

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:27 a.m.

CHAPTER 587—S.F.No. 2213

An act relating to commerce; regulating bank charters, the purchase and sale of property, relocations, loans, detached facilities, capital and surplus requirements, and clerical services; regulating the report and audit schedules and account insurance of credit unions; authorizing certain financial institution closings; regulating business changes of industrial loan and thrifts; regulating business changes, license requirements, loan security, and interest rates of regulated lenders; providing special corporate voting and notice provisions for banking corporations; requiring additional information on financing and continuation statements; regulating state depositories; regulating investments in share certificates; authorizing the establishment of additional detached facilities in the cities of Duluth, Dover, Millville, and New Scandia; modifying real estate appraiser requirements; amending Minnesota Statutes 1990, sections 9.031, by adding a subdivision; 46.041, subdivision 4; 46.044; 46.047, subdivision 2; 46.048, subdivision 3; 46.07, subdivision 2; 47.015, by adding a subdivision; 47.10; 47.101, subdivision 3; 47.20, subdivisions 2, 4a, and 5; 47.54; 47.55; 48.02; 48.89, subdivision 5; 49.34, subdivision 2; 52.06, subdivision 1; 52.24, subdivision 1; 53.03, subdivision 5; 53.09, subdivision 2; 56.04; 56.07; 56.12; 56.131, subdivision 4; 82B.13, as amended; 300.23; 300.52, subdivision 1; 332.13, subdivision 2; 336.9-402; 336.9-403; Minnesota Statutes 1991 Supplement, sections 11A.24, subdivision 4; 48.512, subdivision 4; 82B.11, subdivisions 3 and 4; and 82B.14; repealing Minnesota Statutes 1990, section 48.03, subdivisions 4 and 5.

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

ARTICLE 1

FINANCIAL INSTITUTIONS

Section 1. Minnesota Statutes 1990, section 46.041, subdivision 4, is amended to read:

Subd. 4. **HEARING.** In any case in which the commissioner grants a request for a hearing, the commissioner shall fix a time for a hearing conducted pursuant to chapter 14 to decide whether or not the application will be granted. A notice of the hearing must be published by the applicant in the form prescribed by the commissioner in a newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice must be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicants and witnesses that

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appear in favor of or against the granting of the application of the proposed bank. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to department of commerce to be deposited in the general fund, must be paid by the applicant and 50 percent equally by the intervening parties.

Sec. 2. Minnesota Statutes 1990, section 46.044, is amended to read:

46.044 CHARTERS ISSUED, CONDITIONS.

If (1) the applicants are of good moral character and financial integrity, (2) there is a reasonable public demand for this bank in this location, (3) the organization expenses being paid by the ~~subscribing shareholders bank~~ do not exceed the necessary legal expenses incurred in drawing incorporation papers and the publication and the recording thereof, as required by law those allowed by section 46.043, (4) the probable volume of business in this location is sufficient to insure and maintain the solvency of the new bank and the solvency of the then existing bank or banks in the locality without endangering the safety of any bank in the locality as a place of deposit of public and private money, (5) the commissioner of commerce is satisfied that the proposed bank will be properly and safely managed, and (6) the applicant, if it is an interstate bank holding company, as defined in section 48.92, has provided developmental loans as required by section 48.991, and has complied with the net new funds reporting requirements of section 48.93, the application must be granted; otherwise it must be denied. In case of the denial of the application, the commissioner of commerce shall specify the grounds for the denial. A person aggrieved, may obtain judicial review of the determination in accordance with chapter 14.

Sec. 3. Minnesota Statutes 1990, section 46.047, subdivision 2, is amended to read:

Subd. 2. **BANKING INSTITUTION.** The term "banking institution" means a bank, trust company, bank and trust company, mutual savings bank, or thrift institution, that is organized under the laws of this state, or a holding company which owns or otherwise controls the banking institution.

Sec. 4. Minnesota Statutes 1990, section 46.048, subdivision 3, is amended to read:

Subd. 3. **BACKGROUND CHECKS.** In addition to any other information the commissioner may be able to obtain pursuant to section 13.82, the Minnesota bureau of criminal apprehension shall, upon the commissioner's request, provide fingerprint and background checks on all persons named in the notice required by subdivision 2 and is authorized to exchange fingerprints with the federal bureau of investigation for the purpose of a criminal background check of the national files.

Sec. 5. Minnesota Statutes 1990, section 46.07, subdivision 2, is amended to read:

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Subd. 2. **CONFIDENTIAL RECORDS.** The commissioner shall divulge facts and information obtained in the course of examining financial institutions under the commissioner's supervision only when and to the extent required or permitted by law to report upon or take special action regarding the affairs of an institution, or ordered by a court of law to testify or produce evidence in a civil or criminal proceeding, except that the commissioner may furnish information as to matters of mutual interest to an official or examiner of the federal reserve system, the Federal Deposit Insurance Corporation, the ~~Federal Savings and Loan Insurance Corporation~~ federal office of thrift supervision, the federal home loan bank system, the National Credit Union Administration, comptroller of the currency, a legally constituted state credit union share insurance corporation approved under section 52.24, ~~the issuer of a commitment for insurance or guarantee of the certificates of an industrial loan and thrift company approved under section 53.10;~~ or state and federal law enforcement agencies. The commissioner shall not be required to disclose the name of a debtor of a financial institution under the commissioner's supervision, or anything relative to the private accounts, ownership, or transactions of an institution, or any fact obtained in the course of an examination thereof, except as herein provided. For purposes of this subdivision, a subpoena is not an order of a court of law. These records are classified confidential or protected nonpublic for purposes of the Minnesota government data practices act and their destruction, as prescribed in section 46.21, is exempt from the provisions of chapter 138 and Laws 1971, chapter 529, so far as their deposit with the state archives.

Sec. 6. Minnesota Statutes 1990, section 47.015, is amended by adding a subdivision to read:

Subd. 4. PERMISSIVE CLOSING ON GOOD FRIDAY. A financial institution may close for up to three hours on Good Friday. The financial institution shall post on its premises a written notice of the closing.

Sec. 7. Minnesota Statutes 1990, section 47.10, is amended to read:

47.10 REAL ESTATE; ACQUISITION, HOLDING.

Subdivision 1. **AUTHORITY, APPROVAL, LIMITATIONS.** (a) Except as otherwise specially provided, the net book value of land and buildings for the transaction of the business of the corporation, including parking lots and premises leased to others, shall not be more than as follows:

(1) for a bank, trust company or stock savings association, if investment is for acquisition and improvements to establish a new bank, or is for improvements to existing property or acquisition and improvements to adjacent property, approval by the commissioner of commerce is not required if the total investment does not exceed 50 percent of its existing capital stock and paid-in surplus. Upon written prior approval of the commissioner of commerce, a bank, trust company or stock savings association may invest in the property and improvements in clause (1) or for acquisition of nonadjacent property for expansion or future use, if the aggregate of all such investments does not exceed 75 percent of its existing capital stock and paid-in surplus;

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(2) for a savings bank, 50 percent of its net surplus;

(3) for a mutual building and loan association, five percent of its net assets.

(b) For purposes of this subdivision, an intervening highway, street, road, alley, other public thoroughfare, or easement of any kind does not cause two parcels of real property to be nonadjacent.

Subd. 2. **BOOKS AND RECORDS.** With the exception of annual amortization charges which are made in accordance with generally accepted accounting principles; no state bank, trust company, savings bank, or building and loan association shall decrease the actual cost of the investment as shown on its books by a charge to any of its capital accounts unless approved by the commissioner.

Subd. 3. **LEASEHOLD PLACE OF BUSINESS; APPROVAL OF CERTAIN LEASE AGREEMENTS.** No bank, trust company, savings bank, or building and loan association may acquire real property and improvements of any nature to it for its place of business by lease agreement if the lessor has an existing direct or indirect interest in the management or ownership of the bank, trust company, savings bank, or building and loan association without prior written approval by the commissioner. This includes subsequent amendments and associated leasehold improvements.

Subd. 4. **APPROVAL OF CERTAIN INSIDER AGREEMENTS.** No bank, trust company, savings bank, or savings association may purchase or sell real property, personal property, improvements or equipment of a value of \$25,000 or more if the purchaser or seller other than the bank, trust company, savings bank, or savings association has an existing direct or indirect interest in the institution without prior written approval by the commissioner. Each bank, trust company, savings bank, or savings association must maintain documentation of transactions with interested parties, including personal property leases and purchases or sales of under \$25,000, which demonstrates the commercial reasonableness and fair market value of the transaction.

Sec. 8. Minnesota Statutes 1990, section 47.101, subdivision 3, is amended to read:

Subd. 3. **APPLICATIONS TO DEPARTMENT OF COMMERCE.** An application by a banking institution to relocate its main office outside a radius of three miles measured in a straight line; ~~or referred from the commissioner of commerce pursuant to subdivision 2;~~ shall be approved or disapproved by the commissioner of commerce as provided for in sections 46.041 and 46.044.

Sec. 9. Minnesota Statutes 1990, section 47.20, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For the purposes of this section the terms defined in this subdivision have the meanings given them:

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(1) "Actual closing costs" mean reasonable charges for or sums paid for the following, whether or not retained by the mortgagee or lender:

(a) Any insurance premiums including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance, but excluding any charges or sums retained by the mortgagee or lender as self-insured retention.

(b) Abstracting, title examination and search, and examination of public records.

(c) The preparation and recording of any or all documents required by law or custom for closing a conventional or cooperative apartment loan.

(d) Appraisal and survey of real property securing a conventional loan or real property owned by a cooperative apartment corporation of which a share or shares of stock or a membership certificate or certificates are to secure a cooperative apartment loan.

(e) A single service charge, which includes any consideration, not otherwise specified herein as an "actual closing cost" paid by the borrower and received and retained by the lender for or related to the acquisition, making, refinancing or modification of a conventional or cooperative apartment loan, and also includes any consideration received by the lender for making a borrower's interest rate commitment or for making a borrower's loan commitment, whether or not an actual loan follows the commitment. The term service charge does not include forward commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the conventional or cooperative apartment loan, except that in the case of a construction loan, the service charge shall not exceed two percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construction loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for which the charge is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real or personal property securing a conventional or cooperative apartment loan or the closing of a conventional or cooperative apartment loan paid by the borrower and received by any party other than the lender.

(2) "Contract for deed" means an executory contract for the conveyance of real estate, the original principal amount of which is less than \$100,000. A commitment for a contract for deed shall include an executed purchase agreement or earnest money contract wherein the seller agrees to finance any part or all of the purchase price by a contract for deed.

(3) "Conventional loan" means a loan or advance of credit, other than a

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loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a mortgage upon real property containing one or more residential units or upon which at the time the loan is made it is intended that one or more residential units are to be constructed, and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration, and which is not made pursuant to the authority granted in subdivision 1, clause (3) or (4). The term mortgage does not include contracts for deed or installment land contracts.

(4) "Cooperative apartment loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a security interest on a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation, which may be accompanied by an assignment by way of security of the borrower's interest in the proprietary lease or occupancy agreement in property issued by the cooperative apartment corporation and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration.

(5) "Cooperative apartment corporation" means a corporation or cooperative organized under chapter 308A or 317A, the shareholders or members of which are entitled, solely by reason of their ownership of stock or membership certificates in the corporation or association, to occupy one or more residential units in a building owned or leased by the corporation or association.

(6) "Forward commitment fee" means a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of residential units, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of apartments as defined in section 515.02 to be created out of existing structures pursuant to the Minnesota condominium act, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make cooperative apartment loans to two or more credit worthy purchasers, including future purchasers, of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation; provided, that the forward commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(7) "Borrower's interest rate commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees that, if a conventional or cooperative apartment loan is made following issuance of and pursuant to the

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commitment, the conventional or cooperative apartment loan shall be made at a rate of interest not in excess of the rate of interest agreed to in the commitment, provided that the rate of interest agreed to in the commitment is not in excess of the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower.

(8) "Borrower's loan commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees to make a conventional or cooperative apartment loan pursuant to the provisions, including the interest rate, of the commitment, provided that the commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the commitment is issued and the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional or cooperative apartment loan within a specified time period in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower; provided that a lender who issues a borrower's loan commitment pursuant to the provisions of a forward commitment is authorized to issue the borrower's loan commitment at a rate of interest not to exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(9) "Finance charge" means the total cost of a conventional or cooperative apartment loan including extensions or grant of credit regardless of the characterization of the same and includes interest, finders fees, and other charges levied by a lender directly or indirectly against the person obtaining the conventional or cooperative apartment loan or against a seller of real property securing a conventional loan or a seller of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation securing a cooperative apartment loan, or any other party to the transaction except any actual closing costs and any forward commitment fee. The finance charges plus the actual closing costs and any forward commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional or cooperative apartment loan. The finance charge, with respect to wrap-around mortgages, shall be computed based upon the face amount of the wraparound mortgage note, which face amount shall consist of the aggregate of those funds actually advanced by the wraparound lender and the total outstanding principal balances of the prior note or notes which have been made a part of the wraparound mortgage note.

(10) "Lender" means any person making a conventional or cooperative apartment loan, or any person arranging financing for a conventional or cooperative apartment loan. The term also includes the holder or assignee at any time of a conventional or cooperative apartment loan.

(11) "Loan yield" means the annual rate of return obtained by a lender over the term of a conventional or cooperative apartment loan and shall be computed as the annual percentage rate as computed in accordance with sections 226.5 (b), (c), and (d) of Regulation Z, Code of Federal Regulations, title 12, section 226,

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but using the definition of finance charge provided for in this subdivision. For purposes of this section, with respect to wraparound mortgages, the rate of interest or loan yield shall be based upon the principal balance set forth in the wraparound note and mortgage and shall not include any interest differential or yield differential between the stated interest rate on the wraparound mortgage and the stated interest rate on the one or more prior mortgages included in the stated loan amount on a wraparound note and mortgage.

(12) "~~Monthly index of the federal home loan mortgage corporation auction yields~~" means the net weighted average yield of accepted offers in the eight month forward commitment program of the federal home loan mortgage corporation in a month.

(13) "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

(14) (13) "Residential unit" means any structure used principally for residential purposes or any portion thereof, and includes a unit in a townhouse or planned unit development, a condominium apartment, a nonowner occupied residence, and any other type of residence regardless of whether the unit is used as a principal residence, secondary residence, vacation residence, or residence of some other denomination.

(15) (14) "Vendor" means any person or persons who agree to sell real estate and finance any part or all of the purchase price by a contract for deed. The term also includes the holder or assignee at any time of the vendor's interest in a contract for deed.

Sec. 10. Minnesota Statutes 1990, section 47.20, subdivision 4a, is amended to read:

Subd. 4a. **MAXIMUM INTEREST RATE.** (a) No conventional or cooperative apartment loan or contract for deed shall be made at a rate of interest or loan yield in excess of a maximum lawful interest rate ~~which shall be based upon the monthly index of the federal home loan mortgage corporation auction yields as compiled by the federal home loan mortgage corporation.~~ The maximum lawful interest rate shall be computed as follows:

(1) ~~The maximum lawful rate of interest for a conventional or cooperative apartment loan or contract for deed made or contracted for during any calendar month is equal to the monthly index of the federal home loan mortgage corporation auction yields for the first preceding calendar month plus an additional three-eighths of one percent per annum rounded off to the next highest quarter of one percent per annum.~~ in an amount equal to the Federal National Mortgage Association posted yields on 30-year mortgage commitments for delivery within 60 days on standard conventional fixed-rate mortgages published in the Wall Street Journal for the last business day of the second preceding month plus four percentage points.

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~~(2)~~ (b) On or before the last day of each month the commissioner of commerce shall determine, based on available statistics, ~~the monthly index of the federal home loan mortgage corporation auction yields for that calendar month and shall determine~~ the maximum lawful rate of interest for conventional or cooperative apartment loans or contracts for deed for the next succeeding month as defined in ~~clause (1) paragraph (a),~~ and shall cause the maximum lawful rate of interest to be published in a legal newspaper in Ramsey county on or before the first day of each month or as soon thereafter as practicable and in the state register on or before the last day of each month; the maximum lawful rate of interest to be effective on the first day of that month. ~~If a federal home loan mortgage corporation eight month forward commitment purchase program is not held in any month, the maximum lawful rate of interest determined by the commissioner of commerce pursuant to the last auction is the maximum lawful rate of interest through the last day of the month in which the next auction is held.~~

~~(3)~~ (1) The maximum lawful interest rate applicable to a cooperative apartment loan or contract for deed at the time the loan or contract is made is the maximum lawful interest rate for the term of the cooperative apartment loan or contract for deed. Notwithstanding the provisions of section 334.01, a cooperative apartment loan or contract for deed may provide, at the time the loan or contract is made, for the application of specified different consecutive periodic interest rates to the unpaid principal balance, if no interest rate exceeds the maximum lawful interest rate applicable to the loan or contract at the time the loan or contract is made.

~~(4)~~ (2) Contracts for deed executed pursuant to a commitment for a contract for deed, or conventional or cooperative apartment loans made pursuant to a borrower's interest rate commitment or made pursuant to a borrower's loan commitment, or made pursuant to a commitment for conventional or cooperative apartment loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment, which commitment provides for consummation within some future time following the issuance of the commitment may be consummated pursuant to the provisions, including the interest rate, of the commitment notwithstanding the fact that the maximum lawful rate of interest at the time the contract for deed or conventional or cooperative apartment loan is actually executed or made is less than the commitment rate of interest, provided the commitment rate of interest does not exceed the maximum lawful interest rate in effect on the date the commitment was issued. The refinancing of (a) an existing conventional or cooperative apartment loan, (b) a loan insured or guaranteed by the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration, or (c) a contract for deed by making a conventional or cooperative apartment loan is deemed to be a new conventional or cooperative apartment loan for purposes of determining the maximum lawful rate of interest under this subdivision. The renegotiation of a conventional or cooperative apartment loan or a contract for deed is deemed to be a new loan or contract for deed for purposes of clause ~~(3)~~ (1) and for purposes of determining

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the maximum lawful rate of interest under this subdivision. A borrower's interest rate commitment or a borrower's loan commitment is deemed to be issued on the date the commitment is hand delivered by the lender to, or mailed to the borrower. A forward commitment is deemed to be issued on the date the forward commitment is hand delivered by the lender to, or mailed to the person paying the forward commitment fee to the lender, or to any one of them if there should be more than one. A commitment for a contract for deed is deemed to be issued on the date the commitment is initially executed by the contract for deed vendor or the vendor's authorized agent.

(5) (3) A contract for deed executed pursuant to a commitment for a contract for deed, or a loan made pursuant to a borrower's interest rate commitment, or made pursuant to a borrower's loan commitment, or made pursuant to a forward commitment for conventional or cooperative apartment loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment at a rate of interest not in excess of the rate of interest authorized by this subdivision at the time the commitment was made continues to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

Sec. 11. Minnesota Statutes 1990, section 47.20, subdivision 5, is amended to read:

Subd. 5. (a) No conventional loan or loan authorized in subdivision 1 made on or after the effective date of Laws 1977, chapter 350 shall contain a provision requiring or permitting the imposition of a penalty in the event the loan or advance of credit is prepaid.

(b) A precomputed conventional loan or precomputed loan authorized in subdivision 1 shall provide for a refund of the precomputed finance charge according to the actuarial method if the loan is paid in full by cash, renewal or refinancing, or a new loan, one month or more before the final installment due date. The actuarial method for the purpose of this section is the amount of interest attributable to each fully unexpired monthly installment period of the loan contract following the date of prepayment in full, calculated as if the loan was made on an interest-bearing basis at the rate of interest provided for in the note based on the assumption that all payments were made according to schedule. A precomputed loan for the purpose of this section means a loan for which the debt is expressed as a sum comprised of the principal amount and the amount of interest for the entire term of the loan computed actuarially in advance on the assumption that all scheduled payments will be made when due, and does not include a loan for which interest is computed from time to time by application of a rate to the unpaid principal balance, interest-bearing loans, or simple-interest loans. For the purpose of calculating a refund for precomputed loans under this section, any portion of the finance charge for extending the first payment period beyond one month may be ignored. Nothing in this section shall be considered a limitation on discount points or other finance charges charged or collected in advance, and nothing in this section shall require a refund of the

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charges in the event of prepayment. Nothing in this section shall be considered to supersede section 47.204.

Sec. 12. Minnesota Statutes 1990, section 47.54, is amended to read:

47.54 NOTICES AND APPROVAL PROCEDURES.

Subdivision 1. **APPLICATION.** Any bank desiring to establish a detached facility shall execute and acknowledge a written application in the form prescribed by the commissioner and shall file the application in the commissioner's office with a fee of \$500. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the commissioner in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, shall be paid by the applicant and 50 percent equally by the intervening parties. The applicant shall within 30 days of the receipt of the form prescribed by the commissioner publish a notice of the filing of the application in a qualified newspaper published in the municipality in which the proposed detached facility is to be located, and if there is no such newspaper, then in a qualified newspaper likely to give notice in the municipality in which the proposed detached facility is to be located. In addition to the publication, the applicant must mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the detached facility, measured in the manner provided in section 47.52.

Subd. 2. **APPROVAL ORDER.** If no objection is received by the commissioner within 21 days after the publication and mailing of the notices, the commissioner shall issue an order approving the application without a hearing if it is found that (a) the applicant bank meets current industry standards of capital adequacy, management quality, and asset condition, (b) the establishment of the proposed detached facility will improve the quality or increase the availability of banking services in the community to be served, and (c) the establishment of the proposed detached facility will not have an undue adverse effect upon the solvency of existing financial institutions in the community to be served. Otherwise, the commissioner shall deny the application. Any proceedings for judicial review of an order of the commissioner issued under this subdivision without a contested case hearing shall be conducted pursuant to the provisions of the administrative procedure act relating to judicial review of agency decisions, sections 14.63 to 14.69, and the scope of judicial review in such proceedings shall be as provided therein. Nothing herein shall be construed as requiring the commissioner to conduct a contested case hearing if no written objection is timely received by the commissioner from a bank within three miles of the proposed location of the detached facility.

Subd. 3. **OBJECTIONS; HEARING.** If any bank within three miles of the proposed location of the detached facility objects in writing within 21 days, the commissioner shall ~~fix a time, within 60 days after filing of the objection, for a hearing, and the record of the hearing shall be considered by the commissioner in deciding whether or not the application shall be granted. A notice of the hear-~~

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ing shall be published in the form prescribed by the commissioner in a newspaper as described in subdivision 1, at the expense of the applicant, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicant and any witnesses who may appear in favor of or against the granting of the application. The hearing shall be conducted by the commissioner in accordance with the provisions of the administrative procedures act, sections 14.001 to 14.69, governing contested cases, including the provisions of the act relating to judicial review of agency decisions. consider the objection. If the objection also requests a hearing, the objector must include the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the commissioner. Comments challenging the legality of an application should be submitted separately in writing.

Written requests for hearing must be evaluated by the commissioner who may grant or deny the request. A hearing must generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the commissioner.

If a request for a hearing has been denied, the commissioner shall notify the applicant and all interested persons stating the reasons for denial. Interested parties may submit to the commissioner with simultaneous copies to the applicant additional written comments on the application within 14 days after the date of the notice of denial. The applicant shall be provided an additional seven days after the 14-day deadline has expired within which to respond to any comments submitted within the 14-day period. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested parties. The commissioner may waive the additional seven-day comment period if so requested by the applicant.

Subd. 4. HEARING. In any case in which the commissioner grants a request for a hearing, the commissioner shall fix a time for a hearing conducted pursuant to chapter 14 to decide whether or not the application will be granted. A notice of the hearing must be published by the applicant in the form prescribed by the commissioner in a newspaper published in the municipality in which the proposed detached facility is to be located, and if there is no such newspaper, then at the county seat of the county in which the detached facility is proposed to be located. The notice must be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicants and witnesses that appear in favor of or against the granting of the application of the proposed detached facility. If an application is contested and a hearing is granted, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the commissioner of commerce to be deposited in the general fund, must be paid by the applicant and 50 percent equally by the intervening parties.

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Subd. 4 ~~5~~. **DECISION AFTER HEARING.** If upon the hearing, it appears to the commissioner that the requirements for approval contained in subdivision 2 have been met, the commissioner shall, not later than 90 days after the hearing, issue an order approving the application. If the commissioner shall decide that the application should not be granted, the commissioner shall issue an order to that effect and forthwith give notice by certified mail to the applicant.

Subd. 5 ~~6~~. **EXPIRATION AND EXTENSION OF ORDER.** If a facility is not activated within 18 months from the date of the order, the approval order automatically expires. Upon request of the applicant prior to the automatic expiration date of the order, the commissioner may grant reasonable extensions of time to the applicant to activate the facility as the commissioner deems necessary. The extensions of time shall not exceed a total of an additional 12 months. If the commissioner's order is the subject of an appeal in accordance with chapter 14, the time period referred to in this section for activation of the facility and any extensions shall begin when all appeals or rights of appeal from the commissioner's order have concluded or expired.

Sec. 13. Minnesota Statutes 1990, section 47.55, is amended to read:

47.55 EXISTING ~~FACILITY~~ BANKING FACILITIES OR BRANCHES OF SAVINGS ASSOCIATIONS.

Subdivision 1. BANKING FACILITIES IN OPERATION PRIOR TO MAY 1, 1971. A bank may retain and operate one detached facility as it may have had in operation prior to May 1, 1971 without requirement of approval hereunder, provided that its function is limited as provided in section 47.53 and its location conforms with the provisions of section 47.52. A bank having such a retained detached facility shall be limited to operating two additional detached facilities.

Subd. 2. FACILITIES OF BANKS OR BRANCHES OF SAVINGS ASSOCIATIONS IN OPERATION PRIOR TO ACQUISITION. The purchase of assets and assumption of liabilities of an existing detached facility of another bank or branch of a savings and loan association or savings bank must follow the notice and approval procedures in section 47.54 to establish and maintain a new detached facility of the acquiring bank at that location but need not obtain the consent of other banks as required by section 47.52.

Sec. 14. Minnesota Statutes 1990, section 48.02, is amended to read:

48.02 CAPITAL AND SURPLUS; PREPAYMENT OF CAPITAL.

The capital and surplus of every state bank hereafter organized shall be at least \$250,000. In addition thereto undivided profits shall be provided for in such an amount as the commissioner shall determine to be adequate under the circumstances to avoid any possible impairment of capital and surplus. The total of these outlays shall be known as capital funds, and payment thereof shall be

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made in full, in cash or authorized securities, deposited in an approved custodial bank, and certified to the commissioner, under oath of the president, and cashier or other chief financial officer, as well as the custodial bank, before the proposed state bank shall be authorized to commence business. The capital funds of a proposed bank shall not be less than a total amount which the commissioner considers necessary, having in mind the deposit potential for such a proposed bank and current banking industry standards of capital adequacy.

Sec. 15. Minnesota Statutes 1991 Supplement, section 48.512, subdivision 4, is amended to read:

Subd. 4. **IDENTIFICATION IS REQUIRED.** A financial intermediary shall not open or authorize signatory power over a transaction account if none of the applicants provides a driver's license, identification card, or identification document as required by subdivision 2. If the applicant provides a driver's license or identification card issued under section 171.07, the financial intermediary must confirm the identification number and name on that card through the records of the department of public safety. The financial intermediary need not confirm this information if the checking account applicant presents a driver's license impervious to alteration as is reasonably practicable in the design and quality of material and technology. The financial intermediary need not confirm this information if an employee of the financial intermediary has known the identity of the applicant for at least one year prior to the time of the application, and the employee provides a signed statement confirming that fact. When a minor is the applicant and the minor does not have a driver's license or identification card issued pursuant to section 171.07, the identification requirements of subdivision 2, clause (g), and this subdivision are satisfied if the minor's parent or guardian provides identification of that person's own that meets the identification requirement. The financial intermediary may waive the identification requirement if the applicant has had another type of account with the financial intermediary for at least one year immediately preceding the time of application.

Sec. 16. Minnesota Statutes 1990, section 48.89, subdivision 5, is amended to read:

Subd. 5. No bank may cause to be performed, by contract or otherwise, any clerical services for itself from a clerical service corporation or any other person, whether on or off its premises, unless assurances satisfactory to the commissioner are furnished to the commissioner by both the bank and the party performing such services that the performance thereof will be subject to regulation and examination by the commissioner to the same extent as if such services were being performed by the bank itself on its own premises.

Sec. 17. Minnesota Statutes 1990, section 49.34, subdivision 2, is amended to read:

Subd. 2. **ACQUISITION OF BANK OR SAVINGS ASSOCIATION FOR OPERATION AS DETACHED FACILITY.** (a) Notwithstanding the geographic limitations of subdivision 1, and the distance limitations and consent require-

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ments of section 47.52, a state bank may apply to the commissioner, pursuant to the procedures contained in sections 47.51 to 47.56 and 49.35 to 49.41, to acquire another state bank or national banking association and its detached facilities through merger, consolidation or purchase of assets and assumption of liabilities and operate them as detached facilities of the successor bank if the operation of them otherwise conforms to the limitations of section 47.52.

(b) In addition to the authority granted in paragraphs (a) and (c), and notwithstanding the geographic limitations of subdivision 1 and the limitations on number of facilities and consent requirements contained in section 47.52, a state bank whose main banking office is located within the county of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington may apply to the commissioner, pursuant to the procedures contained in sections 47.51 to 47.56 and 49.35 to 49.41, to acquire another state bank or national banking association and its detached facilities through merger, consolidation, or purchase of assets and assumption of liabilities and operate them as detached facilities of the successor bank if each resulting detached facility is located within the county of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

(c) Where the commissioner has determined that a merger, consolidation or purchase of assets and assumption of liabilities is necessary and in the public interest to prevent the probable failure of a state bank or national banking association, or state or federal savings and loan association or savings bank, the limitations on location and number of detached facilities in section 47.52 shall not apply to the establishment of a detached facility directly resulting from such acquisition. The establishment of a detached facility in order to prevent the probable failure of a bank as provided in this ~~subdivision~~ paragraph shall not require the written consent of banks having a principal office in the municipality in which the resulting detached facility will be located, notwithstanding the provisions of section 47.52.

The consolidation or merger under this paragraph of a capital stock savings and loan association or savings bank and a bank shall be effected in the manner provided in sections 49.33 to 49.41. A savings and loan association or savings bank that is a mutual association may be acquired directly under this paragraph through the purchase of assets and assumption of liabilities. A state bank acquiring a savings and loan association or savings bank under this paragraph must, with the approval of the commissioner of commerce, establish a reasonable date by which the bank will cease all activities conducted by the savings and loan association or savings bank that are not authorized activities for the bank.

Sec. 18. Minnesota Statutes 1990, section 52.06, subdivision 1, is amended to read:

Subdivision 1. **REPORT AND AUDIT SCHEDULE.** Credit unions shall be under the supervision of the commissioner of commerce. Each credit union shall annually, on or before January 25, file a report with the commissioner of commerce on forms supplied by the commissioner for that purpose giving such

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relevant information as the commissioner may require concerning the operations during the preceding calendar year. Additional reports may be required. Credit unions shall be examined, at least once every 18 calendar months, by the commissioner of commerce, ~~except that if a credit union requests, the commissioner may accept the audit of a certified public accountant in place of this examination. Such certified public accountant must be approved by the commissioner. The qualitative type of audit examination to be performed by the certified public accountant shall be defined by rule and approved by the commissioner.~~ Further, in lieu of this examination the commissioner may accept any examination made by the National Credit Union Administration, provided a copy of the examination is furnished to the commissioner. A report of the examination by the commissioner of commerce shall be forwarded to the president, or the chair of the board if the position is so designated pursuant to section 52.09, subdivision 4, of the examined credit union within 60 days after completion of the examination. Within 60 days of the receipt of such report, a general meeting of the directors and committees shall be called to consider matters contained in the report. For failure to file reports when due, unless excused for cause, the credit union shall pay to the state treasurer \$5 for each day of its delinquency.

Sec. 19. Minnesota Statutes 1990, section 52.24, subdivision 1, is amended to read:

Subdivision 1. **INSURANCE ACCOUNTS.** Every credit union under the supervision of the commissioner of commerce shall at all times maintain in effect insurance of member share and deposit accounts under the provisions of title II of the National Credit Union Act; ~~or insurance from a legally constituted credit union share insurance corporation.~~ A credit union which fails to meet this requirement for insurance of its share and deposit accounts shall either dissolve or merge with another credit union which is insured under title II of the National Credit Union Act; ~~or by a legally constituted credit union share insurance corporation.~~

Sec. 20. Minnesota Statutes 1990, section 53.03, subdivision 5, is amended to read:

Subd. 5. **PLACE OF BUSINESS.** Not more than one place of business may be maintained under any certificate of authorization issued subsequent to the enactment of Laws 1943, chapter 67, pursuant to the provisions of this chapter, but the department of commerce may issue more than one certificate of authorization to the same corporation upon compliance with all the provisions of this chapter governing an original issuance of a certificate of authorization. To the extent that previously filed applicable information remains unchanged, the applicant need not refile this information, unless requested. The filing fee for a branch application shall be \$500 and the investigation fee \$250. If a corporation has been issued more than one certificate of authorization, the corporation shall allocate a portion of capital stock to each office for which a certificate has been issued, in order to comply with the capital requirements of sections 53.02

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and 53.05, clause (2), which sections are applicable to each office and the capital allocated thereto in the same manner as if each certificate had been issued to a separate corporation. An industrial loan and thrift corporation with deposit liabilities may change one or more of its locations upon the written approval of the commissioner of commerce. A fee of \$100 must accompany each application to the commissioner for approval to change the location of an established office. An industrial loan and thrift corporation that does not sell and issue thrift certificates for investment may change one or more locations by giving 30 days' written notice to the department of commerce which shall promptly amend the certificate of authorization accordingly. No change in place of business of a company to a location outside of its current trade area or more than 25 miles from its present location, whichever distance is greater, shall be permitted under the same certificate unless all of the applicable requirements of this section have been met.

Sec. 21. Minnesota Statutes 1990, section 53.09, subdivision 2, is amended to read:

Subd. 2. **REPORT TO COMMISSIONER.** (1) Each industrial loan and thrift company shall annually on or before the first day of February file a report with the commissioner stating in detail, under appropriate heads, its assets and liabilities at the close of business on the last day of the preceding calendar year. This report shall be made under oath in the form prescribed by the commissioner ~~and published once, at the expense of the industrial loan and thrift company, in a newspaper of the county of its location, and proof thereof filed immediately with the commissioner of commerce.~~

(2) Each industrial loan and thrift company which holds authority to accept accounts pursuant to section 53.04, subdivision 5, shall in place of the requirement in clause (1) submit the reports and make the publication required of state banks pursuant to section 48.48.

(3) Within 30 days following a change in controlling ownership of the capital stock of an industrial loan and thrift company, it shall file a written report with the commissioner stating in detail the nature of such change in ownership.

Sec. 22. Minnesota Statutes 1990, section 56.04, is amended to read:

56.04 INVESTIGATION; ISSUANCE OF LICENSE; DENIAL; REFUNDS.

Upon the filing of the application and payment of these fees, the commissioner shall investigate the facts, and if the commissioner shall find (1) that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a copartnership or association, and of the person with direct responsibility for the operation and management of the proposed office are such as to command confidence and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter, and primarily for purposes other than making loans to finance the purchase of products or services, other than insurance products authorized in this chapter or chapter 62B, offered by the applicant, a

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person which controls or is controlled by the applicant, or a person which is controlled by persons which also control the applicant; and (2) that the applicant has available for the operation of the business, at the specified location, liquid assets of at least \$50,000 (the foregoing facts being conditions precedent to the issuance of a license under this chapter), the commissioner shall thereupon issue and deliver a license to the applicant to make loans, in accordance with the provisions of this chapter, at the location specified in the application. If the commissioner shall not so find, the commissioner shall not issue a license and shall notify the applicant of the denial and return to the applicant the sum paid by the applicant as a license fee, retaining the \$250 investigation fee to cover the costs of investigating the application. The commissioner shall approve or deny every application for license hereunder within 60 days from the filing thereof with the fees.

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

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

Sec. 23. Minnesota Statutes 1990, section 56.07, is amended to read:

56.07 CONTROL OVER LOCATION.

Not more than one place of business shall be maintained under the same license, but the commissioner may issue more than one license to the same licensee upon compliance with all the provisions of this chapter governing an original issuance of a license, for each such new license. To the extent that previously filed applicable information remains substantially unchanged, the applicant need not refile this information, unless requested.

When a licensee shall wish to change a place of business, the licensee shall give written notice thereof 30 days in advance to the commissioner, who shall within 30 days of receipt of such notice, issue an amended license approving the change. No change in the place of business of a licensee to a location outside of its current trade area or more than 25 miles from its present location, whichever distance is greater, shall be permitted under the same license unless all of the requirements of section 56.04 have been met.

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

Sec. 24. Minnesota Statutes 1990, section 56.12, is amended to read:

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56.12 ADVERTISING; TAKING OF SECURITY; PLACE OF BUSINESS.

No licensee shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action which is false, misleading, or deceptive. The commissioner may order any licensee to desist from any conduct which the commissioner shall find to be a violation of the foregoing provisions.

The commissioner may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as the commissioner may deem necessary to prevent misunderstanding thereof by prospective borrowers. In lieu of the disclosure requirements of this section and section 56.14, a licensee may give the disclosures required by the federal Truth-in-Lending Act.

A licensee may take a lien upon real estate as security for any loan exceeding \$2,700 in principal amount made under this chapter. The provisions of sections 47.20 and 47.21 do not apply to loans made under this chapter, except as provided in this section. No loan secured by a first lien on a borrower's primary residence shall be made pursuant to this section if the proceeds of the loan are used to finance the purchase of the borrower's primary residence, unless:

(1) the proceeds of the loan are used to finance the purchase of a manufactured home; or

(2) the proceeds of the loan are used in whole or in part to satisfy the balance owed on a contract for deed.

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

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A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, if the commissioner finds that the character of the other business is such that it would facilitate evasions of this chapter or of the rules lawfully made hereunder. The commissioner may promulgate rules dealing with such other businesses.

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

Sec. 25. Minnesota Statutes 1990, section 56.131, subdivision 4, is amended to read:

Subd. 4. **ADJUSTMENT OF DOLLAR AMOUNTS.** (a) The dollar amounts in this section, sections 53.04, subdivision 3a, paragraph (c), 56.01 and 56.12, and 56.125 shall change periodically, as provided in this section, according to and to the extent of changes in the implicit price deflator for the gross national product, 1972 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for December, 1980 is the reference base index for adjustments of dollar amounts, except that the index for December, 1984 is the reference base index for the minimum default charge of \$4. The reference base index for subdivision 1, paragraph (a), clause (1), and subdivision 2, paragraph (d), is December, 1990.

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

(1) the portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts appearing in Laws 1981, chapter 258 on the date of enactment; and

(2) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to Laws 1981, chapter 258 as a result of earlier application of this section.

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

(d) The commissioner shall announce and publish:

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

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

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

(f) The adjustments provided in this section shall not be affected unless explicitly provided otherwise by law.

Sec. 26. Minnesota Statutes 1990, section 300.23, is amended to read:

300.23 VOTING, HOW REGULATED.

Unless otherwise provided in the certificate or bylaws, at every meeting each stockholder or member is entitled to one vote in person, or by proxy made within one year or other time specially limited by law, for each share or other lawful unit of representation held in an individual, corporate, or representative capacity. No stock may be voted on at an election within 20 days after its transfer on the books of the corporation. In the case of a banking corporation, the commissioner of commerce may waive the 20-day limitation.

Sec. 27. Minnesota Statutes 1990, section 300.52, subdivision 1, is amended to read:

Subdivision 1. **PRIOR NOTICE.** The first meeting of a corporation, except as otherwise prescribed in its certificate of incorporation or in the case of a banking corporation as waived in writing by the commissioner of commerce, must be called upon not less than three weeks' prior personal or published notice. The notice must be signed by one of the incorporators, to the others, and to each subscriber, if any, to its capital stock, specifying the time, place, and purpose of the meeting. Unless otherwise provided in the certificate of incorporation or corporate bylaws, an annual meeting must be called and held at its

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principal place of business upon three weeks' published notice, signed by its secretary. No business transacted at an annual meeting not called and held as required by this subdivision is effective. The manner of calling and holding all meetings may be prescribed by its bylaws.

Sec. 28. Minnesota Statutes 1990, section 332.13, subdivision 2, is amended to read:

Subd. 2. "Debt prorating" means the performance of any one or more of the following:

(a) managing the financial affairs of an individual by distributing income or money to the creditors thereof;

(b) receiving funds for the purpose of distributing said funds among creditors in payment or partial payment of obligations of a debtor; or

(c) settling, adjusting, prorating, pooling, or liquidating the indebtedness of a debtor. Any person so engaged or holding out as so engaged shall be deemed to be engaged in debt prorating regardless of whether or not a fee is charged for such services. This term shall not include services performed by the following when engaged in the regular course of their respective businesses and professions:

(1) Attorneys at law, escrow agents, accountants, broker-dealers in securities;

(2) Banks, state or national, trust companies, savings and loan associations, building and loan associations, title insurance companies, insurance companies and all other lending institutions duly authorized to transact business in the state of Minnesota, provided no fee is charged for such service;

(3) Persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt prorating, perform credit services for their employer;

(4) Public officers acting in their official capacities and persons acting pursuant to court order;

(5) Nonprofit corporations, organized under Minnesota Statutes 1967, Chapter 317, giving debt prorating service, provided no fee is charged for such service;

(6) Any person while performing services incidental to the dissolution, winding up or liquidation of a partnership, corporation or other business enterprise;

(7) The state of Minnesota, its political subdivisions, public agencies and their employees;

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(8) Credit unions, provided no fee is charged for such service;

(9) “Qualified organizations” designated as representative payees for purposes of the Social Security and Supplemental Security Income representative payee system and the federal Omnibus Budget Reconciliation Act of 1990, Public Law Number 101-508.

Sec. 29. Minnesota Statutes 1990, section 336.9-402, is amended to read:

336.9-402 FORMAL REQUISITES OF FINANCING STATEMENT; AMENDMENTS; MORTGAGE AS FINANCING STATEMENT.

(1) A financing statement is sufficient if it gives the name of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor, gives the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the debtor, and contains a statement indicating the types or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned and the name of the record owner thereof and the crop years that are covered by the financing statement. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or when the financing statement is filed as a fixture filing (section 336.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) proceeds under section 336.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed within one year; or

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(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)); or

(e) a lien filed pursuant to chapter 514; or

(f) collateral which is subject to a filed judgment.

(2a) Except for documents filed under clauses (e) and (f), the reason for the omission of the debtor signature must be stated on the front of the financing statement.

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor)

.....

Address

.....

Debtor's Social Security Number or I.R.S. Tax I.D. Number

.....

Name of secured party (or assignee)

.....

Address

.....

1. This financing statement covers the following types (or items) of property:

(Describe)

.....

2. (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe real estate and the name of the record owner thereof)

.....

3. (If applicable) The above goods are to become fixtures on

(Describe real estate)..... and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

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4. (If products of collateral are claimed)

Products of the collateral are also covered.

Use whichever signature line is applicable.

Signature of debtor (or assignor)

.....

Signature of secured party (or assignee)

.....

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. If the sole purpose of the amendment is to change the name or address of the secured party, only the secured party need sign the amendment. A writing is sufficient if it sets forth the name and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, the file number and date of filing of the financing statement. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or a financing statement filed as a fixture filing (section 336.9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner. No description of the real estate or the name of the record owner thereof is required for a fixture filing where the debtor is a transmitting utility. Notwithstanding the foregoing a general description of the real estate is sufficient for a fixture filing where a railroad is the record owner of the real estate on which the fixtures are or are to be located; and for the purposes of this subsection, the requirement of a general description is satisfied if the fixture filing (1) identifies the section, township and range numbers of the county in which the land is located; (2) identifies the quarter-quarter of the section that the land is located in; (3) indicates the name of the record owner of the real estate; and (4) states the street address of the real estate if one exists.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate

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described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners, and gives the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the debtor. Where the debtor so changes a personal name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement, amendment, continuation, assignment, release, or termination substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. The omission or any inaccuracy in stating the debtor's social security or federal tax identification number is not, standing alone, a seriously misleading error.

Sec. 30. Minnesota Statutes 1990, section 336.9-403, is amended to read:

336.9-403 WHAT CONSTITUTES FILING; DURATION OF FILING; EFFECT OF LAPSED FILING; DUTIES OF FILING OFFICER.

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later regardless of whether the financing statement filed as to that security interest is destroyed by the filing officer pursuant to subsection (3). Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

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(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, set forth the name, social security number or other tax identification number of the debtor, and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, identify the original statement by file number and filing date, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 336.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if the officer has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if the officer physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained. If insolvency proceedings are commenced by or against the debtor, the secured party shall notify the filing officer both upon commencement and termination of the proceedings, and the filing officer shall not destroy any financing statements filed with respect to the debtor until termination of the insolvency proceedings. The security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later.

(4) Except as provided in subsection (7) a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number ~~and~~, the address of the debtor given in the statement, and the social security number or other tax identification number of the debtor given in the statement.

(5) The secretary of state shall prescribe uniform forms for statements and samples thereof shall be furnished to all filing officers in the state. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be \$7 if the statement is in the standard form prescribed by the secretary of state and otherwise shall be \$10, plus in each case, if the financing statement is subject to subsection (5) of section 336.9-402, \$5.

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An additional fee of \$7 shall be collected if more than one name is required to be indexed or if the secured party chooses to show a trade name for any debtor listed. The uniform fee collected for the filing of an amendment to a financing statement if the amendment is in the standard form prescribed by the secretary of state and does not add additional debtor names to the financing statement shall be \$7. The fee for an amendment adding additional debtor names shall be \$14 if the amendment is in the form prescribed by the secretary of state and, if otherwise, \$17. The fee for an amendment which is not in the form prescribed by the secretary of state but which does not add additional names shall be \$10.

The secretary of state shall adopt rules for filing, amendment, continuation, termination, removal, and destruction of financing statements.

(6) If the debtor is a transmitting utility (subsection (5) of section 336.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 336.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, for filing offices other than the secretary of state, where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described. If requested of the filing officer on the financing statement, a financing statement filed for record as a fixture filing in the same office where nonfixture filings are made is effective, without a dual filing, as to collateral listed thereon for which filing is required in such office pursuant to section 336.9-401 (1) (a); in such case, the filing officer shall also index the recorded statement in accordance with subsection (4) using the recording data in lieu of a file number.

(8) The fees provided for in this article shall supersede the fees for similar services otherwise provided for by law except in the case of security interests filed in connection with a certificate of title on a motor vehicle.

Sec. 31. REPEALER.

Minnesota Statutes 1990, section 48.03, subdivisions 4 and 5, are repealed.

Sec. 32. EFFECTIVE DATE.

Sections 4, 5, 17, 25, and 28 are effective the day following final enactment. If the effective date of section 25 is after the commissioner of commerce has

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made the announcement and publication required to be made on or before April 30 of each year under Minnesota Statutes, section 56.131, subdivision 4, the commissioner shall, if necessary, revise the announcement and publication to conform with section 25. Sections 29 and 30 are effective January 1, 1993, and apply to financing statements and continuation statements filed on or after that date.

ARTICLE 2

STATE DEPOSITS AND INVESTMENTS

Section 1. Minnesota Statutes 1990, section 9.031, is amended by adding a subdivision to read:

Subd. 13. REQUIRED COMMUNITY REINVESTMENT RATING. Banks and trust companies designated as depositories must have received ratings of "outstanding" or "satisfactory" as their most recent rating under section 47.83 or under United States Code, title 12, section 2906. If a state depository receives a rating that is below "satisfactory," the executive council shall revoke its designation as a depository. The executive council may delay the effective date of the revocation if necessary to allow a reasonable period of time to arrange for a replacement depository.

Sec. 2. Minnesota Statutes 1991 Supplement, section 11A.24, subdivision 4, is amended to read:

Subd. 4. **OTHER OBLIGATIONS.** (a) The state board may invest funds in bankers acceptances, certificates of deposit, commercial paper, mortgage participation certificates and pools, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies if they conform to the following provisions:

(1) bankers acceptances of United States banks are limited to those issued by banks rated in the highest four quality categories by a nationally recognized rating agency;

(2) certificates of deposit are limited to those issued by (i) United States banks and savings institutions that are rated in the highest four quality categories by a nationally recognized rating agency, that meet the collateral requirements established in section 9.031, or whose certificates of deposit are fully insured by federal agencies; or (ii) credit unions in amounts up to the limit of insurance coverage provided by the National Credit Union Administration;

(3) commercial paper is limited to those issued by United States corporations or their Canadian subsidiaries and rated in the highest two quality categories by a nationally recognized rating agency;

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(4) mortgage participation or pass through certificates evidencing interests in pools of first mortgages or trust deeds on improved real estate located in the United States where the loan to value ratio for each loan as calculated in accordance with section 61A.28, subdivision 3, does not exceed 80 percent for fully amortizable residential properties and in all other respects meets the requirements of section 61A.28, subdivision 3;

(5) collateral for repurchase agreements and reverse repurchase agreements is limited to letters of credit and securities authorized in this section;

(6) guaranteed investment contracts are limited to those issued by insurance companies or banks rated in the top four quality categories by a nationally recognized rating agency;

(7) savings accounts are limited to those fully insured by federal agencies.

(b) Sections 16A.58 and 16B.06 do not apply to certifications of deposit and collateralization agreements executed by the state board under paragraph (a), clause (2).

(c) In addition to investments authorized by paragraph (a), clause (4), the state board may purchase from the Minnesota housing finance agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The state board may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The state board may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the state board comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The state board may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

ARTICLE 3

DETACHED BANKING FACILITIES

Section 1. CITY OF DULUTH; DETACHED BANKING FACILITIES.

With the prior approval of the commissioner of commerce, a bank with its principal office in the city of Duluth may establish and maintain three detached facilities located within the city of Duluth, in addition to the detached facilities authorized by Minnesota Statutes, section 47.52, paragraph (a). A bank desiring to establish a detached facility must follow the approval procedure prescribed in

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Minnesota Statutes, section 47.54. The establishment of a detached facility pursuant to this section is subject to the provisions of Minnesota Statutes, sections 47.51 to 47.57, except to the extent those sections are inconsistent with this section.

Sec. 2. CITY OF MILLVILLE; DETACHED FACILITIES.

The limitation contained in Minnesota Statutes, section 47.52, on the number of detached facilities that may be established and maintained by a bank does not apply to any detached facilities located in the city of Millville.

Sec. 3. CITY OF DOVER; DETACHED FACILITIES.

The limitation contained in Minnesota Statutes, section 47.52, on the number of detached facilities that may be established and maintained by a bank does not apply to any detached facilities located in the city of Dover.

Sec. 4. TOWN OF NEW SCANDIA; DETACHED BANKING FACILITIES.

With the prior approval of the commissioner of commerce, a bank operating its main office within ten miles of the town of New Scandia may establish and maintain not more than one detached facility in the town of New Scandia. A bank desiring to establish a detached facility must follow the approval procedure prescribed in Minnesota Statutes, section 47.54. The establishment of a detached facility pursuant to this section is subject to the provisions of Minnesota Statutes, sections 47.51 to 47.57, except to the extent those sections are inconsistent with this section.

Sec. 5. LOCAL APPROVAL.

Section 2 takes effect the day after compliance by the governing body of the city of Millville with Minnesota Statutes, section 645.021, subdivision 3.

Section 3 takes effect the day after compliance by the governing body of the city of Dover with Minnesota Statutes, section 645.021, subdivision 3.

Section 4 takes effect the day after compliance by the town board of the town of New Scandia with Minnesota Statutes, section 645.021, subdivision 3.

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ARTICLE 4

REAL ESTATE APPRAISERS

Section 1. Minnesota Statutes 1991 Supplement, section 82B.11, subdivision 3, is amended to read:

Subd. 3. **FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.** A federal residential real property appraiser may appraise noncomplex one to four residential units or agricultural property having a transaction value less than \$1,000,000 and complex one to four residential units or agricultural property having a transaction value less than \$250,000.

Sec. 2. Minnesota Statutes 1991 Supplement, section 82B.11, subdivision 4, is amended to read:

Subd. 4. **CERTIFIED FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.** A certified federal residential real property appraiser may appraise one to four residential units or agricultural property without regard to transaction value or complexity.

Sec. 3. Minnesota Statutes 1990, section 82B.13, as amended by Laws 1991, chapter 97, sections 5, 6, 7, and 17, is amended to read:

82B.13 ~~EXAMINATION~~ EDUCATION PREREQUISITES.

Subdivision 1. **STATE REAL PROPERTY APPRAISER OR FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.** As a prerequisite ~~to taking the examination~~ for licensing as a state real property appraiser or federal residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 75 classroom hours of courses. The courses must consist of 60 hours of general real estate appraisal principles and 15 hours related to standards of professional appraisal practice and the provisions of this chapter.

Subd. 3. **COMMISSIONER'S APPROVAL; RULES.** The courses and instruction and procedures of courses must be approved by the commissioner. The commissioner may adopt rules to administer this section. These rules must, to the extent practicable, conform to the rules adopted for real estate and insurance education.

Subd. 4. **CERTIFIED FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.** As a prerequisite ~~to taking the examination~~ for licensing as a certified federal residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 165 classroom hours of courses, including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter, with particular emphasis on the appraisal of one to four unit residential properties.

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Subd. 5. **CERTIFIED FEDERAL GENERAL REAL PROPERTY APPRAISER.** As a prerequisite to ~~taking the examination~~ for licensing as a certified federal general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 165 classroom hours of courses, including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter, with particular emphasis on the appraisal of nonresidential properties.

Sec. 4. Minnesota Statutes 1991 Supplement, section 82B.14, is amended to read:

82B.14 EXPERIENCE REQUIREMENT.

(a) A license under section 82B.11, subdivision 3, 4, or 5, may not be issued to a person who does not have the equivalent of two years of experience in real property appraisal supported by adequate written reports or file memoranda. ~~This experience, or the equivalent of this experience, must be acquired within a period of five years immediately preceding the filing of the application for licensing.~~

(b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

Sec. 5. EFFECTIVE DATE.

Sections 1 to 4 are effective the day following final enactment.

Presented to the governor April 17, 1992

Signed by the governor April 27, 1992, 2:13 p.m.

CHAPTER 588—S.F.No. 2475

An act relating to commerce; adding a penalty for the purchase of or an attempt to purchase tobacco by a child; amending Minnesota Statutes 1990, section 609.685, subdivision 3.

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

Section 1. Minnesota Statutes 1990, section 609.685, subdivision 3, is amended to read:

Subd. 3. **PETTY MISDEMEANOR.** Whoever uses, purchases, or attempts to purchase tobacco or tobacco related devices and is under the age of 18 years is guilty of a petty misdemeanor. This subdivision does not apply to a person under the age of 18 years who purchases or attempts to purchase tobacco or

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