

Sec. 2. Minnesota Statutes 1984, section 317.66, subdivision 1, is amended to read:

Subdivision 1. **BENEFITS FOR MEMBERS.** When duly authorized by its members or otherwise, a corporation formed for a religious purpose, may provide directly or through a church benefits board for:

(1) support and payment of benefits to its ministers, teachers, employees, or functionaries and to the ministers, teachers, employees, or functionaries of a nonprofit body affiliated with it or under its jurisdiction;

(2) payment of benefits to the widows, children, dependents, or other beneficiaries of the persons named in clause (1);

(3) collection of contributions and other payments; and,

(4) creation, maintenance, investment, management, and disbursement of necessary endowment, reserve, and other funds for these purposes, including any trust fund or corporation which funds a "church plan" as defined in section 414(e) of the Internal Revenue Code of 1954, as amended through December 31, 1985.

Sec. 3. Minnesota Statutes 1984, section 317.66, is amended by adding a subdivision to read:

Subd. 5. CHURCH BENEFITS BOARD. A "church benefits board" is an organization described in section 414(e)(3)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1985, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if the organization is controlled by or associated with a church or a convention or association of churches.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective the day after final enactment.

Approved March 19, 1986

CHAPTER 339—H.F.No. 671

An act relating to financial institutions; authorizing interstate acquisition and formation of banks between this state and certain states on a reciprocal basis; amending Minnesota Statutes 1984, sections 46.044; and 48.512; proposing coding for new law in Minnesota Statutes, chapters 48 and 51A.

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

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

Section 1. Minnesota Statutes 1984, section 46.044, is amended to read:

46.044 CHARTERS ISSUED, CONDITIONS.

If (1) the applicants are of good moral character and financial integrity, (2) there is a reasonable public demand for this bank in this location, (3) the organization expenses being paid by the subscribing shareholders do not exceed the necessary legal expenses incurred in drawing incorporation papers and the publication and the recording thereof, as required by law, (4) the probable volume of business in this location is sufficient to insure and maintain the solvency of the new bank and the solvency of the then existing bank or banks in the locality without endangering the safety of any bank in the locality as a place of deposit of public and private money, and (5) the commissioner of commerce is satisfied that the proposed bank will be properly and safely managed, and (6) the applicant, if it is an interstate bank holding company, as defined in section 6, has provided developmental loans as required by section 14, and has complied with the net new funds reporting requirements of section 4, the application must be granted; otherwise it must be denied. In case of the denial of the application, the commissioner of commerce shall specify the grounds for the denial. A person aggrieved, may obtain judicial review of the determination in accordance with chapter 14.

Sec. 2. [48.1585] GOVERNMENT CHECKS.

No financial institution with deposits insured by the federal deposit insurance corporation owned by an interstate bank holding company doing business in this state may refuse to honor a check or draft drawn on the account of the United States treasury, the state of Minnesota, or any county within the state of Minnesota, that is presented by an individual offering sufficient identification.

Sec. 3. Minnesota Statutes 1984, section 48.512, is amended by adding a subdivision to read:

Subd. 6. BASIC SERVICES TRANSACTION ACCOUNT. A financial intermediary owned by an interstate bank holding company shall offer a basic services transaction account to eligible individuals. For purposes of this subdivision:

(a) "basic services transaction account" means a transaction account that has no initial or periodic service fees, allows at least six checks per month to be drawn on the account without charge, and allows at least six free financial transactions per month on an electronic financial terminal; and

(b) "eligible individual" means a person whose annual family income is less than the federal poverty income guidelines as published annually in the Federal Register, or a person receiving income maintenance and support services as defined in section 268.0111, subdivision 5.

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Sec. 4. [48.90] LEGISLATIVE INTENT.

Subdivision 1. SEVERABILITY. It is the express intention of the Minnesota legislature to act pursuant to the United States Code, title 12, section 1842(d) to provide an orderly transition to interstate banking by initially permitting limited interstate banking on a regional basis. Therefore, notwithstanding the provisions of section 645.20, if any provision of this act, other than sections 1 to 3, and 14, providing for the supervisory powers of the commissioner or limiting expansion into this state to bank holding companies located in states defined as "reciprocating states" is determined by final, nonappealable order of any Minnesota or federal court of competent jurisdiction to be invalid or unconstitutional, this entire act is null and void and of no further force and effect from the effective date of the final determination.

Subd. 2. NONAFFECTED ACTIVITIES. This act should not be construed to limit the power granted to a bank in this state to conduct its business or to limit the conduct of business by any bank holding company in which the operation of its banking subsidiaries are principally conducted in this state.

Subd. 3. PROHIBITED ACTIVITIES. This act does not authorize:

(1) the establishment in this state of branch offices of a banking subsidiary of any out-of-state bank holding company making an acquisition pursuant to this act if the banking subsidiary does not have its principal place of business in this state; or

(2) the establishment in this state of branch offices of a bank having its principal place of business in this state unless authorized by sections 47.51 to 47.57.

Sec. 5. [48.91] TITLE.

This act may be cited as the "reciprocal interstate banking act."

Sec. 6. [48.92] DEFINITIONS.

Subdivision 1. TERMS. When used in sections 1 to 9, the terms defined in this section have the meanings given them, unless their context requires a different meaning.

Subd. 2. CONTROL. "Control" means, with respect to a bank holding company, bank, or bank to be organized pursuant to chapters 46, 47, 48, and 300, (1) the ownership, directly or indirectly or acting through one or more other persons, control of or the power to vote 25 percent or more of any class of voting securities; (2) control in any manner over the election of a majority of the directors; or (3) the power to exercise, directly or indirectly, a controlling influence over management and policies.

Subd. 3. BANK. "Bank" means any bank, or bank and trust company which is now or may hereafter be organized under the laws of this state that is an insured institution as the term is defined in section 3(h) of the Federal Deposit Insurance Act, United States Code, title 12, section 1813(h), that:

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(1) accepts deposits that the depositor has a legal right to withdraw on demand; and

(2) engages in the business of making commercial loans.

Subd. 4. COMMISSIONER. "Commissioner" means the commissioner of commerce of the state of Minnesota.

Subd. 5. DEPARTMENT. "Department" means the department of commerce of the state of Minnesota.

Subd. 6. LOCATED IN THIS STATE. "Located in this state" means: (1) a bank whose organizational certificate identifies an address in this state as the principal place of conducting the business of banking; or (2) a bank holding company as defined in the Bank Holding Company Act of 1956, as amended, with banking subsidiaries, the majority of whose deposits are in Minnesota.

Subd. 7. RECIPROCATING STATE. "Reciprocating state" is: (1) a state that authorizes the acquisition, directly or indirectly, or control of, banks in that state by a bank or bank holding company located in this state under conditions substantially similar to those imposed by the laws of Minnesota as determined by the commissioner; and (2) limited to the states of Iowa, North Dakota, South Dakota, and Wisconsin.

Subd. 8. RECIPROCATING STATE BANK HOLDING COMPANY. "Reciprocating state bank holding company" means a bank holding company as defined in the Bank Holding Company Act of 1956, as amended, whose operations are principally conducted in a reciprocating state other than Minnesota and is that state in which the operations of its banking subsidiaries are the largest in terms of total deposits.

Subd. 9. INTERSTATE BANK HOLDING COMPANY. "Interstate bank holding company" means (a) a bank holding company located in this state, engaging in interstate banking under reciprocal legislation, (b) a reciprocating state bank holding company engaged in banking in this state, and (c) other out-of-state bank holding companies operating an institution located in this state having deposits insured by the federal deposit insurance corporation.

Subd. 10. EQUITY CAPITAL. "Equity capital" means the sum of common stock, preferred stock, and surplus and undivided profits.

Sec. 7. [48.93] ACQUISITION PROCEDURE.

Subdivision 1. APPLICATION. A reciprocating state bank holding company may, through a purchase of stock or assets of a bank, or through a purchase of stock or assets of or merger with a bank holding company, acquire an interest in an existing bank or banks located in this state if it meets the conditions in this section and, if the interest will result in control of the bank or banks, it files an application in writing with the commissioner on forms provided by the department. The commissioner, upon receipt of the application, shall act upon

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it within 30 days of the end of the public comment period provided by section 12, and, unless he or she disapproves the proposed acquisition within that period of time, it becomes effective without his or her approval, except that the commissioner may extend the 30-day period an additional 30 days if in his or her judgment any material information submitted is substantially inaccurate or the acquiring party has not furnished all the information required by subdivision 3 or the commissioner. No application for approval required by this section is complete unless accompanied by an application fee of \$5,000 payable to the state treasurer. Compliance with the requirements of this section satisfies the requirements of section 48.03, subdivision 4. Within three days after his or her decision to disapprove any proposed acquisition, the commissioner shall notify the acquiring party in writing of the disapproval. The notice must provide a statement of the basis for the disapproval.

Subd. 2. HEARINGS. Within ten days of receipt of notice of disapproval pursuant to subdivision 1, the acquiring party may request an agency hearing on the proposed acquisition. At the hearing, all issues must be determined on the record pursuant to Minnesota Statutes, chapter 14 and the rules issued by the department. At the conclusion of the hearing, the commissioner shall by order approve or disapprove the proposed acquisition on the basis of the record made at the hearing.

Subd. 3. CRITERIA FOR APPROVAL. Except as otherwise provided by rule of the department, an application filed pursuant to subdivision 1 must contain the following information:

(1) the identity, personal history, business background, and experience of each person by whom or on whose behalf the acquisition is to be made, including his or her material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he or she is a party and any criminal indictment or conviction of that person by a state or federal court;

(2) a statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five years immediately preceding the date of the notice, together with related statements of income, sources, and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each person, together with related statements of income, source, and application of funds as of a date not more than 90 days prior to the date of the filing of the notice;

(3) the terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made;

(4) the identity, source, and amount of the funds or other consideration to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the

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purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with those persons;

(5) any plans or proposals which an acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it, or make any other major change in its business or corporate structure or management;

(6) the identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his or her behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of the employment, retainer, or arrangement for compensation;

(7) copies of all invitations, tenders, or advertisements making tender offers to stockholders for purchase of their stock to be used in connection with the proposed acquisition;

(8) a statement of how the acquisition will bring "net new funds" to Minnesota. The description of net new funds must be filed with the application and annually thereafter stating the amount of capital funds, including the increase in equity capital that will result from the acquisition or establishment of a bank. The level of total equity capital must exceed \$3,000,000 for a new chartered bank and \$1,000,000 for an acquired bank. The description must state the net increase in loanable funds expressed as an increase in the total loan to asset ratio of Minnesota loans and assets. The statement must also include a discussion of initial capital investments, loan policy, investment policy, dividend policy, and the general plan of business, including the full range of consumer and business services which will be offered; and

(9) any additional relevant information in the form the commissioner requires by rule or by specific request in connection with any particular notice.

Subd. 4. DISAPPROVAL. The commissioner shall disapprove any proposed acquisition if:

(1) the financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;

(2) the competence, experience, integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit the person to control the bank;

(3) the acquisition will result in undue concentration of resources or substantial lessening of competition in this state;

(4) the application fails to adequately demonstrate that the acquisition proposal would bring net new funds into Minnesota; or

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(5) the application is incomplete or any acquiring party neglects, fails, or refuses to furnish the commissioner all the information required by him or her.

Subd. 5. APPEALS. The court of appeals of the state of Minnesota will have exclusive original jurisdiction of any judicial review of an order issued under this section. The bank holding company that is the subject of the order may seek judicial review at any time within 90 days of the date of an order lawfully issued pursuant to this section.

Sec. 8. [48.94] NEW BANK APPLICATION.

Any application to organize a bank pursuant to chapter 45 may include control by a reciprocating state bank holding company if, in addition to the conditions in section 46.041, the application does not present any facts which would be grounds for disapproval in section 7, subdivision 4, and if the application would result in the acquisition and operation of no more than one bank in this state by the same reciprocating state bank holding company.

Sec. 9. [48.95] VIOLATIONS.

Subdivision 1. DIVESTITURE; CEASE AND DESIST. In the event a reciprocating state bank holding company makes an acquisition other than in full compliance with the requirements and procedures of this act the commissioner may:

(1) by order immediately require the reciprocating state bank holding company to divest itself of its direct or indirect ownership or control of any bank located in this state; or

(2) by order require the reciprocating state bank holding company to cease and desist the violations by a date certain. The order would be subject to the procedures applicable to cease and desist proceedings pursuant to sections 46.23 to 46.33 and any applicable rules.

Subd. 2. NET NEW FUNDS; MISREPRESENTATION. If the commissioner determines that at any time subsequent to the acquisition of a bank located in this state by a reciprocating state bank holding company it has materially misrepresented or substantially failed to conform to the statement submitted in the application required by section 7, subdivision 3, clause (8), the determination shall be considered prima facie evidence of a violation subject to the divestiture or cease and desist procedures in subdivision 1. In any proceeding under this section, the burden of proving compliance with the requirements of this act is upon the reciprocating state bank holding company.

Sec. 10. [48.96] SUPERVISION.

The department may enter into cooperative and reciprocal agreements with federal or bank regulatory authorities of reciprocating states for exchange or acceptance of reports of examination and other records from the authorities in lieu of conducting its own examinations. The department may enter into joint actions with federal or bank regulatory authorities of reciprocating states to carry out its responsibilities under this act and assure compliance with the laws of this state.

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Sec. 11. [48.97] REPORTS.

Subdivision 1. REGULAR AND PERIODIC REPORTS. Any reciprocating state bank holding company that directly or indirectly, through any subsidiary, acquires a bank pursuant to this act shall file with the commissioner copies of all regular and periodic reports which the bank holding company is required to file under section 13 or 15(d) of the Securities and Exchange Act of 1934, as amended, excluding any portions not available to the public, and such other reports as the commissioner may require by rule.

Subd. 2. INVESTMENT; REPORTING REQUIREMENTS. Each financial institution located in this state owned by an interstate bank holding company shall fully and accurately disclose in an annual report to the commissioner of commerce the dollar value and volume of loans by zip code tract approved in the previous year in non-real estate commercial and farm lending categories established by the commissioner. Lending categories must be delineated in sufficient detail to evaluate the lender's loan performance. Loan categories may include: demand or accrual notes, installment loans, equipment loans, inventory or accounts receivable loans, small business administration loans, and FmHA guaranteed loans. Housing loans must be disclosed statewide in the same manner and form as required by the Federal Home Mortgage Disclosure Act. The annual report must also disclose by zip code tract the dollar value and volume of deposits receiving during the previous year. The annual report must also disclose information by the categories required in section 14 demonstrating that developmental loans of a sufficient quantity are being made. The report must be accompanied by a copy of the most recent disclosures required under the Federal Community Reinvestment Act and the most recent Quarterly Statement of Income and Conditions.

Subd. 3. RATING. On the basis of the reports required in this section, the commissioner of commerce shall annually rate each financial institution owned by an interstate bank holding company on its lending performance. The commissioner shall adopt by rule a five point rating scale based on the financial institution's performance in meeting the credit needs of the community and its performance in reaching its targeted level of developmental loans. A rating may be contested under the contested case proceedings of chapter 14.

Subd. 4. RATING REPORTS. The commissioner of commerce shall make all ratings and reports available to the public upon request as provided by section 12. The ratings must be accompanied by an explanation of the rating assigned to each bank and the rationale behind the rating system.

Sec. 12. [48.98] PUBLIC PARTICIPATION.

Subdivision 1. PUBLIC INFORMATION. Consistent with federal law, the commissioner shall make available to the public at reasonable cost copies of all applications, including supporting documents and any other information required to be submitted to the commissioner.

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Subd. 2. NOTICE. Upon the filing of an application:

(1) an applicant shall publish in a newspaper of general circulation notice of the proposed acquisition as prescribed by the commissioner by rule;

(2) the commissioner shall prepare and update with each new application a bulletin listing all pending applications. The bulletin must be published and mailed without charge to any person upon request; and

(3) the commissioner shall accept public comment on an application for a period of not less than 30 days from the date of the final publication required by clause (1), or 30 days after the date of the availability of the first periodic bulletin required by clause (2), whichever is later.

Sec. 13. **[48.99] SPECIAL ACQUISITIONS AUTHORIZED.**

Subdivision 1. APPLICATION CRITERIA FOR APPROVAL. Pursuant to the present requirement of the United States Code, title 12, section 1842(d) and notwithstanding any other provision of state law, a reciprocating state bank holding company, or any subsidiary of the bank holding company, may acquire a bank located in this state where the commissioner has determined that a merger, consolidation, or purchase of assets and assumption of liabilities is necessary and in the public interest to prevent the probable failure of a bank. The acquisition is subject to the prior written approval of the commissioner of an application submitted under this section and after the following considerations:

(1) the financial and managerial resources of the applicant;

(2) the future prospects of the applicant and the state bank or its subsidiary whose assets, interest in, or shares it will acquire;

(3) the financial history of the applicant;

(4) whether the acquisition or holding may result in undue concentration of resources or substantial lessening of competition in this state;

(5) the convenience and needs of the public of this state; and

(6) whether the acquisition or holding will strengthen the financial condition of the state bank.

Subd. 2. INTRASTATE PRIORITY. In determining the priority of applications submitted to seek approval to acquire a bank located in this state which meets the criteria in subdivision 1, the commissioner shall give first consideration to the approval of applications from applicants located in this state, then to reciprocating state bank holding companies.

Subd. 3. SUPERVISION. The department may enter into cooperative and reciprocal agreements with federal or bank regulatory authorities of other states

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for exchange or acceptance of reports of examination and other records from the authorities in lieu of conducting its own examinations of acquiring reciprocating state bank holding companies. The department may enter into joint actions with federal or bank regulatory authorities of other states to carry out its responsibilities under this act and assure compliance with the laws of this state.

Subd. 4. REPORTS. A reciprocating state bank holding company that directly or indirectly, through any subsidiary, acquires a bank pursuant to this act shall file with the commissioner copies of all regular and periodic reports which the bank holding company is required to file under section 13 or 15(d) of the Securities and Exchange Act of 1934, as amended, but excluding any portions not available to the public, and such other reports as the commissioner may require by rule.

Sec. 14. [48.911] DEVELOPMENTAL LOANS.

A financial institution located in this state owned by an interstate bank holding company shall provide a level of developmental loans as defined by the commissioner by rule. A "developmental loan" includes, but is not limited to, (1) loans for low and moderate income housing, loans to community development corporations, loans to woman and minority owned businesses, student education loans, and alternative energy or energy conservation loans, and (2) loans within distressed areas and on any Indian reservation for any commercial non-real estate purpose, home loans, home improvement loans, and operating loans to family farmers. The commissioner of commerce shall annually designate distressed areas. A distressed area may be made for a geographic region smaller than a county within the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington. The determination of a distressed area should be made on the area's unemployment rate, economic conditions, and credit needs.

Sec. 15. [48.992] EXEMPTION.

Subdivision 1. RESOLUTION. The board of directors of a bank or a bank holding company located in this state may adopt a resolution before July 1, 1987, to exempt the bank or bank holding company from section 4. If the board of directors adopts the resolution and files a certified copy of it as required by subdivision 2, the bank or bank holding company may not be acquired under section 4.

Subd. 2. FILING. If a resolution is adopted under this section, the board of directors shall file a certified copy of the resolution with the department in person or by certified mail. The board of directors may revoke the resolution by notifying the department in writing of its decision to revoke the resolution.

Sec. 16. [51A.58] INTERSTATE BRANCHING.

An association may, by acquisition, merger, or consolidation, establish or operate branch offices in any reciprocating state, and a savings and loan association chartered in the state may establish branch offices in this state. For the purposes of this section, "reciprocating state" is: (1) a state that authorizes the establishment of branch offices in that state by an association located in this state under conditions no more restrictive than those imposed by the laws of Minnesota as determined by the commissioner of commerce; and (2) limited to

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the states specifically enumerated as reciprocating states in section 6, subdivision 7.

The commissioner of commerce shall adopt rules to provide that procedural requirements equivalent to those contained in sections 1 to 9 apply to reciprocal interstate branching by savings and loan associations.

Sec. 17. **EFFECTIVE DATE.**

(a) Sections 1 to 3 and 9 are effective the day following final enactment.

(b) If paragraph (c) does not apply, sections 4 to 8 are effective July 1, 1986.

(c) If any reciprocating state enacts legislation that permits bank holding companies located in this state to acquire banks or bank holding companies in that state, and that piece of legislation has an effective date prior to July 1, 1986, which apply to these acquisitions, then this act is effective on that date of enactment, but in no event may sections 4 to 8 be effective prior to July 1, 1985.

Approved March 19, 1986

CHAPTER 340—H.F.No. 1800

An act relating to local government; authorizing the counties of Becker, Grant, Hubbard, Otter Tail, Stevens, Todd, Traverse, Wadena, and Wilkin to enter into contracts and agreements for solid waste management.

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

Section 1. COUNTIES; SOLID WASTE MANAGEMENT, CONTRACTS.

Any of Becker, Grant, Hubbard, Otter Tail, Stevens, Todd, Traverse, Wadena, and Wilkin counties may jointly negotiate and enter into contracts, for a term not to exceed 30 years, for the management of solid waste generated in the counties. A contract made by joint negotiations must be approved by resolution adopted by the county board of each county that agrees. A contract may be dissolved, before the date specified in the contract, only by resolution adopted by the county board of all the counties that have agreed.

Sec. 2. JOINT POWERS AGREEMENT.

Becker, Grant, Hubbard, Otter Tail, Stevens, Todd, Traverse, Wadena, and Wilkin counties may enter into a joint powers agreement for the management of solid waste under section 1. Other counties that enter into a joint powers agreement under Minnesota Statutes, section 471.59, with Becker, Grant, Hubbard, Otter Tail, Stevens, Todd, Traverse, Wadena, and Wilkin counties may enter into contracts under section 1 in the same manner as the counties in section 1.

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