

CHAPTER 382—H.F.No. 1885

An act relating to financial institutions; regulating administrative hearings on bank applications, certain bank mergers, certain emergency notices, certain credit union accounts, and motor vehicle sales finance contracts; regulating maximum interest rates; making technical and clarifying changes; amending Minnesota Statutes 1992, sections 46.041, subdivision 4; 47.0153, subdivision 1; 47.0154; 48.47; 48.70; 52.191; 52.24, subdivision 2; 59A.03, subdivision 1; and 168.69; Minnesota Statutes 1993 Supplement, sections 47.20, subdivision 4a; 47.54, subdivision 4; and 56.155, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 48; and 52; repealing Minnesota Statutes 1992, sections 48.26; and 48.88, subdivision 2; Laws 1982, chapter 429, section 6.

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

Section 1. Minnesota Statutes 1992, 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 or makes the independent determination that a hearing is warranted on the basis of the conditions in subdivision 3, 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 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 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 1992, section 47.0153, subdivision 1, is amended to read:

Subdivision 1. When the officers of a financial institution are of the opinion that an emergency exists, or is impending, which affects, or may affect, a financial institution's offices, they shall have the authority, in the reasonable exercise of their discretion, to determine not to open any of its offices on any business day or, if having opened, to close an office during the continuation of the emergency, even if the commissioner does not issue a proclamation of emergency. The office closed shall remain closed until the time that the officers determine the emergency has ended, and for the further time reasonably necessary to reopen. No financial institution office shall remain closed for more than 48 consecutive hours, excluding other legal holidays, without the prior approval of the commissioner; ~~or in the case of a national bank, the comptroller of the currency.~~

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Sec. 3. Minnesota Statutes 1992, section 47.0154, is amended to read:

47.0154 NOTICE TO COMMISSIONER.

A financial institution closing an office or offices pursuant to the authority granted under section 47.0153, subdivision 1, shall give as prompt notice of its action, as conditions will permit and by any means available, to the commissioner; ~~and in the case of a national bank, to the comptroller of the currency and in case of federal savings and loans, to the federal home loan bank board.~~

Sec. 4. Minnesota Statutes 1993 Supplement, 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 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.

(b) 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.

(c) The maximum interest rate that can be charged on a conventional loan or a contract for deed, with a duration of ten years or less, for the purchase of real estate described in section 83.20, ~~subdivision 13~~ subdivisions 11 and 13, is three percentage points above the rate permitted under paragraph (a) or 15.75 percent per year, whichever is less. This paragraph is effective August 1, 1992.

(d) 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

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does not exceed the maximum lawful interest rate in effect on the date the commitment was issued. The refinancing of: (1) an existing conventional or cooperative apartment loan, (2) 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 (3) 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 paragraph (b) and for purposes of determining 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.

(e) 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. 5. Minnesota Statutes 1993 Supplement, section 47.54, subdivision 4, is amended to read:

Subd. 4. **HEARING.** In any case in which the commissioner grants a request for a hearing, or makes the independent determination that a hearing is warranted on the basis of the conditions in subdivision 3, 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 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. 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

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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.

Sec. 6. Minnesota Statutes 1992, section 48.47, is amended to read:

48.47 BANKING AND TRUST COMPANY BUSINESS.

After the application of the corporation shall have been favorably acted on by the department in compliance with ~~section 45.03~~ sections 46.041 to 46.044, and upon compliance with the terms hereof and the issuance of such certificates, the bank may commence the transaction of banking and trust company business and may exercise, in addition to all the powers and privileges conferred by law on state banks, the powers and privileges set forth in section 48.38, and the bank shall thereafter comply with and be subject to all of the provisions of law relating to state banks exercising such fiduciary powers and privileges.

Sec. 7. [48.611] MERGER WITH SUBSIDIARIES.

Subdivision 1. AUTHORITY. Notwithstanding any other law to the contrary, a bank may merge a subsidiary authorized and established pursuant to section 48.61, subdivision 1, into itself provided it owns 100 percent of the outstanding voting stock.

Subd. 2. PROCEDURE. A merger of a subsidiary authorized by subdivision 1 must conform to the procedures in section 302A.621.

Subd. 3. APPROVAL. Before filing the articles of merger with the secretary of state, the merger plan must be filed with and approved in writing by the commissioner who shall determine that:

(1) the provisions of section 302A.621 are followed; and

(2) the effect of the merger will not have an undue adverse effect on the safety and soundness of the bank.

Sec. 8. Minnesota Statutes 1992, section 48.70, is amended to read:

48.70 CERTIFICATES TO BE AMENDED.

In order to exercise such powers as may be granted in sections 48.69 to 48.73, any such trust company may amend its certificate of incorporation so as to assume the additional powers of a state banking corporation. This amendment may include the change of the corporate name of the trust company ~~so as to include the words "state bank" therein~~. Such trust company shall display in its place of business, the certificate of such authorization issued by the commissioner of commerce.

Sec. 9. [52.137] INDIVIDUAL RETIREMENT ACCOUNTS.

Notwithstanding sections 52.04, subdivision 1, clause (1), and 52.05, a

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credit union may receive payment as deposits to establish an individual retirement account for the spouse of a blood or adoptive relative of a regularly qualified member if the blood or adoptive relative is a member of the credit union.

Sec. 10. Minnesota Statutes 1992, section 52.191, is amended to read:

52.191 INACTIVE ACCOUNTS.

Whenever a member's share or deposit balance is ~~not more~~ less than \$25 and the member has not transacted any business with the credit union for a period of at least ~~seven~~ three years, the board of directors, after giving 30 days written notice by certified mail to the last known address of the member, may transfer the balance to the operating reserve fund of the credit union. Thereafter, subject to the law governing abandoned funds, the member may recover the funds in the account at the time of the transfer by making application to the credit union for such funds, but the credit union shall have no obligation to the member for the payment of dividends or interest on the funds after the transfer to the operating reserve.

Sec. 11. Minnesota Statutes 1992, section 52.24, subdivision 2, is amended to read:

Subd. 2. **CERTIFICATE OF APPROVAL.** No credit union shall be granted a certificate of approval by the commissioner of commerce unless the credit union has obtained a commitment for insurance of its member share and deposit accounts under the provisions of title II of the National Credit Union Act; ~~or from a legally constituted credit union share insurance corporation.~~

Sec. 12. Minnesota Statutes 1993 Supplement, section 56.155, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** No licensee shall, directly or indirectly, sell or offer for sale any insurance in connection with any loan made under this chapter except as and to the extent authorized by this section. The sale of credit life, credit accident and health, and credit involuntary unemployment insurance is subject to the provisions of chapter 62B, except that the term of the insurance may exceed 60 months if the term of the loan exceeds 60 months. Life, accident, health, and involuntary unemployment insurance, or any of them, may be written upon or in connection with any loan but must not be required as additional security for the indebtedness. If the debtor chooses to procure credit life insurance, credit accident and health insurance, or credit involuntary unemployment insurance as security for the indebtedness, the debtor shall have the option of furnishing this security through existing policies of insurance that the debtor owns or controls, or of furnishing the coverage through any insurer authorized to transact business in this state. A statement in substantially the following form must be made orally, except for loans by mail pursuant to section 56.12, and provided in writing in bold face type of a minimum size of 12 points to the borrower before the transaction is completed for each credit life, accident and health, and involuntary unemployment insurance coverage sold:

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CREDIT LIFE INSURANCE, CREDIT DISABILITY INSURANCE, AND CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT. YOU MAY BUY ANY INSURANCE FROM ANYONE YOU CHOOSE OR YOU MAY USE EXISTING INSURANCE.

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

Sec. 13. Minnesota Statutes 1992, section 59A.03, subdivision 1, is amended to read:

Subdivision 1. No person other than a savings and loan association, bank, savings bank, trust company, ~~small loan company~~ regulated lender, industrial loan and thrift company, credit union or resident insurance agent who, within 15 days after entering into an insurance premium finance agreement, transfers such agreement to a licensee or to any of the organizations exempt under this subdivision may engage in the business of entering into, acquiring or holding insurance premium finance agreements unless licensed to do so by the commissioner. A violation of this subdivision is a misdemeanor.

Sec. 14. Minnesota Statutes 1992, section 168.69, is amended to read:

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168.69 COMPLAINTS ALLEGING VIOLATION.

Any retail buyer having reason to believe that sections 168.66 to 168.77 relating to the buyer's retail installment contract has been violated may file with the administrator a written complaint setting forth the details of such alleged violation and the administrator, upon receipt of such complaint, may inspect the pertinent books, records, letters and contracts of the licensee, assignee of the licensee, and of the retail seller involved, relating to such specific written complaint.

Sec. 15. REPEALER.

Minnesota Statutes 1992, sections 48.26; and 48.88, subdivision 2, are repealed. Laws 1982, chapter 429, section 6, is repealed.

Sec. 16. EFFECTIVE DATE.

Sections 1 to 15 are effective the day following final enactment.

Presented to the governor March 24, 1994

Signed by the governor March 28, 1994, 11:22 a.m.

CHAPTER 383—S.F.No. 1709

An act relating to taxation; property tax refund; uncapping the appropriation for targeting for 1994 only; requiring that certain information be made available; providing notification to homeowners of certain eligibility changes; appropriating money; amending Minnesota Statutes 1993 Supplement, section 290A.04, subdivision 2h.

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

Section 1. Minnesota Statutes 1993 Supplement, section 290A.04, subdivision 2h, is amended to read:

Subd. 2h. (a) If the gross property taxes payable on a homestead increase more than 12 percent over the net property taxes payable in the prior year on the same property that is owned and occupied by the same owner on January 2 of both years, and the amount of that increase is ~~\$80 or more for taxes payable in 1993; and~~ \$100 or more for taxes payable in 1994, 1995, and 1996, a claimant who is a homeowner shall be allowed an additional refund equal to 75 percent of the amount of the increase over the greater of 12 percent of the prior year's net property taxes payable or ~~\$80 for taxes payable in 1993; and 75 percent of the amount of the increase over the greater of 12 percent of the prior year's net property taxes payable or~~ \$100 for taxes payable in 1994, 1995, and 1996. This subdivision shall not apply to any increase in the gross property taxes payable attributable to improvements made to the homestead after the assessment date for the prior year's taxes.

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