious note sells the same to an innocent purchaser, the maker thereof, or his representatives, may recover back from the original holder the amount of principal and interest paid by him on the note. This section does not apply when the loan or forbearance is made by a lender and the lender is liable for the penalty provided in section 48.196 and chapter 56 in connection with the loan or forbearance. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings and loan association, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, an industrial loan and thrift company organized under chapter 53, a licensed lender under chapter 56, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

Sec. 23. **REPEALER.**

Minnesota Statutes 1980, Sections 53.04, Subdivisions 3, 4, 6, and 7; 53.051; 56.06; 56.13; 56.15, Subdivision 2; and 56.20 are repealed.

Sec. 24. **TEMPORARY PROVISIONS; APPLICABILITY.**

Any transactions entered into prior to the effective date of sections 1 to 22 may be enforced according to their terms to the extent lawful when made.

Approved May 27, 1981

Changes or additions are indicated by underline, deletions by ~~strikeout~~.