

Minnesota Statutes 1986, sections 152.19; and 609.531, subdivisions 2, 3, and 6, are repealed.

Sec. 18. EFFECTIVE DATE.

Sections 1, 2, and 4 to 17 are effective August 1, 1988, and apply to crimes committed and violations occurring on or after that date. Section 3 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the Hennepin county board of commissioners.

Approved April 26, 1988

CHAPTER 666—S.F.No. 1956

An act relating to financial institutions; savings and loan associations; defining terms; adding clarifying language; regulating incorporations; regulating mutual to stock conversions; providing for corporate governance of capital stock associations; regulating the powers of saving associations; regulating deposit accounts; regulating investments; regulating terms and conditions of loans, contracts, and extensions of credit; amending Minnesota Statutes 1986, sections 51A.02; 51A.03, by adding a subdivision; 51A.041, subdivisions 1 and 4, and by adding a subdivision; 51A.05, subdivision 1, and by adding a subdivision; 51A.06, subdivision 3; 51A.065, subdivisions 1, 3, 4, 8, and by adding a subdivision; 51A.07; 51A.10; 51A.11, subdivision 1; 51A.12; 51A.13; 51A.15, subdivision 2; 51A.17; 51A.19, subdivisions 1, 8, and 10; 51A.21, subdivisions 1, 5, 7, 9, 14, 15, 17, 21, and by adding subdivisions; 51A.251; 51A.261; 51A.262; 51A.28; 51A.31, subdivision 1; 51A.32; 51A.35; 51A.361; 51A.37, subdivisions 1, 2, 3, 4, and by adding subdivisions; 51A.38, subdivisions 1, 2, 3, 4, 5, 7, and 8; 51A.40; 51A.44, subdivision 1; 51A.48; 51A.50; 51A.51, subdivision 1; 51A.53; 51A.56; and 118.005, subdivision 1; Minnesota Statutes 1987 Supplement, section 51A.23, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 48 and 51A; repealing Minnesota Statutes 1986, sections 51A.03, subdivision 2a; 51A.05, subdivisions 3, 4, and 5; 51A.091; 51A.11, subdivision 3; 51A.18; 51A.19, subdivisions 2 and 3; 51A.21, subdivisions 6 and 19; 51A.23, subdivisions 2, 3, 4, and 5; 51A.37, subdivisions 7 and 9; 51A.38, subdivision 6; and 51A.39.

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

Section 1. [48.194] INSTALLMENT SALES CONTRACTS; LOANS.

A person may enter into a credit sale or service contract for sale to a state or national bank doing business in this state, and a bank may purchase and enforce the contract under the terms and conditions set forth in section 66, subdivision 2. A state bank or national bank may extend credit pursuant to the terms and conditions set forth in section 66.

Sec. 2. Minnesota Statutes 1986, section 51A.02, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

51A.02 DEFINITIONS.

Subdivision 1. **SCOPE.** When used in sections 51A.01 to 51A.57, the words and phrases defined in this section have the meanings given them, except to the extent that any such word or phrase specifically is qualified by its context.

Subd. 2. **AFFILIATE.** "Affiliate" means a person or organization controlled by, controlling, or under common control with another person or organization.

Subd. 3. **AGREEMENT.** "Agreement" means the bargain of the parties in fact as found in their contract language or by implication from other circumstances including course of dealings, usage of trade, or course of performance.

Subd. 4. **AGRICULTURAL PURPOSE.** "Agricultural purpose" means a purpose relating to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and their products, including processed and manufactured products, and products raised or produced on farms, including processed or manufactured products.

Subd. 5. **AMOUNT FINANCED.** "Amount financed" has the meaning given the term in the Code of Federal Regulations, title 12, part 226.

Subd. 6. **ANNUAL PERCENTAGE RATE.** "Annual percentage rate" has the meaning given the term in the Code of Federal Regulations, title 12, part 226.

Subd. ~~2~~ **7. ASSOCIATION.** "Association" means a mutual or capital stock savings association or savings and loan association ~~subject to~~ chartered under the provisions of sections 51A.01 to 51A.57.

Subd. 8. **BRANCH OFFICE.** "Branch office" means an office other than the home office at which deposit accounts are opened and loans are made.

Subd. 9. **BUSINESS PURPOSE.** "Business purpose" means a purpose other than personal, family, household, or agricultural purpose.

Subd. ~~2a~~ **10. CAPITAL STOCK.** "Capital stock" means the aggregate of shares of nonwithdrawable capital issued by a capital stock association, but does not include nonwithdrawable capital represented by capital certificates.

Subd. 11. **CARD ISSUER.** "Card issuer" means a person who provides credit by issuing a credit card.

Subd. 12. **CARDHOLDER.** "Cardholder" means a person to whom a credit card is issued or who has agreed with the card issuer to pay obligations arising from the issuance to or use of the card by another person.

Subd. ~~3~~ **13. COMMISSIONER.** "Commissioner" means the commissioner of commerce of the state of Minnesota.

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Subd. 4. ~~DIRECT REDUCTION LOAN.~~ "Direct reduction loan" means a loan or other obligation repayable in consecutive monthly installments, equal or unequal, beginning not later than 90 days after the date of the advance, sufficient to retire the debt, interest, and principal within 40 years; the initial contract of which shall not provide for any subsequent monthly installment of interest and principal of an amount larger than any previous monthly installment, except that provisions may be contained in the contract which specify that one or more consecutive monthly installments may be lapsed to the extent that monthly installments have been made ahead of schedule or, in the event of an emergency to the borrower affecting the borrower's ability to pay, to the extent of no more than six monthly installments but that nevertheless the full amount of principal and interest shall be paid within the scheduled term of the loan; provided, that in the case of construction loans the first installment under the contract shall be payable not later than 18 months after the date of the first advance. The loan or obligation is an amortized loan.

Subd. 4a. ~~DIRECT REDUCTION LOAN.~~ Pursuant to rules the commissioner finds necessary and proper "direct reduction loan" also means renegotiable rate notes or bonds secured by mortgages or trust deeds where the notes or bonds do not exceed 95 percent of the appraised value of the security for the same.

For the purposes of this subdivision, a renegotiable rate mortgage loan is a loan issued for a term of three years to five years, secured by a mortgage maturing in not to exceed 30 years, and automatically renewable at equal intervals after the original loan term which may be up to six months shorter or longer than subsequent terms. The loan must be repayable in equal monthly installments of principal and interest during the loan term, in an amount at least sufficient to amortize a loan with the same principal and at the same interest rate over the remaining life of the mortgage.

In the mortgage documents, the association must grant to the borrower an option to renew the loan for a new term, but not beyond the maturity date of the mortgage, at a new interest rate which shall be the association's current market rate of interest on similar loans determined 60 days before the due date of the loan; provided, that the maximum interest rate increase shall be equal to one-half of one percent per year multiplied by the number of years in the loan term with a maximum net increase of five percent over the life of the mortgage. Interest rate increases are optional with the association; net decreases from the previous loan term are mandatory.

The borrower may not be charged costs connected with the renewal of the loan.

Sixty days before the due date of the loan, the association shall send a written notification to the borrower containing the following information: (i) The date on which the entire balance of borrower's loan is due and payable; (ii) a statement that the loan will be renewed automatically by the association at the rate specified in the notice unless the borrower pays the loan by the due date; (iii) the amount of the monthly payment, calculated according to the new rate

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determined at the time of notice; (iv) a statement that the borrower may prepay the loan without penalty at any time after the original loan becomes due and payable; and (v) the name and phone number of an association employee who will answer the borrowers' questions concerning the information in the notice.

An applicant for a renegotiable rate mortgage loan must be given, at the time an application is requested, written disclosure materials prepared in reasonably simple terms that contain at least the following information: (i) An explanation of how a renegotiable rate mortgage differs from a standard fixed rate mortgage; (ii) an example of a renegotiable rate mortgage indicating the maximum possible interest rate increase and monthly payment calculated on that rate at the time of the first renewal; and (iii) an explanation of how the association determines what the rate will be at the end of each loan term.

Subd. 14. CONDITIONAL SALE CONTRACT. "Conditional sale contract" means a contract evidencing a credit sale.

Subd. 15. CONSPICUOUS. "Conspicuous" means, in reference to a term or clause, that it is written so that a reasonable person against whom it is to operate ought to have noticed it.

Subd. 16. CONSUMER. "Consumer" means the debtor to whom credit is granted in a consumer loan.

Subd. 17. CONSUMER LOAN. "Consumer loan" means a loan made by an association in which:

(1) the debtor is a person other than an organization;

(2) the debt is incurred primarily for a personal, family, household, or agricultural purpose; and

(3) the debt is payable in installments or a finance charge is made.

Subd. 18. CREDIT. "Credit" means the right granted by an association to a borrower to defer payment of debt, to incur debt and defer its payment, or to purchase property or services and defer payment.

Subd. 19. CREDIT CARD. "Credit card" means a card or device issued under an arrangement pursuant to which a card issuer gives to a cardholder the privilege of obtaining credit from the card issuer or other person in purchasing or leasing property or services, obtaining loans, or otherwise. A transaction is "pursuant to a credit card" only if credit is obtained according to the terms of the arrangement by transmitting information contained on the card or device orally, in writing, by mechanical or electronic methods, or in any other manner. A transaction is not "pursuant to a credit card" if the card or device is used solely in that transaction to:

(1) identify the cardholder or evidence the cardholder's creditworthiness and credit is not obtained according to the terms of the arrangement;

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(2) obtain a guarantee of payment from the cardholder's deposit account, whether or not the payment results in a credit extension to the cardholder by the card issuer; or

(3) effect an immediate transfer of funds from the cardholder's deposit account by electronic or other means, whether or not the transfer results in a credit extension to the cardholder by the card issuer.

Subd. 20. CREDIT SALE. "Credit sale" means a sale of goods, services, or an interest in land in which:

(1) credit is granted by a seller who regularly engages as a seller in credit transactions of the same kind; and

(2) the debt is payable in installments or a finance charge is made.

Subd. 21. DEMAND DEPOSIT ACCOUNT. "Demand deposit account" has the meaning given the term in the Code of Federal Regulations, title 12, part 204.

Subd. 22. DEPOSIT ACCOUNT. "Deposit account" means funds deposited with an association in the form of a savings account, time deposit account, NOW account, demand deposit account, or treasury and tax loan account.

Subd. 23. DWELLING UNIT. "Dwelling unit" means a single, unified combination of rooms designed for residential use by one family in a multiple dwelling unit structure, and which is not "home property."

Subd. 24. EARNINGS. "Earnings" means that part of the sources available for payment of earnings of an association which is declared payable on savings accounts from time to time by the board of directors, and is the cost of savings money to the association. Earnings also may be referred to as "interest" or "dividends."

Subd. 25. FEDERAL ASSOCIATION. "Federal association" means an association or savings bank with its home office in this state and chartered under the federal Home Owners' Loan Act of 1933, United States Code, title 12, sections 1461 to 1470.

Subd. 26. FINANCE CHARGE. "Finance charge" has the meaning given the term in the Code of Federal Regulations, title 12, part 226, except that the following will not in any event be considered a finance charge:

(1) a charge as a result of default or delinquency under section 66 if made for actual unanticipated late payment, delinquency, default, or other similar occurrence, unless the parties agree that these charges are finance charges;

(2) any additional charge under section 66, subdivision 5; or

(3) a discount, if an association purchases a contract evidencing a contract sale at less than the face amount of the obligation or purchases or satisfies

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obligations of a cardholder pursuant to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation.

Subd. ~~7~~ 27. **FINANCIAL INSTITUTION.** "Financial institution" means a ~~thrift institution~~ savings association, commercial bank, trust company, credit union, or industrial loan and thrift company ~~or investment company~~.

Subd. 28. HOME OFFICE. "Home office" means the office of the association designated by it as its principal office.

Subd. ~~8~~ 29. **HOME PROPERTY.** "Home property" means real estate on which there is located, or will be located pursuant to a real estate loan, either a structure designed for residential use by one family or a single condominium unit, or unit in a residential cooperative, including all elements pertinent thereto, designed for residential use by one family in a multiple dwelling unit structure or complex, and includes fixtures, furnishings and equipment.

Subd. ~~9~~ 30. **IMPAIRED CONDITION.** "Impaired condition" means a condition in which, based upon accepted examination practices, the assets of an association do not have an aggregate value equal to the aggregate amount of liabilities of the association to its creditors, including its members and all other persons.

Subd. ~~10~~ 31. **IMPROVED REAL ESTATE.** "Improved real estate" means real estate on which there is a structure or an enclosure, or which is reclaimed, prepared as building lots or sites, or otherwise occupied, made better, more useful, or of greater value by care so as to provide an enjoyment thereof.

Subd. ~~11~~ 32. **INSURED ASSOCIATION.** "Insured association" means an association the ~~saving~~ deposit accounts of which are insured wholly or in part in accordance with the provisions of sections 51A.01 to 51A.57.

Subd. 33. LENDER CREDIT CARD. "Lender credit card" means a credit card issued by an association or federal association.

Subd. ~~12~~ 34. **LIQUID ASSETS.** "Liquid assets" means cash on hand; cash on deposit in federal home loan banks, state banks performing similar reserve functions, commercial banks, or insured ~~savings and loan associations~~ savings and loan associations or federal associations, which is withdrawable upon not more than 30 days' notice and which is not pledged as security for indebtedness, except that any deposits in a bank under the control or in the possession of any supervisory authority shall not be considered as liquid assets; and obligations of the United States, or such government guaranteed obligations as are approved by the Federal Savings and Loan Insurance Corporation.

Subd. 35. LOAN. "Loan":

(a) Except as provided in paragraph (b), "loan" includes:

(1) the creation of debt by the association's or federal association's payment of or agreement to pay money to the borrower or to a third person for the account of the borrower;

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(2) the creation of debt pursuant to a lender credit card in any manner, including a cash advance or the card issuer's honoring a draft or similar order for the payment of money drawn or accepted by the borrower, paying or agreeing to pay the borrower's obligation, or purchasing or otherwise acquiring the borrower's obligation from the obligee or the borrower's assignee;

(3) the creation of debt by a cash advance to a borrower pursuant to an overdraft line of credit arrangement;

(4) the creation of debt by a credit to an account with the lender upon which the borrower is entitled to draw immediately;

(5) the forbearance of debt arising from a loan; and

(6) the creation of debt pursuant to open-end credit.

(b) "Loan" does not include the forbearance of debt arising from a sale or lease.

Subd. 43 36. MEMBER. "Member" means a person holding a savings deposit account of ~~an~~ a mutual association, and a person borrowing from or assuming or obligated upon a loan or interest therein held by ~~an~~ a mutual association, or purchasing property securing a loan or interest held by ~~an~~ a mutual association, and any other person obligated to ~~an~~ a mutual association. A joint and survivorship relationship, whether of savers or borrowers, constitutes a single membership.

Subd. 37. MONEY MARKET DEPOSIT ACCOUNT. "Money market deposit account" has the meaning given the term in the Code of Federal Regulations, title 12, part 561.

Subd. 44 38. NET INCOME. "Net income" means gross revenues for an accounting period less all expenses paid or incurred, taxes, and losses sustained as shall not have been charged to reserves pursuant to the provisions of sections 51A.01 to 51A.57.

Subd. 39. NOW ACCOUNT. "NOW account" has the meaning given the term in the Code of Federal Regulations, title 12, part 561.

Subd. 40. OFFICIAL FEES. "Official fees" means:

(1) fees and charges which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, terminating, or satisfying a security interest or mortgage related to a loan;

(2) premiums payable for insurance in lieu of perfecting a security interest or mortgage otherwise required by an association in connection with a loan, if the premium does not exceed the fees and charges described in clause (1) which would otherwise be payable.

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Subd. ~~45~~ 41. ONE BORROWER. "One borrower" means (1) any person or entity which is, or which upon the making of a loan will become, obligor on a real estate loan, (2) nominees of such obligor, (3) all persons, trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock, and (4) if such obligor is a trust, partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock of such obligor.

Subd. 42. OPEN-END CREDIT. "Open-end credit" means an arrangement pursuant to which:

(1) an association may permit a borrower, from time to time, to obtain loans, including but not limited to an overdraft checking line of credit arrangement, a secured or unsecured line of credit agreement, or a credit card line of credit;

(2) the amounts financed and the finance and other appropriate charges are debited to an account; and

(3) the finance charge, if made, is computed on the account periodically.

Subd. 43. ORGANIZATION. "Organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, joint venture, cooperative, or association.

Subd. 44. PAYABLE IN INSTALLMENTS. "Payable in installments" means that payment is required or permitted by agreement to be made in more than four periodic payments. If any periodic payment under an agreement requiring or permitting two or more periodic payments is more than twice the amount of any other periodic payment, a loan is "payable in installments."

Subd. 45. PERSON. "Person" means a natural person or an organization.

Subd. 16. PRIMARILY RESIDENTIAL PROPERTY. "Primarily residential property" means real estate on which there is located or will be located pursuant to a real estate loan, any of the following: a structure or structures designed or used primarily for residential rather than nonresidential purposes and consisting of more than one dwelling unit; a structure or structures designed or used primarily for residential rather than nonresidential purposes for students, residents, and persons under care, employees or members of the staff of an educational, health, or welfare institution or facility; and a structure or structures which are used in part for residential purposes for not more than one family and in part for business purposes, provided that the residential use of such structure or structures must be substantial and permanent; and the area used for business purposes shall not exceed twice the area of the residence.

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Subd. ~~17~~ **46. PRIMARY LENDING AREA.** "Primary lending area" means the state of Minnesota.

Subd. ~~18~~ **47. REAL ESTATE LOAN.** "Real estate loan" means any loan or other obligation secured by a first lien on real estate held in fee or in a leasehold extending or renewable automatically for a period of at least ten years beyond the date scheduled for the final principal payment of such loan or obligation, or any transaction out of which a first lien or claim is created against such real estate, including inter alia the purchase of such real estate in fee by an association and the concurrent or immediate sale thereof on installment contract.

Subd. ~~19~~ **48. SAVINGS ACCOUNT.** "Savings account" means ~~that part of the savings liability of the association which is credited to the account of the holder thereof.~~ A savings account also may be referred to as a deposit any deposit account other than a time deposit account, a NOW account, a demand deposit account, or a treasury tax and loan account. Savings accounts include but are not limited to money market deposit accounts.

Subd. ~~20~~ **49. SAVINGS LIABILITY.** "Savings liability" means the aggregate amount of savings accounts of ~~members~~, including earnings credited to such accounts, less redemptions and withdrawals.

Subd. ~~21~~ **50. SERVICE ORGANIZATION.** "Service organization" means an affiliate organization substantially all the activities of which consist of ~~originating, purchasing, selling, and servicing loans upon real estate and participating interests therein; or clerical, bookkeeping, accounting, statistical, or similar functions performed primarily for savings and loan associations; as clearly permitted under appropriate federal laws or regulations; and such other activities as the commissioner may approve.~~

Subd. ~~22~~ **51. SOURCES AVAILABLE FOR PAYMENT OF EARNINGS.** "Sources available for payment of earnings" means net income for an accounting period less amounts transferred to reserves as provided in or permitted by sections 51A.01 to 51A.57, plus any balance of undivided profits whether same are designated as such or by other language from preceding accounting periods.

Subd. ~~22a~~ **52. STOCKHOLDER.** "Stockholder" means the holder of one or more shares of any class of capital stock of a capital stock association organized and operating pursuant to the provisions of Laws 1981, chapter 276.

Subd. ~~22b~~ **53. SURPLUS.** "Surplus" means the aggregate amount of the undistributed net income for an association held as undivided profits or unallocated reserves for general corporate purposes, and any paid-in surplus held by an association.

Subd. ~~23~~ **54. THRIFT INSTITUTION.** "Thrift institution" means an association, a mutual savings bank, a cooperative bank, a homestead association, ~~a savings and loan association,~~ a building and loan association, a federal

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savings association, a federal savings and loan association, and a supervised thrift and residential financing institution of a substantially similar nature.

Subd. 55. TIME DEPOSIT. "Time deposit" has the meaning given the term in the Code of Federal Regulations, title 12, part 204.

~~Subd. 24. UNAMORTIZED REAL ESTATE LOAN.~~ "Unamortized real estate loan" means a real estate loan repayable within five years from date, with or without amortization of principal, but with interest payable at least semiannually.

~~Subd. 25 56. WITHDRAWAL VALUE.~~ "Withdrawal value" means the amount credited to a savings deposit account of a member, less lawful deduction therefrom, as shown by the records of the association.

Sec. 3. Minnesota Statutes 1986, section 51A.03, is amended by adding a subdivision to read:

Subd. 2b. REGULATION OF CAPITAL STOCK ASSOCIATIONS. The incorporation, formation, and corporate governance of capital stock associations are governed by chapter 300, except to the extent the provisions of this chapter conflict with the provisions of chapter 300, in which case the provisions of this chapter govern.

Sec. 4. Minnesota Statutes 1986, section 51A.041, subdivision 1, is amended to read:

Subdivision 1. **SELECTION OF CHAIR OF INCORPORATORS; SURETY BOND REQUIRED; CAPITAL REQUIRED.** The incorporators of a capital stock association shall appoint one of their number as chair of the incorporators and the chair shall procure from a surety company or other surety acceptable to the commissioner, a surety bond in an amount at least equal to the amount of capital stock contributions, plus the additional amounts described in subdivision 2. The bond shall name the commissioner as obligee and shall be delivered to the commissioner. It shall assure the safekeeping of the funds described; their delivery to the association after the issuance of the certificate of incorporation and after the bonding of the officers; and, in the event of the failure to complete organization, the return of the amounts collected to the respective subscribers or their assigns, less reasonable expenses which shall be deducted from the paid-in surplus. Before a certificate of incorporation is issued, the capital of the association shall be paid in by subscribers to the chair in cash or authorized securities and shall be the sum of the par or initially stated value of all shares of voting capital stock. Each share of capital stock shall entitle the holder thereof to one vote. The minimum required capital shall be not less than \$500,000, provided the commissioner may require a larger amount to be paid in. No portion of the capital stock shall be withdrawn by any person or in any way, either in dividends or otherwise, except as provided by law. No dividend on capital stock shall be made except as provided in section 51A.21, subdivision 21. ~~No commissions, fees, or other remuneration shall be paid for the sale of shares of capital stock, and no incentive stock shall be issued.~~

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Sec. 5. Minnesota Statutes 1986, section 51A.041, is amended by adding a subdivision to read:

Subd. 1a. QUALIFICATIONS REQUIRED OF DIRECTORS OF STOCK ASSOCIATIONS. Except with the written consent of the commissioner, no person shall be eligible for election or shall serve as director or officer of an association who has been adjudicated a bankrupt or convicted of a criminal offense involving dishonesty or a breach of trust. A director shall automatically cease to be a director when adjudicated a bankrupt or convicted of a criminal offense as herein provided.

Sec. 6. Minnesota Statutes 1986, section 51A.041, subdivision 4, is amended to read:

Subd. 4. ISSUANCE OF CAPITAL STOCK. As of the date corporate existence begins, the association shall issue capital stock as necessary to satisfy the minimum capital requirements of this section and additional capital stock as may be approved for issuance by its board of directors up to the amount authorized in its certificate of incorporation, and thereafter shall issue no other shares except as authorized in Laws 1981, chapter 276. Any capital stock of an association, when issued, shall constitute permanent capital and shall not be retired or withdrawn except as hereinafter provided until all liabilities of the association have been satisfied in full, including the withdrawal value of all savings deposit accounts, and until outstanding capital certificates have been retired. An association may issue shares of common stock and preferred stock, with or without par value, and the common and preferred stock may be divided into classes and the classes into series. Capital stock of an association shall be issued pursuant to the following requirements:

(a) Except for stock issued pursuant to the incorporation of the association, an employee stock option plan, or other forms of stock-based compensation or a plan of merger, consolidation, conversion from a mutual to a capital stock association, or other type of reorganization which has been approved by the commissioner, the consideration for the issuance of capital stock shall be paid in cash. The par value or stated value of the stock shall be maintained as the permanent capital of the association, and any additional amount paid in shall be credited to paid-in surplus.

(b) The aggregate par value or stated value of all outstanding shares of capital stock shall be the permanent capital of the association, and except as otherwise specifically provided by Laws 1981, chapter 276 the capital stock shall not be retired until final liquidation of the association. No association shall reduce the par or stated value of its outstanding capital stock without first obtaining the written approval of the commissioner, and the approval shall be withheld if the reduction will cause the par or stated value of outstanding capital stock to be less than the minimum required by Laws 1981, chapter 276 or will result in less than adequate net worth as the commissioner may determine. No association shall retire any part of its capital stock unless the retirement is

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approved by the commissioner. With the written approval of the commissioner, an association may purchase its capital stock from the personal representative of a deceased stockholder; and with the written approval, an association may contract with a living stockholder for this purpose upon the stockholder's death. Any purchase shall be for the price, and upon the terms and conditions, agreed upon by the association and the stockholder or personal representative; provided, however, that the purchase shall not reduce the net worth accounts of the association, or any of them, to an amount less than required by applicable law or by any approved insurer of the association's savings accounts. An association agreeing with a stockholder to purchase that stockholder's capital stock upon the stockholder's death may purchase insurance upon the life of the stockholder to fund or partially fund the purchase. Any stock purchased from a decedent's personal representative may be resold by the association at the price, and upon the terms and conditions, as the board of directors of the association shall approve, or may be retired; provided, however, that prior to the resale, notice shall be filed with the commissioner disclosing the price, terms, and conditions of the proposed resale.

Sec. 7. Minnesota Statutes 1986, section 51A.05, subdivision 1, is amended to read:

Subdivision 1. **CORPORATE NAME.** The name of every association shall include either the words "savings association," word "saving" or "savings and loan association." These words shall be preceded by an appropriate descriptive word or words approved by the commissioner. An ordinal number may not be used as a single descriptive word preceding the words "savings association," or "savings and loan association," unless such words are followed by the words "of,," the blank being filled by the name of the community, town, city, or county in which the association has its principal office. An ordinal number may be used together with another descriptive word, preceding the words "savings association" or "savings and loan association," provided the other descriptive word has not been used in the corporate name of any other association in the state, in which case the suffix mentioned above is not required to be used. An ordinal number may be used, together with another descriptive word, preceding the words "savings association" or "savings and loan association," even when such other descriptive word has been used in the corporate name of an association in the state, provided the suffix "of,," as provided above, is also used. The suffix provided above may be used in any corporate name. The use of the words, "national," "federal," "United States," "insured," "guaranteed," or any form thereof, separately or in any combination thereof with other words or syllables, is prohibited as part of the corporate name of an association. No certificate of incorporation of a proposed association having the same name as a corporation authorized to do business under the laws of this state or a name so nearly resembling it as to be likely to deceive shall be issued by the commissioner, except to an association formed by the reincorporation, reorganization, or consolidation of the association with other associations, or upon the sale of the property or franchise of an association. The use of the words "national," "federal," or "United States," or any form of these words,

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separately or in any combination with other words or syllables, is prohibited as part of the corporate name of an association. Any association in existence at the time of the adoption of sections 51A.01 to 51A.57 may continue to operate under its existing name.

Sec. 8. Minnesota Statutes 1986, section 51A.05, is amended by adding a subdivision to read:

Subd. 3a. OFFICES. The association shall obtain approval from the commissioner pursuant to rules prior to opening a branch office. The association shall not change the location of any branch office without prior written approval of the commissioner. The association may, however, operate other business facilities not constituting branch offices as defined in section 51A.02, subdivision 8, including automated teller machines and loan production offices upon providing notice under this subdivision.

Sec. 9. Minnesota Statutes 1986, section 51A.06, subdivision 3, is amended to read:

~~Subd. 3. LIMITATION. No conversion of an association or a federal association, direct or indirect, shall be permitted except as specifically authorized by sections 51A.01 to 51A.57 or other provision of the Minnesota Statutes.~~

Sec. 10. Minnesota Statutes 1986, section 51A.065, subdivision 1, is amended to read:

~~Subdivision 1. TYPES OF CONVERSIONS. Any state mutual or capital stock association, state capital stock association, federal mutual savings and loan association or federal capital stock savings and loan or mutual or capital stock federal association, if substantial business benefit to the applicant will result, and if otherwise permitted by federal law and regulations, may apply to convert to one of the following other forms of organization: state mutual association, state capital stock association, federal mutual savings and loan mutual federal association, or federal capital stock savings and loan federal association in accordance with the provisions of subdivisions 2 to 4 and one of the three plans of conversion set forth in subdivisions 5 to 7. This section shall have no application to conversions where neither the converting nor the converted applicant is an association as defined in Laws 1981, chapter 276.~~

Sec. 11. Minnesota Statutes 1986, section 51A.065, subdivision 3, is amended to read:

~~Subd. 3. SUPERVISORY APPROVAL OF PLAN. Upon approval of the plan of conversion by the board of directors, the plan and the resolution approving it shall be submitted to the commissioner or other appropriate supervisory authority. The authority commissioner may approve or disapprove the plan of conversion in its discretion, but shall not approve the plan unless a finding is made, after appropriate examination, that: substantial business benefit to the applicant will result; the plan of conversion is fair and equitable; the interests of~~

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the applicant, its members or stockholders, its savings account holders and the public are adequately protected; and the converting applicant has complied with the requirements of this section. If the authority commissioner approves the plan of conversion, the approval, which shall be in writing and sent to the home office of the converting applicant, may prescribe terms and conditions to be fulfilled either before or after the conversion to cause the applicant to conform with the requirements of Laws 1981, chapter 276. If the authority commissioner disapproves the plan of conversion, the objections shall be stated in writing and sent to the home office of the converting applicant, and the applicant afforded an opportunity to amend and resubmit the plan within a reasonable time as prescribed by the authority. In the event that the authority commissioner disapproves the plan after resubmission, written notice of the final disapproval shall be sent by certified mail to the applicant's home office.

Sec. 12. Minnesota Statutes 1986, section 51A.065, subdivision 4, is amended to read:

Subd. 4. **SUBMISSION TO MEMBERS OR STOCKHOLDERS.** If the commissioner ~~or other appropriate supervisory authority~~ approves a plan of conversion in accordance with subdivision 3, the plan must be submitted for adoption to the members or stockholders of the converting applicant by vote at a meeting called to consider the action. Except in the case of a conversion of a state ~~an~~ association to a federally chartered ~~federal~~ association of like corporate form, or vice versa pursuant to subdivision 7 and in addition to any notice of annual or special meeting required by Laws 1981, chapter 276 and at least three weeks prior to the meeting, a copy of the plan, together with an accurate summary plan description explaining the operation of the plan and the rights, duties, obligations, liabilities, conditions, and requirements which may be imposed upon the members or stockholders and the converted applicant as a result of the adoption of the plan, must be mailed to each member or stockholder eligible to vote at the meeting. The plan of conversion may be approved by not less than a majority of the total number of votes eligible to be cast at the meeting. If the plan is approved, action must be taken to obtain a charter, articles of incorporation, articles of association or similar instrument, adopt bylaws, elect directors and officers and take other action prescribed or appropriate for the type of corporation into which the converting applicant will be converted. A certified report of the proceedings at the meeting must be filed promptly with the commissioner ~~or other appropriate supervisory authority~~.

Sec. 13. Minnesota Statutes 1986, section 51A.065, subdivision 8, is amended to read:

Subd. 8. **CERTIFICATE OF CONVERSION.** If the commissioner ~~or other appropriate supervisory authority~~ finds that a conversion proceeding has been completed in accordance with the requirements of this section ~~and any other applicable law and regulations~~, the authority commissioner shall issue to the applicant a certificate of conversion, attaching as a part of the certificate a copy of the charter, articles of incorporation, articles of association or similar instru-

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ment. The conversion shall not become effective until the issuance of the certificate as provided in this section.

Sec. 14. Minnesota Statutes 1986, section 51A.065, is amended by adding a subdivision to read:

Subd. 11. FEDERAL ASSOCIATION. Nothing in this section applies to the conversion of a federal association to another form of federally-chartered institution.

Sec. 15. Minnesota Statutes 1986, section 51A.07, is amended to read:

51A.07 POWER TO REORGANIZE, MERGE OR CONSOLIDATE.

Pursuant to a plan adopted by the board of directors and approved by the commissioner as equitable to the members or stockholders of the association and as not impairing the usefulness and success of other properly conducted associations in the community, an association shall have power to reorganize or to merge or consolidate with another association or federal association within its primary lending area; provided, that the plan of the reorganization, merger, or consolidation shall be approved at an annual meeting or at any special meeting of the members or stockholders called to consider the action by a vote of ~~54 percent or more~~ than 50 percent of the total number of votes of the members cast in person or by proxy. In all cases the corporate continuity of the resulting corporation shall possess the same incidents as that of an association which has converted in accordance with sections 51A.01 to 51A.57. No association, directly or indirectly, shall convert or reorganize, or merge, consolidate, assume liability to pay savings accounts or other liabilities of, transfer assets in consideration of the assumption of liabilities for any portion of the savings accounts, deposits made in, or other liabilities of the association to, or acquire the assets of or assume liability to pay any liabilities of, any financial institution or any other organization, person, or entity, except as specifically authorized by ~~sections 51A.01 to 51A.57~~ the commissioner. Any association aggrieved by any action or nonaction of the commissioner under this section may appeal therefrom and the proceedings shall be conducted pursuant to the provisions of the administrative procedure act relating to judicial review of agency decisions, sections 14.63 to 14.70, and the scope of judicial review in the proceedings shall be as provided therein.

Sec. 16. Minnesota Statutes 1986, section 51A.10, is amended to read:

51A.10 MEMBERSHIP CHARGES PROHIBITED.

The mutual association shall not directly or indirectly charge any membership, admission, withdrawal, or any fee or sum of money for the privilege of becoming, remaining, or ceasing to be a member of the mutual association, ~~except reasonable charges upon the making or modification of a loan charges authorized by this chapter.~~ Except as authorized by ~~sections 51A.01 to 51A.57~~ this chapter, the mutual association shall not charge any member any sum of money by way of fine or penalty for any cause, ~~except that a reasonable charge may be made against borrowers for defaults or prepayments.~~

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Sec. 17. Minnesota Statutes 1986, section 51A.11, subdivision 1, is amended to read:

Subdivision 1. **EXCLUSIVENESS OF ACCESS.** ~~Every member or stockholder shall have the right to inspect books and records of an association that pertain to that person's loan or savings account or the determination of that person's voting rights. Otherwise,~~ The right of inspection and examination of the books and records of an association including those pertaining to loans and accounts shall be limited (1) to the commissioner or duly authorized representatives as provided in sections 51A.01 to 51A.57, (2) to persons duly authorized by the association to act for the association, and (3) to affiliates, and (4) to any federal or state instrumentality or agency authorized by the association to inspect or examine the books and records of an insured association. The books and records pertaining to the accounts ~~and, loans of members, and voting rights of depositors, borrowers, or stockholders shall otherwise be kept confidential by the~~ such association, its directors, officers, and employees, and by the commissioner, the commissioner's examiners and representatives, except where the disclosure thereof shall be compelled by a court of competent jurisdiction or public authority in accordance with law, and no ~~member depositor, borrower, or stockholder~~ or any other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the ~~members depositors, borrowers, or stockholders~~ members depositors, borrowers, or stockholders except upon ~~express action and~~ authority of the board of directors.

Sec. 18. Minnesota Statutes 1986, section 51A.12, is amended to read:

51A.12 FINANCIAL STATEMENT; MUTUAL ASSOCIATIONS.

Every mutual association shall prepare and publish annually within 30 days of the close of the association's fiscal year in a newspaper of general circulation in the county in which the principal office of the association is located, and shall deliver to each member ~~or stockholder~~ upon application therefor, a statement of its financial condition in the form prescribed or approved by the commissioner.

Sec. 19. Minnesota Statutes 1986, section 51A.13, is amended to read:

51A.13 DIRECTORS OF MUTUAL ASSOCIATIONS.

Subdivision 1. **ASSOCIATION MUTUAL ASSOCIATIONS UNDER DIRECTION OF BOARD OF DIRECTORS.** The business of the association shall be directed by a board of directors of not less than five nor more than 15 as determined by, and elected by ballot from among, the members by a plurality of the votes of the members present. If authorized by vote of the members the directors may elect all directors. At all times at least two-thirds of the directors shall be bona fide residents of this state.

Subd. 2. **QUALIFICATIONS REQUIRED OF DIRECTORS OF MUTUAL ASSOCIATIONS.** Except with the written consent of the commissioner, no member shall be eligible for election or shall serve as a director or officer of an

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association who has been adjudicated a bankrupt or convicted of a criminal offense involving dishonesty or a breach of trust. A director shall automatically cease to be a director on ceasing to be a member, on being adjudicated a bankrupt, or on being convicted of a criminal offense as herein provided, but no action of the board of directors shall be invalidated through the participation of the director in the action. However, if a director becomes ineligible under the terms of this subdivision by reason of the exercise by the association of the right of redemption of savings accounts provided for in section 51A.34, the director shall remain validly in office until the expiration of the term of office or until the director otherwise becomes ineligible, resigns, or is removed, whichever may occur first.

~~Subd. 2a. QUALIFICATIONS REQUIRED OF DIRECTORS OF STOCK ASSOCIATIONS. Except with the written consent of the commissioner, no person shall be eligible for election or shall serve as director or officer of an association who has been adjudicated a bankrupt or convicted of a criminal offense involving dishonesty or a breach of trust. A director shall automatically cease to be a director when adjudicated a bankrupt or convicted of a criminal offense as herein provided.~~

Subd. 3. CLASSIFICATION OF DIRECTORS OF MUTUAL ASSOCIATIONS. At the first annual meeting, the members shall by majority vote divide the directors into three classes of as nearly equal numbers as possible. The term of office of directors of the first class shall expire at the annual meeting next after the first election; of the second class, one year thereafter; and of the third class, two years thereafter; and at each annual election thereafter directors shall be chosen for a full term of three years to succeed those whose terms expire.

Subd. 4. NUMBER OF DIRECTORS OF MUTUAL ASSOCIATIONS CHANGED ONLY BY MEMBERS. The authorized number of directors determined by the members within the limits hereinabove specified may subsequently be increased or decreased only by vote of the members.

Subd. 5. HOW VACANCY ON BOARD OF DIRECTORS OF MUTUAL ASSOCIATIONS CAUSED BY INCREASE IN NUMBER OF DIRECTORS IS TO BE FILLED. If the members fail to elect a director to fill each vacancy created by any increase, the directors may fill the vacancy by electing a director to serve until the next annual meeting of the members, at which time a director shall be elected to fill the vacancy for the unexpired term for the class of director in which the vacancy exists.

Subd. 6. CLASSIFICATION OF NEW DIRECTORS OF MUTUAL ASSOCIATIONS ELECTED TO FILL VACANCIES. Whenever under the provisions hereof the number of directors is changed and vacancies caused by the change are filled, the directors so elected shall be classified in accordance with the provisions hereof, so that each of the three classes shall always contain numbers as nearly equal as possible.

Subd. 7. WHEN VACANCY ON BOARD OF DIRECTORS OF MUTU-

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AL ASSOCIATIONS MAY BE FILLED BY DIRECTORS. Any vacancy among directors, not so filled by the members, may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting of the members, at which time a director shall be elected to fill the vacancy for the unexpired term for the class of director in which the vacancy exists. In event of a vacancy on the board of directors from any cause, the remaining directors shall have full power and authority to continue direction of the association until the vacancy is filled.

Sec. 20. [51A.131] DIRECTORS OF CAPITAL STOCK ASSOCIATIONS.

The duties and qualifications required of directors of capital stock associations are governed by chapter 300.

Sec. 21. Minnesota Statutes 1986, section 51A.15, subdivision 2, is amended to read:

Subd. 2. **DUAL STATUS.** No officer or director of an association shall hold office or status as a director or officer of another nonaffiliated financial institution the principal office of which is located in the association's primary lending area; except such directors or officers who are holding office at the time of the adoption of sections 51A.01 to 51A.57, and such directors or officers may continue to be reelected for two additional terms.

Sec. 22. Minnesota Statutes 1986, section 51A.17, is amended to read:

51A.17 INDEMNIFICATION OF OFFICERS, DIRECTORS AND EMPLOYEES.

~~Any person shall be indemnified or reimbursed by the association for reasonable expenses, including but not limited to attorney fees, actually incurred in connection with any action, suit, or proceeding, instituted or threatened, judicial or administrative, civil or criminal, to which that person is made a party by reason of being or having been a director, officer, or employee of an association; provided, however, that no person shall be so indemnified or reimbursed, nor shall that person retain any advancement or allowance for indemnification which may have been made by the association in advance of final disposition, in relation to such action, suit, or proceeding in which and to the extent that the person finally shall be adjudicated to have been guilty of a breach of good faith, to have been negligent in the performance of duties, or to have committed an action or failed to perform a duty for which there is a common law or a statutory liability; and provided further, that a person may, with the approval of the commissioner, be so indemnified or reimbursed for (1) amounts paid in compromise or settlement of any action, suit, or proceeding, including reasonable expenses incurred in connection therewith, or (2) reasonable expenses including fines and penalties incurred in connection with a criminal or civil action, suit, or proceeding in which such person has been adjudicated guilty, negligent, or liable if it shall be determined by the board of directors and by the commis-~~

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sioner that such person was acting in good faith and in what that person believed to be the best interests of the association and without knowledge that the action was illegal and if such indemnification or reimbursement is approved at an annual or special meeting of the members by a majority of the votes eligible to be cast. Amounts paid to the association, whether pursuant to judgment or settlement by any person within the meaning of this section shall not be indemnified or reimbursed in any case. The indemnification of officers, directors, and employees of associations is governed by section 300.083.

Sec. 23. Minnesota Statutes 1986, section 51A.19, subdivision 1, is amended to read:

Subdivision 1. **RECORDS TO BE KEPT AT PRINCIPAL HOME OFFICE.** Every association shall keep at the principal home office correct and complete books of account and minutes of the proceedings of members, directors, stockholders, and the executive committee. Complete records of all business transacted at the principal home office shall be maintained at the principal home office. Control records of all business transacted at other offices shall be maintained at the principal home office.

Sec. 24. Minnesota Statutes 1986, section 51A.19, subdivision 8, is amended to read:

Subd. 8. **APPRAISAL OF REAL ESTATE OWNED AND THAT SECURING DELINQUENT LOANS.** Every association shall have appraised each parcel of real estate at the time of acquisition thereof. The report of each ~~such~~ appraisal shall be ~~submitted in writing to the board of directors and shall be~~ kept in the records of the association. In addition to the powers under section 51A.44, subdivision 6, the commissioner may require the appraisal of real estate securing loans which are delinquent more than four months.

Sec. 25. Minnesota Statutes 1986, section 51A.19, subdivision 10, is amended to read:

Subd. 10. **MAINTENANCE OF MEMBERSHIP RECORDS.** Every mutual association shall maintain membership records, which shall show the name and address of the member, the status of the member as a savings account holder, or an obligor, or a savings account holder and obligor, and the date of membership thereof. In the case of members holding a savings account the mutual association shall obtain a savings account contract containing the signature of each holder of such account or a duly authorized representative, and shall preserve such contract in the records of the association.

Sec. 26. Minnesota Statutes 1986, section 51A.21, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** Every association incorporated pursuant to or operating under the provisions of sections 51A.01 to 51A.57 shall have all the powers enumerated, authorized, and permitted by sections 51A.01 to 51A.57

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and such other rights, privileges, and powers as may be incidental to or reasonably necessary or appropriate for the accomplishment of the objects and purposes of the association, and in addition shall have those powers possessed by corporations organized under chapter 300. Among others, and except as otherwise limited by the provisions of sections 51A.01 to 51A.57, every association shall have the powers set forth in this section.

Sec. 27. Minnesota Statutes 1986, section 51A.21, subdivision 5, is amended to read:

Subd. 5. **BORROWING.** ~~If and when an association is not a member of a federal home loan bank, To borrow from sources, individual or corporate, not more than an aggregate amount equal to one-fourth one-half of its savings liability total assets on the date of borrowing and additional sums the commissioner approves. If and when an association is a member of a federal home loan bank, to secure advances of not more than an aggregate amount equal to one-half of its savings liability; within the amount equal to one-half of its savings liability, the association may borrow from sources, individual or corporate other than the federal home loan bank, an aggregate amount not in excess of 20 percent of its savings liability.~~ The advance written approval of the commissioner, who has sole discretionary authority to grant or withhold such approval, is required for sources of borrowing other than financial institutions or federal home loan banks. A subsequent reduction of savings liability total assets shall not affect in any way outstanding obligations for borrowed money. All loans and advances borrowing under this subdivision may be secured by property of the association, and may be evidenced by notes, bonds, debentures, commercial paper, bankers' acceptances, or other obligations or securities, (except capital stock and capital certificates) the commissioner authorizes for all associations; provided, that authorization by the commissioner shall not be required in the case of securities guaranteed pursuant to section 306(g) of the National Housing Act of 1934, as amended.

Sec. 28. Minnesota Statutes 1986, section 51A.21, is amended by adding a subdivision to read:

Subd. 6a. LOANS AND CONTRACTS. To make, sell, purchase, invest in, and participate or otherwise deal in loans and conditional sale contracts and other forms of indebtedness and leases, and to take any manner of security for the loans and contracts.

Sec. 29. Minnesota Statutes 1986, section 51A.21, is amended by adding a subdivision to read:

Subd. 6b. BUSINESS PROPERTY. To acquire or own real property or interests in real property the directors consider necessary or convenient for the conduct of the business of the association, which for the purposes of sections 51A.01 to 51A.57 includes the ownership of stock of a wholly owned subsidiary corporation having as its exclusive activity the ownership and management of this property or interests. The amount so invested must not exceed the sum

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equal to five percent of net assets of the association, provided that the commissioner may authorize a greater amount to be so invested.

Sec. 30. Minnesota Statutes 1986, section 51A.21, subdivision 7, is amended to read:

Subd. 7. **INSURANCE OF ACCOUNTS.** To obtain and maintain insurance of its savings accounts by the federal savings and loan insurance corporation or any ~~agency of this state or~~ other federal agency established for the purpose of insuring savings accounts in associations.

Sec. 31. Minnesota Statutes 1986, section 51A.21, subdivision 9, is amended to read:

Subd. 9. **EMPLOYEES.** To appoint and remove officers, agents, and employees as its business shall require and to provide them suitable compensation; to provide for life, health, and casualty insurance for officers and employees, and to adopt and operate reasonable bonus plans and retirement benefits for such officers and employees; and to provide for indemnification of its officers, employees, and directors as prescribed or permitted in sections 51A.01 to 51A.57 whether by insurance or otherwise.

Sec. 32. Minnesota Statutes 1986, section 51A.21, subdivision 14, is amended to read:

Subd. 14. **SERVICING.** To service loans and investments for others; ~~provided that the maximum principal amount of loans and investments serviced for others at any one time shall not exceed 75 percent of the amount of the savings liability of such association.~~

Sec. 33. Minnesota Statutes 1986, section 51A.21, subdivision 15, is amended to read:

Subd. 15. **SAVINGS, LOANS, INVESTMENTS.** To acquire savings deposits and pay earnings thereon, and to lend and commit to lend, extend credit, and invest its funds as provided in sections 51A.01 to 51A.57.

Sec. 34. Minnesota Statutes 1986, section 51A.21, subdivision 17, is amended to read:

Subd. 17. **AGENCY.** To act as agent or holder of an escrow for others in any transaction incidental to the operation of its business.

Sec. 35. Minnesota Statutes 1986, section 51A.21, subdivision 21, is amended to read:

Subd. 21. **DIVIDENDS ON CAPITAL STOCK.** To declare and pay dividends on capital stock in cash or property out of the unreserved and unrestricted earned surplus of the association, or its own shares from time to time except when the association has failed within the preceding 12 months to make any

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minimum allocation to surplus or reserve accounts required by section 51A.20 or to maintain any minimum required level, and except when the association is in an impaired condition or when the payment thereof would cause the association to be in an impaired condition. ~~A split-up or division of the issued shares of capital stock into a greater number of shares without increasing the state capital of the association is authorized, and shall not be construed to be a dividend within the meaning of this section.~~

Sec. 36. Minnesota Statutes 1986, section 51A.21, is amended by adding a subdivision to read:

Subd. 22. LIMITED TRUSTEESHIP. To act and receive compensation as trustee of a trust created or organized in the United States and forming a part of a stock bonus, pension, or profit-sharing plan that qualifies or is qualified for specific tax treatment under section 401 of the Internal Revenue Code of 1986, as amended through December 31, 1987, and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of that code if the funds of the trust or account are invested only in savings accounts of the association or in obligations or securities issued by the association. All funds held in a fiduciary capacity by the association under the authority of this subdivision may be commingled and consolidated for appropriate purposes of investment if records reflecting each separate beneficial interest are maintained by the fiduciary unless the responsibility is lawfully assumed by another appropriate party.

Sec. 37. Minnesota Statutes 1986, section 51A.21, is amended by adding a subdivision to read:

Subd. 23. AUTOMATED TELLER MACHINES. To own or use automated teller machines and establish electronic financial terminals and transmission facilities as provided in sections 47.61 to 47.74.

Sec. 38. Minnesota Statutes 1986, section 51A.21, is amended by adding a subdivision to read:

Subd. 24. PAYROLL SAVINGS. To contract with an employer with respect to the following:

(1) Soliciting, collecting, and receiving savings by payroll deduction. These savings are to be credited to a designated account of an employee who may voluntarily participate in a payroll deduction plan.

(2) Direct deposit of wages or salary paid by the employer to an employee's account in a financial depository institution. Deposits may be made by electronic or other medium. Direct deposits may be made if the employee authorizes the deposits in writing and designates the association or other financial depository institution as the recipient of these deposits.

Sec. 39. Minnesota Statutes 1986, section 51A.21, is amended by adding a subdivision to read:

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Subd. 25. DRAFTS. To issue drafts and similar instruments drawn on the association to aid in effecting withdrawals and for other purposes of the association.

Sec. 40. Minnesota Statutes 1986, section 51A.21, is amended by adding a subdivision to read:

Subd. 26. DEPOSITS. To raise funds in the form of (1) savings accounts; (2) time deposit accounts; (3) NOW accounts; (4) demand deposit accounts; and (5) treasury tax and loan accounts.

Sec. 41. Minnesota Statutes 1986, section 51A.21, is amended by adding a subdivision to read:

Subd. 27. TRUST POWERS. Upon application and approval by the commissioner, to act as trustee, executor, administrator, personal representative, conservator, custodian, guardian, or in any other fiduciary capacity in which state banks, trust companies, or other corporations are permitted to act, and to receive reasonable compensation therefore.

Sec. 42. Minnesota Statutes 1987 Supplement, section 51A.23, subdivision 1, is amended to read:

Subdivision 1. **OWNERSHIP.** ~~Savings accounts may be opened and held solely and absolutely by, or in trust or other fiduciary capacity for, any person, including an adult or minor individual, male or female, single or married, partnership, association, fiduciary, or corporation. Trust funds received by a real estate broker or the broker's salespersons in trust may be deposited in a savings and loan association. Savings Deposit accounts shall be represented only by the account of each savings deposit account holder on the books of the association, and such the accounts or any interest therein shall be transferable only on the books of the association and upon proper written application by the transferee and upon acceptance by the association of the transferee as a member upon terms approved by the board of directors. The association may treat the holder of record of a savings account as the owner thereof of it for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing notice of a pledge of such savings the deposit account. Notwithstanding the foregoing, an association or federal association may offer negotiable time deposits.~~

An association may issue savings deposit accounts to or in the name of a minor, which shall be held for the exclusive right and benefit of the minor, free from the control or lien of all other persons, except creditors, and, together with dividends thereon, shall be paid to the minor, and receipt or acquittance in any form, shall be sufficient release and discharge of the association for withdrawal, until a guardian appointed in this state for the minor shall have delivered a certificate of appointment.

Sec. 43. Minnesota Statutes 1986, section 51A.251, is amended to read:

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51A.251 MARRIED PERSONS AND MINORS.

An association ~~and any federal association~~ may issue savings deposit accounts or negotiable order of withdrawal accounts to any married person or minor as the sole and absolute owner of the account, and receive payments thereon by or for the other, and pay withdrawals or drafts, accept pledges to the association, and act in any other manner with respect to the accounts on the order of the married person or minor. Any payment or delivery of rights to a married person or to any minor, or a receipt of or acquisition signed by a married person or by a minor who holds an account, shall be a valid and sufficient release and discharge of the association for any payment so made or delivery of rights to the married person or minor. In the case of a minor, the receipt, acquittance, pledge or other action required by the association to be taken by the minor shall be binding upon the minor as if the minor were of full age and legal capacity. The parent or guardian of the minor shall not in the capacity as parent or guardian have the power to attach or in any manner to transfer any account issued to or in the name of the minor; provided, however, that in the event of the death of the minor the receipt or acquittance of either parent or of a person standing in loco parentis to the minor shall be a valid and sufficient discharge of the association for any sum or sums not exceeding in the aggregate \$2,500 unless the minor shall have given written notice to the association to accept the signature of the parent or person.

Sec. 44. Minnesota Statutes 1986, section 51A.261, is amended to read:

51A.261 DEPOSITS IN NAME OF MINOR.

A deposit made at an association in the name of a minor, or shares issued in a minor's name, shall be held for the exclusive right and benefit of the minor, free from the control or lien of all other persons except creditors, and together with the dividends or interest thereon shall be paid the minor, and the minor's receipt, check, or acquittance in any form shall be a sufficient release and discharge of the depository for the deposits or shares, or any part thereof, until a conservator or guardian appointed for the minor has delivered a certificate of appointment to the depository.

Sec. 45. Minnesota Statutes 1986, section 51A.262, is amended to read:

51A.262 MULTIPARTY ACCOUNTS.

When any deposit is made in the names of two or more persons jointly, or by any person payable on death (P.O.D.) to another, or by any person in trust for another, the rights of the parties and the ~~financial institution~~ association are determined by chapter 528.

Sec. 46. Minnesota Statutes 1986, section 51A.28, is amended to read:

51A.28 ACCOUNTS OF ADMINISTRATORS, EXECUTORS, GUARDIANS, CUSTODIANS, TRUSTEES, AND OTHER FIDUCIARIES.

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Any association ~~or federal association~~ may accept savings deposit accounts in the name of any administrator, executor, custodian, conservator, guardian, trustee, or other fiduciary for a named beneficiary or beneficiaries. Any such fiduciary shall have power to vote as a member in a mutual association as if the membership were held absolutely, to open and to make additions to, and to withdraw any such account in whole or in part. The withdrawal value of any such account, and earnings thereon, or other rights relating thereto may be paid or delivered, in whole or in part, to such fiduciary without regard to any notice to the contrary as long as such fiduciary is living. The payment or delivery to any such fiduciary or a receipt or acquittance signed by any such fiduciary to whom any such payment or any such delivery of rights is made shall be a valid and sufficient release and discharge of an association for the payment or delivery so made. Whenever a person holding an account in a fiduciary capacity dies and no written notice of the revocation or termination of the fiduciary relationship shall have been given to an association and the association has no written notice of any other disposition of the beneficial estate, the withdrawal value of such account, and earnings thereon, or other rights relating thereto may, at the option of an association, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries. The payment or delivery to any such beneficiary, beneficiaries, or designated person, or a receipt or acquittance signed by any such beneficiary, beneficiaries, or designated person for any such payment or delivery shall be a valid and sufficient release and discharge of an association for the payment or delivery so made. This section does not apply to a P.O.D. account under chapter 528.

Sec. 47. Minnesota Statutes 1986, section 51A.31, subdivision 1, is amended to read:

Subdivision 1. **LEGAL INVESTMENTS.** Administrators, executors, custodians, conservators, guardians, trustees, and other fiduciaries of every kind and nature, insurance companies, business and manufacturing companies, banks, trust companies, credit unions, and other types of similar financial organizations, charitable, educational, eleemosynary and such public corporations as are authorized by law, funds, and organizations, are specifically authorized and empowered to invest funds held by them, without any order of any court, in savings accounts of savings associations which are under state supervision, and in accounts of federal associations organized under the laws of the United States and under federal supervision, and such investments shall be deemed and held to be legal investments for such funds.

Sec. 48. Minnesota Statutes 1986, section 51A.32, is amended to read:

51A.32 EARNINGS.

Subdivision 1. MUTUAL ASSOCIATION. ~~An~~ A mutual association may pay earnings on its savings accounts from sources available for payment of earnings at such rate and at such times and for such time or notice periods as shall be determined by resolution of its board of directors. All savings deposit

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account holders shall participate equally in earnings pro rata to the withdrawal value of their respective accounts, except that an association may classify its savings deposit accounts according to the character, amount, or duration thereof, or regularity of additions thereto, and may agree in advance to pay an additional or different rate of earnings not to exceed one percent over and above the rate of earnings paid on all savings deposit accounts on accounts based on such classification, and shall regulate such earnings in such manner that each savings deposit account in the same classification shall receive the same ratable portion of such additional earnings, except for accounts which shall be classified according to a specified contractual time or notice period. Earnings shall be declared on the withdrawal value of each savings deposit account at the beginning of the accounting period, plus additions thereto made during the period (less amounts previously withdrawn and noticed for withdrawal, which for earnings purposes shall be deducted from the latest previous additions thereto) computed at the declared rate for the time the funds have been invested, determined as next provided. The date of investment shall be the date of actual receipt by the association of an account or an addition to an account, except that if the board of directors shall so determine, accounts in one or more classifications or additions thereto received by the association on or before a date not later than the 20th day of the month in which such payments were received; if the board shall make such determination, it also shall determine that payments received subsequent to such determination date shall either (1) receive earnings as if invested on the first day of the next succeeding month, or (2) receive earnings from the date of actual receipt by the association. Unless the commissioner shall issue approval in writing, no earnings shall be declared or paid for an accounting period unless the allocation to the general reserve for the preceding accounting period required by section 51A.20 or approved by the commissioner thereunder has been made. Notwithstanding the provisions of the second sentence of this section, the board of directors, by resolution, may determine that earnings shall not be paid on any savings deposit account which has a withdrawal value of a specified amount less than \$50 or which by written agreement is intended to be closed within a specified period less than 15 months from the date on which ~~such~~ savings ~~the~~ account is opened, provided that an exception may be made and earnings paid on savings deposit accounts opened pursuant to section 51A.24. The directors shall determine by resolution the method of calculating the amount of any earnings on savings accounts as herein provided, and the time or times when earnings are to be declared, paid, or credited.

Subd. 2. CAPITAL STOCK ASSOCIATIONS. A capital stock association may pay interest, if any, on its savings accounts in accordance with the terms of the account contract.

Sec. 49. Minnesota Statutes 1986, section 51A.35, is amended to read:

51A.35 INVESTMENT IN SECURITIES.

~~Savings~~ Associations shall have power to invest in securities as follows:

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(a) **INVESTMENTS NOT SUBJECT TO LIMITATION.** Without limit, in obligations of, or obligations which are fully guaranteed as to principal and interest by, the United States or this state or the political subdivision of this state in stock or obligations of any federal home loan bank or banks; in stock or obligations of the federal savings and loan insurance corporation; in demand, time, or savings deposits, shares or accounts, or other obligations of any financial institution the accounts of which are insured by a federal agency.

(b) **INVESTMENTS SUBJECT TO 25 PERCENT OF ASSETS LIMITATION.** Not in excess of 25 percent of its assets in (1) bonds, notes, or other evidences of indebtedness which are a general obligation of, or guaranteed as to principal and interest by, any agency or instrumentality of the United States not specified in subparagraph (a) or of this state, or any city, town, county, district, or other municipal corporation or political subdivision of this state, or any instrumentality or authority of any one or more of the foregoing; (2) capital stock, obligations, or other securities of service organizations, provided that the aggregate of such investments shall not thereupon exceed ~~one~~ three percent of its assets liabilities.

Sec. 50. Minnesota Statutes 1986, section 51A.361, is amended to read:

51A.361 RESERVES.

An association shall maintain reserves in the form of liquid assets, as defined in section 51A.02, subdivision ~~1~~ 34, at a level reasonably necessary to meet anticipated withdrawals, commitments, and loan demand. The commissioner of commerce may prescribe the required amount of reserves for any individual association from time to time based upon examination findings or other reports relating to the association that are available to the commissioner. The determination by the commissioner of a required amount of reserves for an association shall not be considered a rule as defined by section 14.02, subdivision 4. Reserves for an individual association as prescribed by the commissioner pursuant to this section shall be enforced in accordance with sections 46.24 and 46.30 to 46.33.

Sec. 51. Minnesota Statutes 1986, section 51A.37, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** Every ~~savings~~ association shall have power to invest in loans and other investments as set forth in this section.

Sec. 52. Minnesota Statutes 1986, section 51A.37, subdivision 2, is amended to read:

Subd. 2. **SAVINGS ACCOUNT LOANS.** Loans secured by its savings accounts ~~to the extent of the withdrawal value thereof~~.

Sec. 53. Minnesota Statutes 1986, section 51A.37, subdivision 3, is amended to read:

Subd. 3. **REAL ESTATE LOANS.** Real estate loans in any amount ~~not exceeding the value of the security~~, subject to the following conditions:

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(a) No association shall make a real estate loan to one borrower if the sum of (1) the amount of the loan and (2) the total balances of all outstanding real estate loans owed to the association by the borrower exceeds an amount equal to ten percent of the association's savings liability or an amount equal to the sum of the association's reserves for losses and undivided profits, whichever amount is less, except that any such loan may be made if the sum of (1) and (2) does not exceed \$100,000.

(b) An association may (1) participate with one or more financial institutions; or other entities having a tax exemption under section 501(a) of the internal revenue code; in any real estate loan of the type in which the association is authorized to invest on its own account; provided that the participating interest of the association is not subordinated or inferior to any other participating interest; and (2) participate in real estate loans with other than financial institutions or those entities described, provided that the participating interest of the association is superior to the participating interests of the other participants.

(c) (b) The aggregate balances outstanding of real estate loans on real estate located outside the primary lending area of an association shall at no time exceed ten percent of the assets of the association, except that (1) loans insured or guaranteed in whole or in part by the United States, or a federal agency and (2) loans in which an association owns or has purchased no more than a 75 percent participation interest are not subject to this restriction; and

(d) Direct reduction real estate loans on home property and not in excess of 90 percent of the value of the security except as may be provided by the Federal Home Loan Bank Board for federally insured associations; and direct reduction real estate loans on primarily residential property not in excess of 80 percent of the value of the security; including participating interests in the loans; shall average annually; based on monthly computations; at least 70 percent of assets; other than liquid assets; held by the association.

(e) (c) Real estate loans on home property by mortgage or contract for deed, as provided in clauses paragraphs (a) through (d) above and (b) with no limit on purchase or sale thereof; and may participate with other lenders in the making, purchasing, or selling of the loans; provided (1) the property securing same is within 100 miles of the servicing office of the other lender or lenders and (2) that the other lender or lenders participate to the extent of at least ten percent in the loan and further provided not more than 25 percent of the assets of the association licensed hereunder shall be in the loan.

(f) (d) An association may purchase, at any sheriff's, judicial, or other sale, public or private, any real estate upon which it has a mortgage, judgment, or other lien, or in which it has any interest. It may acquire title to any real estate on which it holds any lien, in full or part satisfaction thereof, and may sell, convey, hold, lease, or mortgage the same. In transactions involving the purchase by a vendee of improved real estate for home purposes; or for the con-

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~~struction of a home, a savings and loan an association organized under the laws of this state, or of the United States of America, may, when authorized by its bylaws, acquire the title thereof, and it may give to the vendee a contract to convey the same as upon a sale thereof. Provided, that no association shall hereafter invest more than 50 percent of its assets in such contracts to convey. Upon default in the conditions of the contract, the association may terminate the interest of the vendee or the vendee's representatives or assigns by serving the notice provided by section 559.21, upon the vendee, or the vendee's representative or assigns.~~

Sec. 54. Minnesota Statutes 1986, section 51A.37, subdivision 4, is amended to read:

Subd. 4. **INSURANCE POLICY LOANS.** Loans secured by the pledge of policies of life insurance, the assignment of which is properly acknowledged by the insurer; ~~but not exceeding the cash value of such policies providing such pledge is made as additional collateral for real estate, home improvement, or manufactured home loans.~~

Sec. 55. Minnesota Statutes 1986, section 51A.37, is amended by adding a subdivision to read:

Subd. 10. CONSUMER LOANS. Consumer loans.

Sec. 56. Minnesota Statutes 1986, section 51A.37, is amended by adding a subdivision to read:

Subd. 11. BUSINESS LOANS. Loans to organizations and natural persons for business purposes.

Sec. 57. Minnesota Statutes 1986, section 51A.37, is amended by adding a subdivision to read:

Subd. 12. AGRICULTURAL LOANS. Loans for agricultural purposes.

Sec. 58. Minnesota Statutes 1986, section 51A.37, is amended by adding a subdivision to read:

Subd. 13. LOAN TO ONE BORROWER LIMITS. (a) No mutual association shall make a loan to one borrower if the sum of (1) the amount of the loan and (2) the total balances of all outstanding loans owed to the association by the borrower exceeds an amount equal to ten percent of the association's savings liability or an amount equal to the sum of the association's reserves for losses and undivided profits, whichever amount is less, except that any such loan may be made if the sum of clauses (1) and (2) does not exceed \$500,000.

(b) No stock association shall make a loan to one borrower if the sum of (1) the amount of the loan and (2) the total balances of all outstanding loans owed to the association by the borrower exceeds an amount equal to ten percent of the association's savings liability or an amount equal to the sum of the association's reserves for losses and capital and surplus, whichever amount is less,

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except that any such loan may be made if the sum of clauses (1) and (2) does not exceed \$500,000.

Sec. 59. Minnesota Statutes 1986, section 51A.38, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** Real estate loans and other loans secured by a mortgage on real estate that are eligible for investment by an association under sections 51A.01 to 51A.57 may be written upon the plan set forth in according to this section and section 66, or upon any other plan approved by the commissioner.

Sec. 60. Minnesota Statutes 1986, section 51A.38, subdivision 2, is amended to read:

Subd. 2. **APPRAISAL.** No investment in a real estate loan, the proceeds of which are used for the purchase of the real estate, shall be made until a qualified person or persons approved by the board of directors shall have made a physical inspection and submitted a signed appraisal of the value of the real estate securing such loan.

Sec. 61. Minnesota Statutes 1986, section 51A.38, subdivision 3, is amended to read:

Subd. 3. **PAYMENTS.** Payments on real estate loans shall be applied first to other charges, then to the payment of interest on the unpaid balance of the loan, and the remainder on the reduction of principal; provided that if the loan is in default in any manner or is being assumed by the assignee of the mortgage, payments may be applied by the association to payment of penalties or assumption charges as provided in the loan contract. All real estate loans may be prepaid in part or in full, at any time and the association shall not charge for such privilege of anticipatory payment an amount greater than 5 percent of the amount of such anticipatory payment. An association may charge a borrower a prepayment fee on any loan that is not a consumer loan. Unless otherwise agreed in writing, any prepayment of principal on any loan may, at the option of the association, be applied on the final installment of the note or other obligation until fully paid, and thereafter on the installments in the inverse order of their maturity, or, at the option of the association, the payments may be applied from time to time wholly or partially to offset payments which subsequently accrue under the loan contract.

Sec. 62. Minnesota Statutes 1986, section 51A.38, subdivision 4, is amended to read:

Subd. 4. **EVIDENCE OF LOAN.** Every loan shall be evidenced by a note or instrument of obligation for the amount of the loan. The note or instrument shall specify the amount, rate of interest, or manner of calculating the rate of interest of a variable rate loan, and terms of repayment including any prepayment penalty or charge for late payment, mortgage assumption fee, and may contain all other terms of the loan contract.

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Sec. 63. Minnesota Statutes 1986, section 51A.38, subdivision 5, is amended to read:

Subd. 5. **SECURITY INSTRUMENT FOR LOANS SECURED BY REAL ESTATE.** Every ~~real estate loan secured by a mortgage on real property, including a real estate loan,~~ shall be secured evidenced by a mortgage, deed of trust, or other transaction or instrument constituting a ~~first~~ lien or claim; ~~or the full equivalent thereof,~~ upon the real estate securing the loan, according to any lawful and recognized practice which is suited to the transaction. Any such instrument or transaction ~~constituting a first lien or claim is herein termed a "mortgage."~~ Such mortgage shall provide specifically for ~~full protection to the association with respect to such loan and additional advances and~~ the usual insurance risks, ground rents, taxes, assessments, other governmental levies, maintenance, and repairs. It may provide for an assignment of rents, and if such assignment is made, any such assignment shall be absolute upon the borrower's default, becoming operative upon written demand made by the association. All such mortgages shall be recorded in accordance with the law of this state.

Sec. 64. Minnesota Statutes 1986, section 51A.38, subdivision 7, is amended to read:

Subd. 7. **ADVANCES FOR TAXES.** An association may pay taxes, assessments, ground rents, insurance premiums, and other similar charges for the protection of ~~its real estate loans~~ any loan secured by a mortgage on real property, including a real estate loan. All such payments shall be added to the unpaid balance of the loan and shall be equally secured by the ~~first~~ lien on the property ~~as provided above.~~ An association may require life insurance to be assigned as additional collateral upon any real estate loan. In such event, the association shall obtain a ~~first~~ lien upon such policy and may advance premiums thereon, and such premium advances shall be added to the unpaid balance of the loan and shall be equally secured by ~~the first~~ a lien on the property as provided above.

Sec. 65. Minnesota Statutes 1986, section 51A.38, subdivision 8, is amended to read:

Subd. 8. **PROVISION FOR TAXES, INSURANCE.** An association may require ~~the a borrower on~~ any loan secured by a mortgage on real property, including a real estate loan, to pay monthly in advance, in addition to interest or interest and principal payments, the equivalent of 1/12 of the estimated annual taxes, assessments, insurance premiums, ground rents, and other charges upon the real estate securing a loan, or any of such charges, so as to enable the association to pay such charges as they become due from the funds so received. The amount of such monthly charges may be increased or decreased so as to provide reasonably for the payment of the estimated annual taxes, assessment, insurance premiums, and other charges. The association at its option may hold such funds in trust and commingle them with other such funds and use the same

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for such purposes, or hold such funds in open account and commingle them with its own funds and advance like amounts for such purposes, or credit such funds as received to the mortgage account and advance a like amount for the purposes stated. If such funds are held in trust or invested in savings accounts, the amounts ~~shall~~ may be pledged to further secure the indebtedness and, if held in open account or credited to the loan account, the amounts when advanced for the purposes stated ~~shall~~ may be secured by the mortgage with the same priority as the original amount advanced under the mortgage. The association shall have no obligation to pay interest, earnings, or other increment to the borrower upon such monthly payments, nor to invest the same for the benefit of the borrower, unless such funds have been placed in a savings account or accounts in the borrower's name. Every association shall keep a record of the status of taxes, assessments, insurance, ground rents, and other charges on all real estate securing its real estate loans and on all real and other property owned by it.

Sec. 66. [51A.385] **TERMS AND CONDITIONS OF LOANS, CONTRACTS, AND EXTENSIONS OF CREDIT.**

Subdivision 1. APPLICATION. Except as otherwise provided in this section, this section applies to loans made and contracts purchased by federal and state associations, and "association" as used in this section applies to federal and state associations.

Subd. 2. FINANCE CHARGE FOR CREDIT SALES MADE BY A THIRD PARTY. (a) A person may enter into a credit sale contract for sale to an association and an association may purchase and enforce a contract evidencing the sale, if the annual percentage rate provided for in the contract does not exceed that permitted in this section, or, in the case of contracts governed by sections 168.66 to 168.77, the rates permitted by those sections.

(b) Except as provided in subdivision 4, the annual percentage rate may not exceed the equivalent of the greater of either of the following:

(1) the total of:

(i) 36 percent per year on that part of the unpaid balances of the amount financed which is \$300 or less;

(ii) 21 percent per year on that part of the unpaid balances of the amount financed which exceeds \$300 but does not exceed \$1,000; and

(iii) 15 percent per year on that part of the unpaid balances of the amount financed which exceeds \$1,000; or

(2) 19 percent per year on the unpaid balances of the amount financed.

(c) This subdivision does not limit or restrict the manner of calculating or charging the finance charge whether by way of add-on, discount, discount points, single annual percentage rate, precomputed charges, variable rate, interest in advance, compounding or otherwise, if the annual percentage rate calculated

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under paragraph (d) does not exceed that permitted by this section. The finance charge may be contracted for and earned at the single annual percentage rate that would earn the same finance charge as the graduated rates when the debt is paid according to the agreed terms and the finance charge is calculated under paragraph (d). If the finance charge is calculated or collected in advance, or included in the principal amount of the contract, and the borrower prepays the contract in full, the association shall credit the borrower with a refund of the charge to the extent the charge would exceed the annual percentage rate on the contract as originally determined under paragraph (d) and taking into account the prepayment. For the purpose of calculating the refund, the association may assume that the contract was paid before the date of prepayment according to the schedule of payments under the contract and that all payments were paid on their due dates. For contracts repayable in substantially equal successive monthly installments, the association may calculate the refund as the portion of the finance charge allocable to all unexpired payment periods following the date of prepayment, based on the annual percentage rate on the contract as originally determined under paragraph (d), and for the purpose of calculating the refund may assume that all payments are made on the due date.

(d) The annual percentage rate must be calculated in accordance with Code of Federal Regulations, title 12, part 226, but using the definition of finance charge in section 51A.02, and computed on the basis of a 365-day year.

Subd. 3. FINANCE CHARGE FOR LOANS. Except as provided in subdivision 4:

(a) With respect to a loan, including a loan pursuant to open-end credit but excluding open-end credit pursuant to a credit card, an association may contract for and receive a finance charge at an annual percentage rate not exceeding 19 percent per year. With respect to open-end credit pursuant to a credit card, an association may contract for and receive a finance charge at an annual percentage rate not exceeding 18 percent per year. With respect to a loan, the finance charge shall be considered not to exceed the maximum annual percentage rate permitted pursuant to this section if the finance charge contracted for and received does not exceed the equivalent of the maximum annual percentage rate computed on a 365-day year calculated in accordance with Code of Federal Regulations, title 12, part 226, but using the definition of finance charge in section 51A.02.

(b) This subdivision does not limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount, single annual percentage rate, variable rate, interest in advance, compounding, average daily balance method, or otherwise, if the annual percentage rate does not exceed that permitted by this section. With respect to a loan secured by real estate, including a real estate loan, if a finance charge is calculated or collected in advance, or included in the principal amount of the loan, and the borrower prepays the loan in full, the association shall credit the borrower with a refund of the charge to the extent that the annual percentage rate on the loan would exceed the maxi-

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mum rate permitted under paragraph (a), taking into account the prepayment. With respect to all other loans, if the finance charge is calculated or collected in advance, or included in the principal amount of the loan, and the borrower prepays the loan in full, the association shall credit the borrower with a refund of the charge to the extent the charge would exceed the annual percentage rate on the loan as originally determined under paragraph (a) and taking into account the prepayment. For the purpose of calculating the refund under this subdivision, the association may assume that the contract was paid before the date of prepayment according to the schedule of payments under the loan and that all payments were paid on their due dates. For loans repayable in substantially equal successive monthly installments, the association may calculate the refund under this subdivision as the portion of the finance charge allocable to all unexpired payment periods following the date of prepayment, based on the annual percentage rate on the loan as originally determined under paragraph (a), and for the purpose of calculating the refund may assume that all payments are made on the due date.

Subd. 4. ADDITIONAL AUTHORITY. Extensions of credit, and purchases of extensions of credit, authorized by sections 47.20, subdivision 1, 3, or 4; 47.204; 47.21; 48.153; 48.185; sections 168.66 to 168.77, or section 334.01, subdivision 2; and section 334.011 may, but need not, be made pursuant to those sections in lieu of the authority set forth in subdivisions 1 to 3, and if so, are subject to the provisions of those sections, and not the provisions of this section, except this subdivision. An association may also charge an organization any rate of interest and any charges agreed to by the organization, and may calculate and collect finance and other charges in any manner agreed to by that organization. Except for extensions of credit the association elects to make under section 334.01, subdivision 2; or 334.011, the provisions of chapter 334 do not apply to extensions of credit made pursuant to this section or the sections mentioned in this subdivision.

Subd. 5. ADDITIONAL CHARGES. (a) In addition to the finance charges permitted by this section, an association may contract for and receive the following additional charges which may be included in the amount financed:

(1) official fees and taxes;

(2) charges for insurance as described in paragraph (b);

(3) with respect to a loan secured by real estate, including a real estate loan, the following "closing costs," if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section:

(i) fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;

(ii) fees for preparation of a deed, mortgage, settlement statement, or other documents, if not paid to the association;

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(iii) escrows for future payments of taxes, including assessments for improvements, insurance, and water, sewer, and land rents;

(iv) fees for notarizing deeds and other documents; and

(v) appraisal and credit report fees;

(4) a delinquency charge on any installment, including the minimum payment due in connection with the open-end credit, not paid in full on or before the tenth day after its due date in an amount not to exceed five percent of the amount of the installment;

(5) for any returned check or returned automatic payment withdrawal request, an amount not in excess of the service charge limitation in section 332.50; and

(6) charges for other benefits, including insurance, conferred on the borrower that are of a type that is not for credit.

(b) An additional charge may be made for insurance written in connection with the loan:

(1) with respect to insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, if the association furnishes a clear, conspicuous, and specific statement in writing to the borrower setting forth the cost of the insurance if obtained from or through the association and stating that the borrower may choose the person through whom the insurance is to be obtained;

(2) with respect to credit insurance providing life, accident, health, or unemployment coverage, if the insurance coverage is not required by the association, and this fact is clearly and conspicuously disclosed in writing to the borrower, and the borrower gives specific, dated, and separately signed affirmative written indication of the borrower's desire to do so after written disclosure to the borrower of the cost of the insurance; and

(3) with respect to vendor's single interest insurance, but only (i) to the extent that the insurer has no right of subrogation against the borrower, and (ii) to the extent that the insurance does not duplicate the coverage of other insurance under which loss is payable to the association as its interest may appear, against loss of or damage to property for which a separate charge is made to the borrower pursuant to paragraph (b), clause (1), and (iii) if a clear, conspicuous, and specific statement in writing is furnished by the association to the borrower setting forth the cost of the insurance if obtained from or through the association and stating that the borrower may choose the person through whom the insurance is to be obtained.

(c) In addition to the finance charges and other additional charges permitted by this section, an association may contract for and receive the following additional charges in connection with open-end credit:

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(1) annual charges, not to exceed \$50 per annum, payable in advance, for the privilege of opening and maintaining open-end credit;

(2) charges for the use of an automated teller machine;

(3) charges for any monthly or other periodic payment period in which the borrower has exceeded or, except for the association's dishonor would have exceeded, the maximum approved credit limit, in an amount not in excess of the service charge permitted in section 332.50;

(4) charges for obtaining a cash advance in an amount not to exceed the service charge permitted in section 332.50; and

(5) charges for check and draft copies and for the replacement of lost or stolen credit cards.

Subd. 6. ADVANCES TO PERFORM COVENANTS OF BORROWER OR PURCHASER. (a) If the agreement with respect to a loan or contract contains covenants by the borrower or purchaser to perform certain duties pertaining to insuring or preserving collateral and the association pursuant to the agreement pays for performance of the duties on behalf of the borrower or purchaser, the association may add to the debt or contract balance the amounts so advanced. Within a reasonable time after advancing any sums, the association shall state to the borrower or purchaser in writing the amount of sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the borrower or purchaser performed by the association pertain to insurance, a brief description of the insurance paid for by the association including the type and amount of coverages. Further information need not be given.

(b) A finance charge equal to that specified in the loan agreement or contract may be made for sums advanced under paragraph (a).

Subd. 7. ATTORNEY'S FEES. With respect to a loan or credit sale, the agreement may provide for payment by the borrower of the attorney's fees incurred in connection with collection or foreclosure.

Subd. 8. RIGHT TO PREPAY. The borrower or purchaser may prepay in full the unpaid balance of a consumer loan or contract, at any time without penalty.

Subd. 9. CREDIT INSURANCE. (a) The sale of credit insurance is subject to the provisions of chapter 62B and the rules adopted under that chapter, but the term of the insurance may exceed 60 months if the loan exceeds 60 months and the insurance will nevertheless be subject to chapter 62B and the rules adopted under that chapter.

(b) An association which provides credit insurance in relation to open-end credit may calculate the charge to the borrower in each billing cycle by applying the current premium rate to the balance in the manner permitted with respect to finance charges by the provisions on finance charge in this section.

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(c) Upon prepayment in full of a consumer loan by the proceeds of credit insurance, the consumer or the consumer's estate is entitled to a refund of any portion of a separate charge for insurance which by reason of prepayment is retained by the association or returned to it by the insurer, unless the charge was computed from time to time on the basis of the balances of the consumer's loan.

(d) This section does not require an association to grant a refund to the consumer if all refunds due to the consumer under paragraph (c) amount to less than \$1 and, except as provided in paragraph (c), does not require the association to account to the consumer for any portion of a separate charge for insurance because:

(1) the insurance is terminated by performance of the insurer's obligation;

(2) the association pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them; or

(3) the association receives directly or indirectly under any policy of insurance a gain or advantage not prohibited by law.

(e) Except as provided in paragraph (d), the association shall promptly make or cause to be made an appropriate refund to the consumer with respect to any separate charge made to the consumer for insurance if:

(1) the insurance is not provided or is provided for a shorter term than for which the charge to the borrower for insurance was computed; or

(2) the insurance terminates before the end of the term for which it was written because of prepayment in full or otherwise.

(f) If an association requires insurance, upon notice to the borrower, the borrower has the option of providing the required insurance through an existing policy of insurance owned or controlled by the borrower, or through a policy to be obtained and paid for by the borrower, but the association for reasonable cause may decline the insurance provided by the borrower.

Subd. 10. PROPERTY AND LIABILITY INSURANCE. (a) Except as otherwise provided in this section and subject to the provisions on additional charges and maximum finance charges in this section, an association may agree to sell, as an agent, property and liability insurance, and may contract for and receive a charge for such insurance separate from and in addition to other charges. An association need not make a separate charge for the insurance provided or required by it. This section does not authorize the issuance of the insurance prohibited under any statute or rule governing the business of insurance nor does it authorize an association to underwrite insurance.

(b) This section does not apply to an insurance premium loan. An association may request cancellation of a policy of property or liability insurance only after the borrower's default or in accordance with a written authorization by the borrower. In either case, the cancellation does not take effect until written notice is delivered to the borrower or mailed to the borrower at the borrower's

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address as stated by the borrower. The notice must state that the policy may be canceled on a date not less than ten days after the notice is delivered, or, if the notice is mailed, not less than 13 days after it is mailed. A cancellation may not take effect until those notice periods expire.

Subd. 11. CONSUMER PROTECTIONS. (a) Associations shall comply with the requirements of the Federal Truth in Lending Act, United States Code, title 15, section 1601 to 1693, in connection with a consumer loan or credit sale for a consumer purpose.

(b) Associations shall comply with the following consumer protection provisions in connection with a consumer loan or credit sale for a consumer purpose: sections 325G.02 to 325G.05; 325G.06 to 325G.11; 325G.15 to 325G.22; and 325G.29 to 325G.36, and the Code of Federal Regulations, title 12, part 535.

(c) An assignment of a consumer's earnings by the consumer to an association as payment or as security for payment of a debt arising out of a consumer loan or consumer credit sale is unenforceable by the association and revocable by the consumer.

Subd. 12. LOANS OTHER THAN CONSUMER LOANS. Loans other than consumer loans are not subject to the provisions and limitations of subdivisions 8, 9, 10, paragraph (b), and 11.

Subd. 13. EFFECT OF VIOLATIONS ON RIGHTS OF PARTIES. (a) If an association has violated any provision of this section applying to collection of finance or other charges, the borrower has a cause of action to recover damages and also a right in an action other than a class action, to recover from the association violating this section a penalty in an amount determined by the court not less than \$100 nor more than \$1,000. With respect to violations arising from other than open-end credit transactions, no action may be brought pursuant to this paragraph and no set-off or recoupment may be asserted pursuant to this paragraph, more than one year after the making of the debt.

(b) A borrower is not obligated to pay a charge in excess of that allowed by this section and has a right of refund of any excess charge paid. A refund may not be made by reducing the borrower's obligation by the amount of the excess charge, unless the association has notified the borrower that the borrower may request a refund and the borrower has not so requested within 30 days thereafter. If the debtor has paid an amount in excess of the lawful obligation under the agreement, the borrower may recover the excess amount from the association who made the excess charge or from an assignee of the association's rights who undertakes direct collection of payments from or enforcement of rights against borrowers arising from the debt.

(c) If an association has contracted for or received a charge in excess of that allowed by this section, or if a borrower is entitled to a refund and a person liable to the borrower refuses to make a refund within a reasonable time after demand, the borrower may recover from the association or the person

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liable in an action other than a class action a penalty in an amount determined by the court not less than \$100 nor more than \$1,000. With respect to excess charges arising from other than open-end credit transactions, no action pursuant to this paragraph may be brought more than one year after the making of the debt. For purposes of this paragraph, a reasonable time is presumed to be 30 days.

(d) A violation of this section does not impair rights on a debt.

(e) An association is not liable for a penalty under paragraph (a) or (c) if it notifies the borrower of a violation before the association receives from the borrower written notice of the violation or the borrower has brought an action under this section, and the association corrects the violation within 45 days after notifying the borrower. If the violation consists of a prohibited agreement, giving the borrower a corrected copy of the writing containing the violation is sufficient notification and correction. If the violation consists of an excess charge, correction must be made by an adjustment or refund.

(f) An association may not be held liable in an action brought under this section for a violation of this section if the association shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error.

(g) In an action in which it is found that an association has violated this section, the court shall award to the borrower the costs of the action and to the borrower's attorneys their reasonable fees.

Sec. 67. Minnesota Statutes 1986, section 51A.40, is amended to read:

51A.40 DEALING WITH SUCCESSORS IN INTEREST.

In the case of any investment made by an association in a ~~real estate~~ loan secured by a mortgage on real property, including a real estate loan, in the event the ownership of the real estate security or any part thereof becomes vested in a person other than the party or parties originally executing the security instruments, and provided there is not an agreement in writing to the contrary, an association may, without notice to such party or parties, deal with such successor or successors in interest with reference to said mortgage and the debt thereby secured in the same manner as with such party or parties, and may forbear to sue or may extend time for payment of or otherwise modify the terms of the debt secured thereby, without discharging or in any way affecting the original liability of such party or parties thereunder or upon the debt thereby secured.

Sec. 68. Minnesota Statutes 1986, section 51A.44, subdivision 1, is amended to read:

Subdivision 1. **ANNUAL REPORT.** On or before the last day of ~~January~~ April in each year, every association shall make an annual written report to the

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commissioner, upon a form to be prescribed and furnished by the commissioner, of its affairs and operations, which shall include a complete statement of its financial condition, including a statement of income and expense since its last previous similar report, for the 12 months ending on the 31st day of December of the previous year. Every such report shall be verified by the president and treasurer.

Sec. 69. Minnesota Statutes 1986, section 51A.48, is amended to read:

51A.48 RIGHT TO DECLARATORY JUDGMENT.

At any time after any controversy has arisen between the commissioner and an association with respect to any question of law or rule or with respect to any question involving immeasurable or irreparable damage to the association, and prior to an administrative or judicial hearing, the association or the commissioner may apply to any court of competent jurisdiction in the county in which the principal home office of the association is located for a declaratory judgment as to such question, and such court shall have and shall take jurisdiction and decide the controversy on its merits in accordance with the weight of the evidence, and such court shall have full power to enforce its orders.

Sec. 70. Minnesota Statutes 1986, section 51A.50, is amended to read:

51A.50 FEDERAL SAVINGS ASSOCIATIONS AND SAVINGS BANKS.

~~Federal savings associations, federal savings banks, or federal savings and loan associations, incorporated pursuant to the laws of the United States, as now or hereafter amended, are not foreign corporations or foreign associations. Unless federal laws or regulations provide otherwise, federal associations, federal savings banks, and the members or stockholders thereof shall possess all of the rights, powers, privileges, benefits, immunities, and exemptions that are now provided or that hereafter may be provided by the laws of this state for savings associations organized under the laws of this state and for the members or stockholders thereof. This provision is additional and supplemental to any provision which, by specific reference, is applicable to federal associations and the members or stockholders thereof. Federal savings banks shall possess all of the rights, powers, privileges, benefits, immunities, liabilities, and exemptions that are now provided or that hereafter may be provided by the laws of this state for federal savings and loan associations. The following sections apply to federal associations, except to the extent they are inconsistent with federal law or regulations: sections 51A.01; 51A.02; 51A.065; 51A.15, subdivision 6; 51A.21, subdivisions 6a, 15, 16, 22, 25, 27, and 28; 51A.23, subdivision 1; 51A.24; 51A.251; 51A.261; 51A.262; 51A.27; 51A.28; 51A.29; 51A.30; 51A.31; 51A.37, subdivisions 1, 2, 3, paragraphs (a), (c), (d), 4, 5, 6, 7, 8, 9, 10, 11, and 12; 51A.38; 51A.385; 51A.40; 51A.50; 51A.52; 51A.56; and 51A.57.~~

Sec. 71. Minnesota Statutes 1986, section 51A.51, subdivision 1, is amended to read:

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Subdivision 1. **FEES TO BE PAID TO STATE TREASURER.** ~~Associations~~ An association shall pay fees by delivering to the commissioner a check payable to the state treasurer.

Sec. 72. Minnesota Statutes 1986, section 51A.53, is amended to read:

51A.53 POWERS OF FEDERAL SAVINGS AND LOAN ASSOCIATIONS; APPROVAL.

Subject to the approval of the commissioner, any savings and loan association organized under sections 51A.01 to 51A.57 is hereby vested with all the powers conferred upon a federal ~~savings and loan~~ association organized under the laws and regulations of the United States or its agencies, as amended, as fully and completely as if the powers were specifically enumerated and described herein, provided that the same are not specifically prohibited by state law.

Sec. 73. Minnesota Statutes 1986, section 51A.56, is amended to read:

51A.56 ACT CONTROLLING.

Insofar as the provisions of sections 51A.01 to 51A.57 are inconsistent with the provisions of any other law affecting ~~savings~~ associations, the provisions of sections 51A.01 to 51A.57 shall control.

Sec. 74. Minnesota Statutes 1986, section 118.005, subdivision 1, is amended to read:

Subdivision 1. The governing body of every municipality, as defined in section 118.01, which has the power to receive and disburse funds, shall designate as a depository of the funds such national, insured state banks or thrift institutions as defined in section 51A.02, subdivision ~~23~~ 54, as it may deem proper. The governing body may authorize the treasurer or chief financial officer to exercise the powers of the governing body in designating a depository of the funds.

For purposes of this chapter, a credit union is a thrift institution.

Sec. 75. **REPEALER.**

Minnesota Statutes 1986, sections 51A.03, subdivision 2a; 51A.05, subdivisions 3, 4, and 5; 51A.091; 51A.11, subdivision 3; 51A.18; 51A.19, subdivisions 2 and 3; 51A.21, subdivisions 6 and 19; 51A.23, subdivisions 2, 3, 4, and 5; 51A.37, subdivisions 7 and 9; 51A.38, subdivision 6; and 51A.39 are repealed.

Sec. 76. **EFFECTIVE DATE.**

Sections 1 to 75 are effective the day following final enactment.

Approved April 26, 1988

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