may require the entity being examined to send all books, accounts, and vouchers pertaining to the receipt, disbursement, and custody of funds to the office of the state auditor for examination. The person, firm, partnership, association, or corporation ~~audited~~ examined under this section by the state auditor shall reimburse the state auditor for expenses incurred in conducting the ~~audit~~ examination within 30 days after the state auditor's office submits its expenses. Interest at the rate established in section 549.09 shall accrue on the outstanding balance starting on the 31st day after the state auditor demands expenses.

Presented to the governor March 30, 1996

Signed by the governor April 2, 1996, 12:33 p.m.

CHAPTER 414—H.F.No. 2369

An act relating to financial institutions; regulating consumer credit; modifying rates, fees, and other terms and conditions; providing clarifying and technical changes; providing opportunities for state banks to develop their Minnesota markets through broader intrastate branching; modifying finance charge provisions and other provisions for certain cooperatives; providing technical corrections; amending Minnesota Statutes 1994, sections 9.031, subdivision 13; 13.71, by adding a subdivision; 46.041, subdivision 1; 46.044, subdivision 1; 47.10, subdivision 4; 47.101, subdivisions 2 and 3; 47.20, subdivision 14; 47.201, subdivision 2; 47.51; 47.62, subdivision 1; 48.09; 48.10; 48.301; 48.34; 48.845, subdivision 4; 52.131; 53.01; 53.03, subdivision 1; 53.07, subdivision 2; 118.01, subdivision 1; 168.69; 168.705; 168.71; 168.72, by adding a subdivision; 168.73; 256.99; 300.025; 303.02, subdivision 2; 308A.135, subdivision 3; 308A.165, subdivision 2; 332.21; 332.50, subdivision 2; 334.02; and 334.03; Minnesota Statutes 1995 Supplement, sections 46.048, subdivision 2b; 47.20, subdivisions 1 and 9; 47.52; 47.59, subdivisions 2, 3, 4, 5, 6, and by adding a subdivision; 47.60, subdivision 2; 47.61, subdivision 3; 48.153, subdivision 3a; 48.194; 48.65; 50.1485, subdivision 1; 50.245, subdivisions 1 and 4; 53.04, subdivision 3a; 53.09, subdivision 2; 55.10, subdivision 4; 56.131, subdivisions 2, 4, and 6; 56.14; and 62B.04, subdivision 1; Laws 1995, chapter 171, section 70; proposing coding for new law in Minnesota Statutes, chapters 49; and 334; repealing Minnesota Statutes 1994, sections 48.94; 51A.01; 51A.02, subdivisions 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, and 56; 51A.03; 51A.04; 51A.041; 51A.05; 51A.06; 51A.065; 51A.07; 51A.08; 51A.09; 51A.10; 51A.11; 51A.12; 51A.13; 51A.131; 51A.14; 51A.15; 51A.16; 51A.17; 51A.19, subdivisions 1, 4, 5, 6, 7, 8, 10, 11, 12, and 13; 51A.20; 51A.21, subdivisions 1, 2, 3, 4, 5, 6a, 6b, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 20, 21, 22, 23, 24, 25, 26, and 27; 51A.22; 51A.23, subdivision 6; 51A.24; 51A.251; 51A.261; 51A.262; 51A.27; 51A.28; 51A.29; 51A.30; 51A.31; 51A.32; 51A.33; 51A.34; 51A.35; 51A.361; 51A.37; 51A.38; 51A.40; 51A.41; 51A.42; 51A.43; 51A.44; 51A.45; 51A.46; 51A.47; 51A.48; 51A.51; 51A.52; 51A.54; 51A.55; 51A.56; 51A.57; and 53.04, subdivision 3b; Minnesota Statutes 1995 Supplement, sections 47.201, subdivision 7; 47.27, subdivision 3; 51A.02, subdivisions 6, 7, 26, 40, and 54; 51A.19, subdivision 9; 51A.21, subdivision 28; 51A.23, subdivisions 1 and 7; 51A.386; 51A.50; 51A.53; 51A.58; and 53.04, subdivisions 3c and 4a; Minnesota Rules, parts 2655.0100; 2655.0200; 2655.0300;

2655.0400; 2655.0500; 2655.0600; 2655.0700; 2655.0800; 2655.0900; 2655.1000; 2655.1100; 2655.1200; and 2655.1300.

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

ARTICLE 1

FINANCIAL INSTITUTIONS TECHNICAL CORRECTIONS

Section 1. Minnesota Statutes 1994, section 9.031, subdivision 13, is amended 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 1994, section 13.71, is amended by adding a subdivision to read:

Subd. 21. **BANK CHARTER TRADE SECRETS DATA.** Trade secret data provided in bank charter applications is classified under section 46.041, subdivision 1.

Sec. 3. Minnesota Statutes 1994, section 46.041, subdivision 1, is amended to read:

Subdivision 1. **FILING; FEE; PUBLIC INSPECTION.** The incorporators of a bank proposed to be organized under the laws of this state shall execute and acknowledge a written application in the form prescribed by the commissioner of commerce. The application must be signed by two or more of the incorporators and request a certificate authorizing the proposed bank to transact business at the place and in the name stated in the application. The applicant shall file the application with the department with a $1,000 filing fee and a $500 investigation fee. The fees must be turned over by the commissioner to the state treasurer and credited to the general fund. The application file must be public, with the exception of financial data on individuals which is private under the Minnesota government data practices act and data defined as trade secret information under section 13.37, subdivision 1, paragraph (b), which must be given nonpublic classification upon written request by the applicant.

Sec. 4. Minnesota Statutes 1994, section 46.044, subdivision 1, is amended to read:

Subdivision 1. **CHARTERS ISSUED, CONDITIONS.** An application for a bank charter must be granted 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 bank do not exceed 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 commissioner is satisfied that the capital funds required pursuant to section 48.02 are available and the commissioner may accept any reasonable demonstration including subscription agreements supported by current financial statements~~, and (7) 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~~. If the application does not satisfy the requirements of this subdivision, 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. 5. Minnesota Statutes 1995 Supplement, section 46.048, subdivision 2b, is amended to read:

Subd. 2b. **NOTICE.** Upon the filing of ~~an application~~ a notice:

(1) an ~~applicant~~ acquiring party shall publish once in a newspaper of general circulation notice of the proposed acquisition in a form acceptable to the commissioner; and

(2) the commissioner shall accept public comment on ~~an application~~ a notice for a period of not less than 30 days from the date of the publication required by clause (1).

Sec. 6. Minnesota Statutes 1994, section 47.10, subdivision 4, is amended to read:

Subd. 4. **APPROVAL OF CERTAIN INSIDER AGREEMENTS.** No bank, trust company, savings bank, or savings association may purchase ~~or~~, sell, or lease real property, personal property, improvements or equipment of a value of $25,000 or more if the purchaser ~~or~~, seller, lessor, or lessee 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. 7. Minnesota Statutes 1995 Supplement, section 47.20, subdivision 1, is amended to read:

Subdivision 1. Pursuant to rules the commissioner of commerce finds to be necessary and proper, if any, banks, savings banks, and savings associations organized under the laws of this state or the United States, trust companies, trust companies acting as fiduciaries, and other banking institutions subject to the supervision of the commissioner of commerce, and mortgagees or lenders approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration or any successor, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association, are authorized:

(1) To make loans and advances of credit and purchases of obligations representing loans and advances of credit which are insured or guaranteed by the secretary of housing

and urban development pursuant to the national housing act, as amended, or the administrator of veterans affairs pursuant to the servicemen's readjustment act of 1944, as amended, or the administrator of the farmers home administration or any successor pursuant to the consolidated farm and rural development act, Public Law Number 87–128, as amended, and to obtain the insurance or guarantees;

(2) To make loans secured by mortgages on real property and loans secured by a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation which the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration or any successor has insured or guaranteed or made a commitment to insure or guarantee, and to obtain the insurance or guarantees;

(3) To make, purchase, or participate in such loans and advances of credit; including reverse mortgage loans, notwithstanding anything in sections 47.20, subdivision 4b, 47.58, and 334.01 and chapter 56 to the contrary; as would be eligible for purchase, in whole or in part, by the federal national mortgage association or the federal home loan mortgage corporation, but without regard to any limitation placed upon the maximum principal amount of an eligible loan;

(4) To make, purchase or participate in such loans and advances of credit secured by mortgages on real property which are authorized or allowed by the office of thrift supervision or the office of the comptroller of the currency, or any successor to these federal agencies.

Sec. 8. Minnesota Statutes 1995 Supplement, section 47.20, subdivision 9, is amended to read:

Subd. 9. ~~(1)~~ For purposes of this subdivision the term "mortgagee" shall mean all state banks and trust companies, national banking associations, state and federally chartered savings associations, mortgage banks, savings banks, insurance companies, credit unions or assignees of the above.

(a) Each mortgagee requiring funds of a mortgagor to be paid into an escrow, agency or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one–to–four family, owner occupied residence located in this state, unless the account is required by federal law or regulation or maintained in connection with a conventional loan in an original principal amount in excess of 80 percent of the lender's appraised value of the residential unit at the time the loan is made or maintained in connection with loans 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 or any successor, shall calculate interest on such funds at a rate of not less than ~~five~~ three percent per annum. Such interest shall be computed on the average monthly balance in such account on the first of each month for the immediately preceding 12 months of the calendar year or such other fiscal year as may be uniformly adopted by the mortgagee for such purposes and shall be annually credited to the remaining principal balance on the mortgage, or at the election of the mortgagee, paid to the mortgagor or credited to the mortgagor's account. If the interest exceeds the remaining balance, the excess shall be paid to the mortgagor or vendee. The requirement to pay interest shall apply to such accounts created ~~prior to June 1, 1976, as well as to accounts created after June 1, 1976~~ in conjunction with mortgage loans made prior to July 1, 1996.

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

(b) Unless the account is exempt from the requirements of paragraph (a), a mortgagee shall allow a mortgagor to elect to discontinue the escrow account after the seventh anniversary of the date of the mortgage, unless the mortgagor has been more than 30 days delinquent in the previous 12 months. This paragraph shall apply to accounts created prior to July 1, 1996, as well as to accounts created on or after July 1, 1996. The mortgagor's election shall be in writing. If the escrow account has a negative balance or a shortage at the time the mortgagor requests discontinuance, the mortgagee is not obligated to allow discontinuance until the escrow account is balanced or the shortage has been repaid.

(c) The mortgagee shall notify the mortgagor within 60 days after the seventh anniversary of the date of the mortgage if the right to discontinue the escrow account is in accordance with paragraph (b). For mortgage loans entered into, on or prior to July 1, 1989, the notice required by this paragraph shall be provided to the mortgagor by January 1, 1997.

(d) A mortgagee may require the mortgagor to reestablish the escrow account if the mortgagor has failed to make timely payments for two consecutive payment periods at any time during the remaining term of the mortgage, or if the mortgagor has failed to pay taxes or insurance premiums when due. A payment received during a grace period shall be deemed timely.

(e) The mortgagee shall, subject to paragraph (b), return any funds remaining in the account to the mortgagor within 60 days after receipt of the mortgagor's written notice of election to discontinue the escrow account.

(f) The mortgagee shall not charge a direct fee for the administration of the escrow account, nor shall the mortgagee charge a fee or other consideration for allowing the mortgagor to discontinue the escrow account.

~~(2) A mortgagee offering the following option (c) to a mortgagor but not requiring maintenance of escrow accounts as described in clause (1), whether or not the accounts were required by the mortgagee or were optional with the mortgagor, shall offer to each of such mortgagors the following options:~~

~~(a) the mortgagor may personally manage the payment of insurance and taxes;~~

~~(b) the mortgagor may open with the mortgagee a passbook savings account carrying the current rate of interest being paid on such accounts by the mortgagee in which the mortgagor can deposit the funds previously paid into the escrow account; or~~

~~(c) the mortgagor may elect to maintain a noninterest bearing escrow account as described in clause (1) to be serviced by the mortgagee at no charge to the mortgagor.~~

~~A mortgagee that is not a depository institution offering passbook savings accounts shall instead of offering option (b) above notify its mortgagors (1) that they may open such accounts at a depository institution and (2) of the current maximum legal interest rate on such accounts.~~

~~A mortgagee offering option (c) above to a mortgagor but not requiring the maintenance of escrow accounts shall notify its mortgagor of the options under (a), (b) and (c). The notice shall state the option and state that an escrow account is not required by the mortgagee, that the mortgagor is legally responsible for the payment of taxes and insurance, and that the notice is being given pursuant to this subdivision.~~

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

~~Notice shall be given within 30 days after the effective date of the provisions of Laws 1977, chapter 350 amending the subdivision, as to mortgagees offering option (c) above to mortgagors but not requiring escrow accounts as of the effective date, or within 30 days after a mortgagee's decision to discontinue requiring escrow accounts if the mortgagee continues to offer option (c) above to mortgagors. If no reply is received within 30 days, option (c) shall be selected for the mortgagor but the mortgagor may, at any time, select another option.~~

~~A mortgagee making a new mortgage and offering option (c) above to a prospective mortgagor shall, at the time of loan application, notify the prospective mortgagor of options (a), (b) and (c) above which must be extended to the prospective mortgagor. The mortgagor shall select one of the options at the time the loan is made.~~

~~Any notice required by this clause shall be on forms approved by the commissioner of commerce and shall provide that at any time a mortgagor may select a different option. The form shall contain a blank where the current passbook rate of interest shall be entered by the mortgagee. Any option selected by the mortgagor shall be binding on the mortgagee.~~

~~This clause does not apply to escrow accounts which are excepted from the interest paying requirements of clause (1).~~

~~(3) A mortgagee shall be prohibited from charging a direct fee for the administration of the escrow account.~~

Sec. 9. Minnesota Statutes 1994, section 47.20, subdivision 14, is amended to read:

Subd. 14. (a) A lender requiring or offering private mortgage insurance shall make available to the borrower or other person paying the insurance premium the same premium payment plans as are available to the lender in paying the private mortgage insurance premium.

(b) Any refund or rebate for unearned private mortgage insurance premiums shall be paid to the borrower or other person actually providing the funds for payment of the premium.

(c) With regard to first mortgage loans made on or after January 1, 1997, the mortgagor shall have the right to elect, in writing, to cancel borrower–purchased private mortgage insurance if all of the following terms and conditions have been met:

(1) if the current unpaid principal balance of a first mortgage is 75 percent or less of the current fair market appraised value of the property. "Current fair market appraised value" shall be based upon a current appraisal by a real estate appraiser licensed or certified by the appropriate state or federal agency and reasonably acceptable to the lender. The lender may require the mortgagor to pay for the appraisal;

(2) the mortgagor's monthly installments of principal, interest, and escrow obligations have not been more than 30 days past due over the 24–month period immediately preceding the request for cancellation and all accrued late charges have been paid;

(3) the mortgage was made at least 24 months prior to the receipt of a request for cancellation of private mortgage insurance;

(4) the property securing the mortgage is owner–occupied; and

(5) the mortgage has not been pooled with other mortgages in order to constitute, in whole or in part, collateral for bonds issued by the state of Minnesota or any political subdivision of the state of Minnesota or of any agency of any political subdivision of the state of Minnesota.

(d) Other than the appraisal fee allowed pursuant to paragraph (c), clause (1), the lender shall not charge the borrower a fee or other consideration for cancellation of the private mortgage insurance.

(e) A lender requiring private mortgage insurance shall, after the payment of the 24th monthly premium installment of private mortgage insurance, provide an annual written notice to each mortgagor currently paying premiums for private mortgage insurance. The notice may be included in the annual statement or may be included in other regular mailings to the mortgagor. The annual notice shall be on its own page, unless included in a private mortgage insurance notice required under the federal Real Estate Settlement Procedures Act, and shall appear substantially as follows:

"NOTICE OF RIGHT TO CANCEL PRIVATE MORTGAGE INSURANCE

If you currently pay private mortgage insurance premiums, you may have the right to cancel the insurance and cease paying premiums. This would permit you to make a lower total monthly mortgage payment. In most cases, you have the right to cancel private mortgage insurance if the principal balance of your loan is 80 percent or less of the current fair market appraised value of your home. If you wish to learn whether you are eligible to cancel this insurance, please contact us at (address/phone)."

(f) If a mortgage loan governed by paragraph (c) is serviced in accordance with the guidelines of either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, the lender shall cancel private mortgage insurance in accordance with the cancellation guidelines of the applicable entity in effect at the time the request for cancellation is received.

Sec. 10. Minnesota Statutes 1994, section 47.201, subdivision 2, is amended to read:

Subd. 2. **AUTHORIZATION.** Notwithstanding the provisions of ~~sections~~ section 334.01, subdivision 1, ~~and 51A.37, subdivision 3, clause (d),~~ any financial institution is authorized to make graduated payment home loans and purchases representing graduated payment home loans pursuant to such rules as the commissioner of commerce finds to be necessary and proper, if any, at an interest rate not in excess of the maximum lawful interest rate prescribed in section 47.20, subdivision 4a. Notwithstanding the provisions of section 334.01, subdivision 1, where initial repayments of a graduated payment home loan are less than the total accrued outstanding interest, the excess accrued and unpaid interest may be added to the outstanding loan balance on which interest accrues at the contracted rate.

Sec. 11. Minnesota Statutes 1995 Supplement, section 47.61, subdivision 3, is amended to read:

Subd. 3. (a) "Electronic financial terminal" means an electronic information processing device that is established to do either or both of the following:

(1) capture the data necessary to initiate financial transactions; or

(2) through its attendant support system, store or initiate the transmission of the information necessary to consummate a financial transaction.

(b) "Electronic financial terminal" does not include:

(1) a telephone;

(2) an electronic information processing device that is used internally by a financial institution to conduct the business activities of the institution; or

(3) an electronic point-of-sale terminal operated by a retailer that is used to process payments for the purchase of goods and services by consumers, and which also may be used to obtain cash advances or cash back not to exceed $25 and only if incidental to the retail sale transactions, through the use of credit cards or debit cards, provided that the payment transactions using debit cards are subject to the federal Electronic Funds Transfer Act, United States Code, title 12, sections 1693 et seq., and Regulation E of the Federal Reserve Board, Code of Federal Regulations, title 12, subpart 205.2; this clause does not exempt the retailer from liability for negligent conduct or intentional misconduct of the operator under section 47.69, subdivision 5.

Sec. 12. Minnesota Statutes 1994, section 48.09, is amended to read:

48.09 **DIVIDENDS; SURPLUS.**

Subdivision 1. **CREATION OF SURPLUS FUND.** At the end of each dividend period, after deducting all necessary expenses, losses, amounts receivable more than one year overdue and not well secured, interest, and taxes due or levied, all of the remaining net profits for the period shall be set aside as a surplus fund, if the surplus fund of the banking institution is not then equal to one-fifth of the capital stock. If the surplus fund is more than one-fifth of the capital stock, ten percent of the remaining net profits for the period shall be set aside as a surplus fund until it equals 50 percent of the capital stock. The directors may then declare a dividend of so much of the remainder as they may think expedient, subject to the commissioner's approval. When in any way impaired the surplus fund shall be raised to this percentage in like manner.

Subd. 2. **UNDECLARED NET PROFITS, PRIOR DIVIDEND PERIODS.** Any amount of remaining net profits qualifying for dividend declaration in subdivision 1 and not declared at the end of each annual dividend period may be subject to dividend declaration under the requirements of subdivision 1 during any of the three subsequent annual dividend periods.

Sec. 13. Minnesota Statutes 1994, section 48.10, is amended to read:

48.10 **ANNUAL AUDIT; REPORT.**

The board of directors of a bank, bank and trust, or trust company shall annually examine ~~the~~ its books ~~of~~, a ~~bank,~~ either in person, or by appointing an examining committee, or an auditor, who may be an independent auditor or accountant. The examining committee or auditor shall be solely responsible to the directors. A report shall be made to the directors as to the scope of the examination or audit, and also to show those assets, excluding marketable securities and fixed assets, which are carried on the books for more than actual value. This report shall be retained as a permanent record or incorporated in the minutes of the meeting, and a copy of the report shall be sent to the commissioner of commerce.

Sec. 14. Minnesota Statutes 1995 Supplement, section 48.153, subdivision 3a, is amended to read:

Subd. 3a. A savings bank organized under chapter 50, ~~a savings association subject to the provisions of sections 51A.01 to 51A.57,~~ or a savings association chartered under the laws of the United States, that has its principal place of business in this state, may make a loan for consumer purposes to a natural person in an amount not exceeding $25,000 repayable in installments, and may charge a rate of interest upon the unpaid principal balance of the amount financed of 12 percent a year, or the rate of interest authorized by section 48.195, whichever is greater. If the rate of interest charged is permitted by section 48.195 at the time the loan is made, the rate does not later become usurious because of a fluctuation in the federal discount rate.

Sec. 15. Minnesota Statutes 1995 Supplement, section 48.194, is amended to read:

48.194 **INSTALLMENT SALES CONTRACTS; LOANS.**

A person may enter into a credit sale or service contract for sale to a state or national bank doing business in this state, and a bank may purchase and enforce the contract under the terms and conditions set forth in ~~sections~~ section 47.59, subdivisions 2 and 4 to 14; ~~and 51A.386, subdivision~~ 4. A state bank or national bank may extend credit pursuant to the terms and conditions set forth in sections 47.59, and 47.60, ~~and 51A.386, subdivision~~ 4.

Sec. 16. Minnesota Statutes 1994, section 48.301, is amended to read:

48.301 **MULTIPARTY ACCOUNTS.**

When any deposit is made in the names of two or more persons jointly, or by any person payable on death (P.O.D.) to another, or by any person in trust for another, the rights of the parties and the financial institution are determined by chapter ~~528~~ 524.

Sec. 17. Minnesota Statutes 1995 Supplement, section 48.65, is amended to read:

48.65 **TRUST COMPANIES TO COMPLY WITH CERTAIN LAWS.**

No trust company of this state shall conduct a banking business, as defined in section 47.02, exercising deposit taking powers, without fully complying with the provisions of section 48.221 relating to the reserve requirements of the state banks.

Sec. 18. Minnesota Statutes 1994, section 48.845, subdivision 4, is amended to read:

Subd. 4. "Affiliated bank" with respect to another bank or a trust company means any bank which is owned or controlled by the corporation which owns or controls that other bank or trust company, including a wholly owned subsidiary of the other bank or trust company.

Sec. 19. Minnesota Statutes 1995 Supplement, section 50.1485, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** In addition to other investments authorized by law, a savings bank may make, purchase, or invest in:

(a) loans secured by the pledge of policies of life insurance, the assignment of which is properly acknowledged by the insurer;

(b) consumer loans, which may be unsecured or secured by personal or real property. Consumer loans include, but are not limited to, closed–end installment loans, single payment loans, nonamortizing loans, open–end revolving line of credit loans, credit card loans and extensions of credit, and overdraft protection loans. For the purpose of this paragraph, "consumer loan" means a loan made by the savings bank in which: (1) the debtor is a person other than an organization; (2) the debt is incurred primarily for personal, family, or household purpose; and (3) the debt is payable in installments or a finance charge is made;

(c) secured and unsecured loans to organizations and natural persons for business or commercial purposes. For the purpose of this paragraph, "organization" means a corporation, government or governmental subdivision, or agency, trust, estate, partnership, limited liability partnership, limited liability company, joint venture, cooperative, or association. "Business or commercial purpose" means a purpose other than personal, family, household, or agricultural purpose;

(d) secured and unsecured loans for agricultural purposes. For the purpose of this paragraph, "agricultural purpose" means a purpose relating to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, and forest products, and products raised or produced on farms, including processed or manufactured products;

(e) credit sale contracts, which means a sale of goods, services, or an interest in land in which credit is granted by a seller who regularly engages as a seller in credit transactions of the same kind, and the debt is payable in installments or a finance charge is made;

(f) loans on the security of deposit accounts;

(g) real estate loans, ~~subject to the conditions applicable to savings associations under section 51A.38 and Minnesota Statutes 1994, section 51A.385. "Real estate loans"~~ which include a loan or other obligation secured by a first lien on real estate in fee or in a leasehold extending or renewable automatically for a period of at least ten years beyond the date scheduled for the final principal payment of the loan or obligation, or a transaction out of which a first lien or claim is created against the real estate, including the purchase of the real estate in fee by a savings bank and the concurrent or immediate sale of it on installment contract;

(h) secured or unsecured loans for the purpose of repair, improvement, rehabilitation, or furnishing of real estate;

(i) loans for the purpose of financing or refinancing an ownership interest in certificates of stock, certificates of beneficial interest, or other evidence of an ownership interest in, or a proprietary lease from, a corporation, limited liability company, trust, limited liability partnership, or partnership formed for the purpose of the cooperative ownership of real estate, secured by the assignment or transfer of certificates or other evidence of ownership of the borrower;

(j) loans guaranteed or insured, in whole or in part, by the United States or any of its instrumentalities;

(k) issuance of letters of credit or other similar arrangements; and

(l) any other type of loan authorized by rules adopted by the commissioner.

Sec. 20. Minnesota Statutes 1995 Supplement, section 50.245, subdivision 4, is amended to read:

Subd. 4. **PROCEDURAL REQUIREMENTS.** Procedural requirements equivalent to those contained in sections 48.90 to ~~48.991~~ 48.995 apply to reciprocal interstate branching and acquisitions by savings banks and savings bank holding companies.

Sec. 21. Minnesota Statutes 1994, section 52.131, is amended to read:

52.131 **MULTIPARTY ACCOUNTS.**

When any deposit is made in the names of two or more persons jointly, or by any person payable on death (P.O.D.) to another, or by any person in trust for another, the rights of the parties and the financial institution are determined by chapter ~~528~~ 524.

Sec. 22. Minnesota Statutes 1994, section 53.01, is amended to read:

53.01 **ORGANIZATION.**

It is lawful for three or more persons, who desire to form a corporation for the purpose of carrying on primarily the business of loaning money to persons within the conditions set forth in this chapter, to organize, under this chapter, an industrial loan and thrift company, by filing with the secretary of state articles of incorporation, and upon paying the fees prescribed by ~~sections 301.07 and 301.071 or~~ chapter 302A and upon compliance with the procedure provided for the organization and government of ordinary corporations under the laws of this state, and upon compliance with the additional requirements of this chapter prior to receiving authorization to do business.

Sec. 23. Minnesota Statutes 1994, section 53.03, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION, FEE, NOTICE.** Any corporation hereafter organized as an industrial loan and thrift company, shall, after compliance with the requirements set forth in sections 53.01 and 53.02, file a written application with the department of commerce for a certificate of authorization. A corporation that will not sell or issue thrift certificates for investment as permitted by this chapter need not comply with subdivision 2b. The application must be in the form prescribed by the department of commerce. The application must be made in the name of the corporation, executed and acknowledged by an officer designated by the board of directors of the corporation, requesting a certificate authorizing the corporation to transact business as an industrial loan and thrift company, at the place and in the name stated in the application. At the time of filing the application the applicant shall pay a $1,000 filing fee and a $500 investigation fee. The fees must be turned over by the commissioner to the state treasurer and credited to the general fund. The applicant shall also submit a copy of the bylaws of the corporation, its articles of incorporation and all amendments thereto at that time. ~~If the 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 to the general fund shall be paid by the applicant and 50 percent equally by the intervening parties.~~ An application for powers under subdivision 2b must also require that a notice of the filing of the application must be published once within 30 days of the receipt of the form prescribed by the department of commerce, at the expense of the applicant, in a qualified newspaper published in the municipality in which

the proposed industrial loan and thrift company is to be located, or, if there be none, in a qualified newspaper likely to give notice in the municipality in which the company is proposed to be located. If the department of commerce receives a written objection to the application from any person within ~~20~~ 21 days of the notice having been fully published ~~a contested case hearing must be conducted on the application. Notice of a hearing in connection with this section must be published once in the form prescribed by the department of commerce, at the expense of the applicant, in the same manner as a notice of application~~, the commissioner shall proceed in the same manner as required under section 46.041, subdivisions 3 and 4, relating to state banks.

Sec. 24. Minnesota Statutes 1994, section 53.07, subdivision 2, is amended to read:

Subd. 2. **TEMPORARY RESERVE MINIMUM.** Until an industrial loan and thrift company obtains a commitment for insurance or guarantee of accounts acceptable to the commissioner as required by section 53.10, it shall establish a minimum reserve against the certificates of indebtedness, savings accounts, and savings deposits described in section 53.04, subdivision 5, of not less than ten percent of the amount of indebtedness thus created. Three percent of this indebtedness shall be in cash in the actual possession of the industrial loan company or on demand deposit in approved banks of this state, and seven percent of the total indebtedness may be in bonds admissible for investment by ~~mutual~~ savings banks under the laws of this state.

Sec. 25. Minnesota Statutes 1995 Supplement, 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 March 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.

(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. 26. Minnesota Statutes 1995 Supplement, section 55.10, subdivision 4, is amended to read:

Subd. 4. **WILL SEARCHES, BURIAL DOCUMENTS PROCUREMENT, AND INVENTORY OF CONTENTS.** (a) Upon being furnished with satisfactory proof of death of a sole lessee or the last surviving co-lessee of a safe deposit box, an employee of the safe deposit company shall open the box and examine the contents in the presence of ~~an employee of the safe deposit company and~~ an individual who appears in person and furnishes an affidavit stating that the individual believes:

(1) the box may contain the will or deed to a burial lot or a document containing instructions for the burial of the lessee or that the box may contain property belonging to the estate of the lessee; and

(2) the individual is an interested person as defined in this section and wishes to open the box for any one or more of the following purposes:

(i) to conduct a will search;

(ii) to obtain a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements; or

(iii) to obtain an inventory of the contents of the box.

(b) The safe deposit company may not open the box under this section if it has received a copy of letters of office of the representative of the deceased lessee's estate or other applicable court order.

(c) The safe deposit company need not open the box if:

(1) the box has previously been opened under this section for the same purpose;

(2) the safe deposit company has received notice of a written or oral objection from any person or has reason to believe that there would be an objection; or

(3) the lessee's key or combination is not available.

(d) For purposes of this section, the term "interested person" means any of the following:

(1) a person named as personal representative in a purported will of the lessee;

(2) a person who immediately prior to the death of the lessee had the right of access to the box as a deputy;

(3) the surviving spouse of the lessee;

(4) a devisee of the lessee;

(5) an heir of the lessee; or

(6) a person designated by the lessee in a writing acceptable to the safe deposit company which is filed with the safe deposit company before death.

(e) For purposes of this section, the term "will" includes a will or a codicil.

(f) If the box is opened for the purpose of conducting a will search, the safe deposit company shall remove any document that appears to be a will and make a true and correct machine copy thereof, replace the copy in the box, and then deliver the original thereof to the clerk of court for the county in which the lessee resided immediately before the lessee's death, if known to the safe deposit company, otherwise to the clerk of the court for the county in which the safe deposit box is located. The will must be personally delivered or sent by registered mail. If the interested person so requests, any deed to burial lot or document containing instructions for the burial of the lessee may be copied by the safe deposit box company and the copy or copies thereof delivered to the interested person.

(g) If the box is opened for the purpose of obtaining a document required to facilitate the lessee's wishes regarding the body, funeral, or burial arrangements, any such document may be removed from the box and delivered to the interested person with a true and correct machine copy retained in the box. If the safe deposit box company discovers a

document that appears to be a will, the safe deposit company shall act in accordance with paragraph (f).

(h) If the box is opened for the purpose of obtaining an inventory of the contents of the box, the employee of the safe deposit company shall make, or cause to be made, an inventory of the contents of the box, to which the employee and the interested person shall attest under penalty of perjury to be correct and complete. Within ten days of opening the box pursuant to this subdivision, the safe deposit company shall deliver the original inventory of the contents to the court administrator for the county in which the lessee resided immediately before the lessee's death, if known to the safe deposit company, otherwise to the court administrator for the county in which the safe deposit box is located. The inventory must be personally delivered or sent by registered mail. If the interested person so requests, the safe deposit company shall make a true and correct copy of any document in the box and deliver that copy to the interested person. If the contents of the box include a document that appears to be a will, the safe deposit company shall act in accordance with paragraph (f).

(i) The safe deposit company need not ascertain the truth of any statement in the affidavit required to be furnished under this subdivision and when acting in reliance upon an affidavit, it is discharged as if it dealt with the personal representative of the lessee. The safe deposit company is not responsible for the adequacy of the description of any property included in an inventory of the contents of a safe deposit box, nor for conversion of the property in connection with actions performed under this subdivision, except for conversion by intentional acts of the company or its employees, directors, officers, or agents. If the safe deposit company is not satisfied that the requirements of this subdivision have been met, it may decline to open the box.

(j) No contents of a box other than a will and a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements may be removed pursuant to this subdivision. The entire contents of the box, however, may be removed pursuant to section 524.3–1201.

Sec. 27. Minnesota Statutes 1995 Supplement, 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, 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 domestic product, 1987 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for December 1991 is the reference base index for adjustments of dollar amounts~~ 47.59, subdivision 3.

~~(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 1995, chapter 202, on the date of enactment; and~~

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

~~(2) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to Laws 1995, chapter 202, as a result of earlier application of this section.~~

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

~~(d) The commissioner shall announce and publish:~~

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

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

~~(e) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if 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. 28. Minnesota Statutes 1995 Supplement, section 56.14, is amended to read:

56.14 **DUTIES OF LICENSEE.**

Every licensee shall:

(1) deliver to the borrower (or if there are two or more borrowers to one of them) at the time any loan is made a statement making the disclosures and furnishing the information required by the federal Truth–in–Lending Act, United States Code, title 15, sections 1601 to 1667e, as amended from time to time, with respect to the contract of loan. A copy of the loan contract may be delivered in lieu of a statement if it discloses the required information;

(2) deliver or mail to the borrower without request, a written receipt within 30 days following payment for each payment by coin or currency made on account of any loan wherein charges are computed and paid on unpaid principal balances for the time actually outstanding, specifying the amount applied to charges and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of the loan; and wherein precomputed charges have been added to the principal of the loan specifying the amount of the payment applied to principal and charges combined, the amount applied to default or extension charges, if any, and stating the unpaid balance, if any, of the precomputed loan contract. A periodic statement showing a payment received by mail complies with this clause;

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

(4) upon repayment of the loan in full, mark indelibly every obligation and security, other than a mortgage or security agreement which secures a new loan to the licensee, signed by the borrower with the word "Paid" or "Canceled," and release any mortgage or security agreement which no longer secures a loan to the licensee, restore any pledge, and cancel and return any note, and any assignment given to the licensee which does not secure a new loan to the licensee within 20 days after the repayment. For purposes of this requirement, the document including actual evidence of an obligation or security may be maintained, stored, and retrieved in a form or format acceptable to the commissioner under section 46.04, subdivision 3;

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

(6) show in the loan contract or statement of loan the rate or rates of charge on which the charge in the contract is based, expressed in terms of rate or rates per annum. The rate expression shall be printed in at least 8–point type on the loan statement or copy of the loan contract given to the borrower;

(7) if a payment results in the prepayment of three or more installment payments on a precomputed loan, ~~at the same time the receipt required by clause (2) is delivered or mailed~~ within 15 days of receipt of the prepayment, deliver or mail to the borrower a notice in ~~at least eight–point type as part of the receipt or together with the receipt~~. The notice must contain the following statement:

"You have substantially prepaid the installment payments on your loan and may experience an interest savings over the remaining term only if you refinance the balance within the next 30 days."

Sec. 29. Minnesota Statutes 1995 Supplement, section 62B.04, subdivision 1, is amended to read:

Subdivision 1. **CREDIT LIFE INSURANCE.** (1) The initial amount of credit life insurance shall not exceed the amount of principal repayable under the contract of indebtedness plus an amount equal to one monthly payment. Thereafter, if the indebtedness is repayable in substantially equal installments according to a predetermined schedule, the amount of insurance on which the premium is calculated shall ~~not exceed~~ be equal to the scheduled indebtedness plus one monthly payment ~~or actual amount of indebtedness, whichever is greater~~. If the contract of indebtedness provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the scheduled amount of indebtedness and subsequent changes to the rate must be disregarded in determining whether the contract is repayable in substantially equal installments according to a predetermined schedule.

(2) Notwithstanding clause (1), the amount of credit life insurance written in connection with credit transactions repayable over a specified term exceeding 63 months shall not exceed the greater of: (i) the actual amount of unpaid indebtedness as it exists from time to time; or (ii) where an indebtedness is repayable in substantially equal installments according to a predetermined schedule, the scheduled amount of unpaid indebtedness, less any unearned interest or finance charges, plus an amount equal to two monthly payments. If the credit transaction provides for a variable rate of finance charge or inter-

est, the initial rate or the scheduled rates based on the initial index must be used in determining the scheduled amount of unpaid indebtedness and subsequent changes in the rate must be disregarded in determining whether the contract is repayable in substantially equal installments according to a predetermined schedule.

(3) Notwithstanding clauses (1) and (2), insurance on educational, agricultural, and horticultural credit transaction commitments may be written on a nondecreasing or level term plan for the amount of the loan commitment.

(4) If the contract of indebtedness provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index shall be used in determining the scheduled amount of indebtedness, and subsequent changes to the rate shall be disregarded in determining whether the contract is repayable in substantially equal installments according to a predetermined schedule.

Sec. 30. Minnesota Statutes 1994, section 118.01, subdivision 1, is amended to read:

Subdivision 1. Any bank, trust company or thrift institution authorized to do business in this state may, in lieu of the corporate or personal surety bond required to be furnished to secure deposited funds, deposit with the custodian of the funds as collateral security: (1) certificates of deposit that are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; (2) notes secured by first mortgages of future maturity, upon which interest is not past due, on improved real estate free from delinquent taxes, within the county wherein the depository is located, or within counties immediately adjoining the county in the state of Minnesota; (3) obligations which are legally authorized investments for debt service funds under section 475.66, subdivision 3; ~~and~~ (4) qualified state or local government obligations acceptable to the treasurer or chief financial officer; and (5) irrevocable standby letters of credit issued by Federal Home Loan Banks to a municipality accompanied by written evidence of the bank's public debt rating contemplated by this subdivision. Qualified obligations under clause (4) must be general obligations rated "A" or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation; and Federal Home Loan Banks issuing letters of credit under clause (5) must have a rating of "AA" or better by Moody's Investors Service, Inc., or Standard & Poor's Corporation.

Sec. 31. Minnesota Statutes 1994, section 168.69, is amended to read:

168.69 **COMPLAINT 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 or retail seller, and of the retail seller involved, relating to such specific written complaint.

Sec. 32. Minnesota Statutes 1994, section 168.705, is amended to read:

168.705 **EXAMINATIONS, SPECIAL INVESTIGATIONS, COSTS.**

For the purpose of discovering violations of sections 168.66 to 168.77 or securing information lawfully required by the administrator hereunder, the administrator may, at any time, either personally or by a person or persons duly designated by the administra-

tor, investigate the conditional sales contracts and business related to the conditional sales contracts and examine the books, accounts, records, and files used therein, of every licensee, assignee of the licensee, and of every person who shall be engaged in the business of a sales finance company, including the retail seller and assignee of the retail seller, whether the person shall act as principal or agent, or under or without the authority of sections 168.66 to 168.77. For that purpose, the administrator and the administrator's duly designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons. The administrator and all persons duly designated by the administrator shall have authority to require the attendance of and to examine, under oath, all persons whomsoever whose testimony the administrator may require relative to the conditional sales contract or the business or to the subject matter of any examination, investigation, or hearing.

The administrator may make an examination of the affairs, business, office, and records of licensees, and of other persons subject to examination under this section, as often as considered necessary. The administrator may assess a fee covering the necessary costs of an examination or special investigation under this section, section 168.69, or reports filed under section 168.706. The fee is payable to the administrator on the administrator's request for payment. The administrator may maintain an action for the recovery of the costs in any court of competent jurisdiction.

Sec. 33. Minnesota Statutes 1994, section 168.71, is amended to read:

168.71 **RETAIL INSTALLMENT CONTRACTS.**

(a)(1) Every retail installment contract shall be in writing, shall contain all the agreements of the parties, shall be signed by the retail buyer and seller, and a copy ~~thereof~~ signed by the retail buyer shall be furnished to such retail buyer at the time ~~of~~ the ~~execution of~~ retail buyer executes the contract. The copy signed by both the retail buyer and retail seller shall be provided to the retail buyer within seven days after delivery of the vehicle. With respect to any contract executed prior to August 1, 1996, which has not been paid in full by the retail buyer, the retail seller shall provide such retail buyer a copy signed by both the retail buyer and retail seller within 120 days after August 1, 1996.

(2) No provisions for confession of judgment or power of attorney therefor contained in any retail installment contract or contained in a separate agreement relating thereto, shall be valid or enforceable.

(3) The holder of a precomputed retail installment contract may, if the contract so provides, collect a delinquency and collection charge on each installment in arrears for a period not less than ten days in an amount not in excess of five percent of each installment or $5, whichever is greater. In addition to such delinquency and collection charge, the retail installment contract, whether interest-bearing or precomputed, may provide for the payment of attorneys' fees not exceeding 15 percent of the amount due and payable under such contract where such contract is referred to an attorney not a salaried employee of the holder of the contract for collection plus the court costs.

(4) Unless written notice has been given to the retail buyer of actual or intended assignment of a retail installment contract, payment thereunder or tender thereof made by the retail buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees.

(5) Upon written request from the retail buyer, the holder of the retail installment contract shall give or forward to the retail buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A retail buyer shall be given a written receipt for any payment when made in cash.

(b) The retail installment contract shall contain the following items:

(1) The cash sale price of the motor vehicle which is the subject matter of the retail installment contract;

(2) The total amount of the retail buyer's down payment, whether made in money or goods, or partly in money or partly in goods;

(3) The difference between items one and two;

(4) The charge, if any, included in the transaction for any insurance and other benefits not included in clause (1), specifying the types of coverage and taxes, fees, and charges that actually are or will be paid to public officials or government agencies, including those for perfecting, releasing, or satisfying a security interest if such taxes, fees, or charges are not included in clause (1);

(5) Principal balance, which is the sum of items three and four;

(6) The amount of the finance charge;

(7) The total of payments payable by the retail buyer to the retail seller and the number of installment payments required and the amount of each installment expressed in dollars or percentages, and date of each payment necessary finally to pay the total of payments which is the sum of item five and item six.

Provided, however, that said items one to seven inclusive need not be stated in the terms, sequence or order set forth above. Provided further, that clauses (6) and (7) may be disclosed on the assumption that all scheduled payments under the contract will be made when due.

In lieu of the above clauses, the retail seller may give the retail buyer disclosures which satisfy the requirements of the Federal Truth–In–Lending Act in effect as of the time of the contract, notwithstanding whether or not that act applies to the transaction.

(c) Every retail seller or sales finance company, if a charge for insurance on the motor vehicle is included in a retail installment contract shall within 30 days after execution of the retail installment contract send or cause to be sent to the retail buyer a policy or policies or certificate of insurance, which insurance shall be written by a company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of the insurance. The buyer of a motor vehicle under a retail installment contract shall have the privilege of purchasing such insurance from an agent or broker of the buyer's own selection and selecting an insurance company mutually acceptable to the seller and the buyer; provided, however, that the inclusion of the cost of the insurance premium in the retail installment contract when the buyer selects the agent, broker or company, shall be optional with the seller.

(d) Any sales finance company hereunder may purchase or acquire from any retail seller any retail installment contract on such terms and conditions as may be mutually agreed upon between them.

(e) An acknowledgment by the retail buyer of the delivery of any such copy or notice as required in subsection (a) contained in the body of the statement or contract shall be conclusive proof of delivery in any action or proceeding by or against any assignee of a retail installment contract.

Sec. 34. Minnesota Statutes 1994, section 168.73, is amended to read:

168.73 **PREPAYMENT ~~IN FULL~~, REFUND CREDITS, ALLOWANCE.**

Subdivision 1. **PREPAYMENT IN FULL.** Notwithstanding the provisions of any retail installment contract to the contrary, any retail buyer may pay in full at any time before maturity the debt of any retail installment contract without penalty. In paying a precomputed retail installment contract in full, the retail buyer shall receive a refund credit thereon for such anticipation of payments. For contracts with substantially equal scheduled monthly payments remaining after the date of prepayment in full, the refund must be calculated for all fully unexpired monthly payment periods following the date of payment in full. For all other contracts, the refund must be calculated as of the date in the month following prepayment which corresponds to the original contract date. The refund shall be calculated according to the actuarial method, less an acquisition cost of $15 which may be deducted from the refund so calculated.

Where the amount of the credit for anticipation of payment is less than $1, no refund need be made.

The actuarial method means the method of allocating payments on a contract between the principal amount and finance charge at the contract rate charged under section 168.72, whereby a payment is applied first to the accumulated finance charge and then to the unpaid principal balance based on the original terms of the contract and based on the assumption that all payments are made on the due date as originally scheduled or deferred.

Subd. 2. **PARTIAL PREPAYMENT; NOTICE.** If a payment results in the prepayment of three or more installment payments on a precomputed contract, the retail seller or assignee of the retail seller shall within 15 days of receipt of the prepayment, deliver or mail to the retail buyer a notice in at least eight–point type. The notice must contain the following statement:

"You have substantially prepaid the installment payments on your contract and may experience an interest savings over the remaining term only if you refinance the balance within the next 30 days."

Sec. 35. Minnesota Statutes 1994, section 256.99, is amended to read:

256.99 **REVERSE MORTGAGE PROCEEDS DISREGARDED.**

All reverse mortgage loan proceeds received ~~pursuant to section~~ 47.58, including interest or earnings thereon, shall be disregarded and shall not be considered available to the borrower for purposes of determining initial or continuing eligibility for, or amount of, medical assistance, Minnesota supplemental assistance, general assistance, general assistance medical care, or a federal or state low interest loan or grant. This section applies regardless of the time elapsed since the loan was made or the disposition of the proceeds.

For purposes of medical assistance eligibility provided under sections 256B.055, 256B.056, and 256B.06, proceeds from a reverse mortgage must be disregarded as income in the month of receipt but are a resource if retained after the month of receipt.

Sec. 36. Minnesota Statutes 1994, section 300.025, is amended to read:

300.025 **ORGANIZATION OF FINANCIAL CORPORATIONS.**

(a) Three or more persons may form a corporation for any of the purposes specified in section 47.12 by applying to the department of commerce and complying with all applicable organizational requirements and the conditions set out in clauses (1) to (7). However, no corporation may be formed under this section if it may be formed under the Minnesota business corporation act. The incorporators must subscribe a certificate specifying:

(1) the corporation's name, which must distinguish it from all other corporations authorized to do business in this state, and must contain the word "company," "corporation," "bank," "association," or "incorporated";

(2) the general nature of the corporation's business and its principal place of business;

(3) the period of its duration, if limited;

(4) the names and places of residence of the incorporators;

(5) the board in which the management of the corporation will be vested, the date of the annual meeting at which it will be elected, and the names and addresses of the board members until the first election, a majority of whom must always be residents of this state;

(6) the amount of capital stock, if any, how the capital stock is to be paid in, the number of shares into which it is to be divided, and the par value of each share; and, if there is to be more than one class, a description and the terms of issue of each class, and the method of voting on each class; and

(7) the highest amount of indebtedness or liability to which the corporation will at any time be subject.

The certificate may contain any other lawful provision defining and regulating the powers and business of the corporation, its officers, directors, trustees, members, and stockholders. However, a corporation subject to ~~sections~~ section 48.27 ~~and 51A.22, subdivision 2,~~ may show its highest amount of indebtedness to be 30 times the amount of its capital and actual surplus.

(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 5.22.

Sec. 37. Minnesota Statutes 1994, section 303.02, subdivision 2, is amended to read:

Subd. 2. **CORPORATION.** In addition to the meaning set forth in section 300.02, subdivision 2, "corporation" means a corporation formed for profit and includes a cooperative.

Sec. 38. Minnesota Statutes 1994, section 308A.135, subdivision 3, is amended to read:

Subd. 3. **CERTIFICATE.** (a) A certificate must be prepared stating:

(1) the vote and meeting of the board adopting a resolution of the proposed amendment;

(2) the notice given to members of the meeting ~~that~~ at which the amendment was adopted;

(3) the quorum registered at the meeting; and

(4) the vote cast adopting the amendment.

(b) The certificate must be signed by the chair, vice–chair, president, vice–president, secretary, or assistant secretary and filed with the records of the cooperative.

Sec. 39. Minnesota Statutes 1994, section 308A.165, subdivision 2, is amended to read:

Subd. 2. **ADOPTION AND AMENDMENT.** (a) Except as provided in paragraph (b), the bylaws of a cooperative may be adopted or amended at a regular or special members' meeting if:

(1) the notice of the meeting contains a summary statement of the proposed bylaws or amendment;

(2) a quorum is registered as being present or represented by mail vote if authorized by the board; and

(3) the bylaws or amendment is approved by a majority of the votes cast, or for a cooperative with articles or bylaws requiring more than majority approval or other conditions for approval, the bylaws or amendment is approved by a proportion of the votes cast or a number of the total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

(b) Until the first annual members meeting, the majority of directors may adopt and amend bylaws for the cooperative that are consistent with subdivision 3 if the cooperative does not have any members or stockholders with voting rights.

Sec. 40. Minnesota Statutes 1994, section 332.21, is amended to read:

332.21 **CONTRACTS.**

Each contract entered into by the licensee and the debtor shall be in writing and signed by both parties. The licensee shall furnish the debtor with a copy of the signed contract. Each such contract shall set forth (1) the dollar charges agreed upon for the services of the licensee, clearly disclosing to such debtor the total amount which may be retained by licensee for services if the contract is fully performed, which maximum amount would be the origination fee together with 15 percent of the amount scheduled to be liquidated by such contract, (2) the terms upon which the debtor may cancel the contract as set out in section 332.23, (3) all debts which are to be managed by the licensee, including the name of the creditor and the amount of the debt, and (4) such other matter as the commissioner may require by rule. A contract shall not be effective until a payment has been made to the licensee for distribution to creditors or until three business days after the signing thereof, whichever is later. Within such period an individual may disaffirm said contract and upon such disaffirmance said contract shall be null and void. Total fees con-

tained in the contract may be exceeded in relation to creditors under open–end agreements if it is agreed to in the contract and the additional debts so contracted to be prorated do not exceed ten percent of the original debts in the contract or written revisions to the original contract.

Sec. 41. Minnesota Statutes 1994, section 332.50, subdivision 2, is amended to read:

Subd. 2. **ACTS CONSTITUTING.** (a) Whoever issues any check that is dishonored and is not paid within 30 days after mailing a notice of dishonor that includes a citation to this section and section 609.535, and a description of the penalties contained in these sections, in compliance with subdivision 3, is liable to the payee, holder, or agent of the holder for: (1) the amount of the check plus a civil penalty of up to $100 or up to 100 percent of the value of the check, whichever is greater; (2) interest at the rate payable on judgments pursuant to section 549.09 on the face amount of the check from the date of dishonor; and (3) reasonable attorney fees if the aggregate amount of dishonored checks issued by the issuer to all payees within a six–month period is over $1,250.

(b) If the amount of the dishonored check plus any service charges that have been incurred under paragraph (d) or (e) have not been paid within 30 days after having mailed a notice of dishonor in compliance with subdivision 3 but before bringing an action, a payee, holder, or agent of the holder may make a written demand for payment for the liability imposed by paragraph (a) by sending a copy of this section and a description of the liability contained in this section to the issuer's last known address.

(c) After notice has been sent but before an action under this section is heard by the court, the plaintiff shall settle the claim if the defendant gives the plaintiff the amount of the check plus court costs, any service charge owed under paragraph (d), and reasonable attorney fees if provided for under paragraph (a), clause (3).

(d) A service charge may be imposed immediately on any dishonored check, regardless of mailing a notice of dishonor, if written notice of the service charge was conspicuously displayed on the premises when the check was issued. The service charge may not exceed $20, except that if the payee uses the services of a law enforcement agency to obtain payment of a dishonored check, a service charge of up to $25 may be imposed if the service charge is used to reimburse the law enforcement agency for its expenses. A payee may impose only one service charge under this paragraph for each dishonored check.

(e) This subdivision prevails over any provision of law limiting, prohibiting, or otherwise regulating service charges authorized by this subdivision, but does not nullify charges for dishonored checks, which do not exceed the charges in paragraph (d) or the actual cost of collection, but in no case more than $30, or terms or conditions for imposing the charges which have been agreed to by the parties to an express contract.

Sec. 42. Laws 1995, chapter 171, section 70, is amended to read:

Sec. 70. **REPEALER.**

Minnesota Statutes 1994, sections 47.095; 47.30, subdivisions 4 and 6; ~~48.67;~~ 50.02; 50.07; 50.08; 50.09; 50.10; 50.12; 50.15; 50.16; 50.21; and 50.22, are repealed.

Sec. 43. **CAPITAL REQUIREMENTS FOR TRUST COMPANIES; REENACTMENT OF REPEALED SECTION.**

Notwithstanding Minnesota Statutes, section 645.36, Minnesota Statutes, section 48.67, inadvertently repealed in Laws 1995, chapter 171, section 70, is reenacted as of the effective date of Laws 1995, chapter 171, section 70.

Sec. 44. **REPEALER.**

(a) Minnesota Statutes 1994, sections 51A.01; 51A.02, subdivisions 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, and 56; 51A.03; 51A.04; 51A.041; 51A.05; 51A.06; 51A.065; 51A.07; 51A.08; 51A.09; 51A.10; 51A.11; 51A.12; 51A.13; 51A.131; 51A.14; 51A.15; 51A.16; 51A.17; 51A.19, subdivisions 1, 4, 5, 6, 7, 8, 10, 11, 12, and 13; 51A.20; 51A.21, subdivisions 1, 2, 3, 4, 5, 6a, 6b, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 20, 21, 22, 23, 24, 25, 26, and 27; 51A.22; 51A.23, subdivision 6; 51A.24; 51A.251; 51A.261; 51A.262; 51A.27; 51A.28; 51A.29; 51A.30; 51A.31; 51A.32; 51A.33; 51A.34; 51A.35; 51A.361; 51A.37; 51A.38; 51A.40; 51A.41; 51A.42; 51A.43; 51A.44; 51A.45; 51A.46; 51A.47; 51A.48; 51A.51; 51A.52; 51A.54; 51A.55; 51A.56; and 51A.57; Minnesota Statutes 1995 Supplement, sections 47.201, subdivision 7; 47.27, subdivision 3; 51A.02, subdivisions 6, 7, 26, 40, and 54; 51A.19, subdivision 9; 51A.21, subdivision 28; 51A.23, subdivisions 1 and 7; 51A.386; 51A.50; 51A.53; and 51A.58, are repealed.

(b) Minnesota Statutes 1994, section 48.94, is repealed.

(c) Minnesota Rules, parts 2655.0100; 2655.0200; 2655.0300; 2655.0400; 2655.0500; 2655.0600; 2655.0700; 2655.0800; 2655.0900; 2655.1000; 2655.1100; 2655.1200; and 2655.1300, are repealed.

Sec. 45. **EFFECTIVE DATE.**

Sections 1 to 5, 7 to 9, 11, 12, 16, 20 to 27, 30, 33, 35, 42, 43, and 44, paragraphs (b) and (c), are effective the day following final enactment. Section 44, paragraph (a), is effective July 1, 1998.

Sections 10, 14, 15, 19, and 36 are effective on the effective date of the repeals in section 44, paragraph (a).

ARTICLE 2

CONSUMER CREDIT UNIFORM CODE CLARIFICATION AND DEVELOPMENT ACT

Section 1. Minnesota Statutes 1995 Supplement, section 47.59, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** ~~This section does not apply to loans and other~~ Extensions of credit or purchases of extensions of credit by financial institutions under sections 47.20, 47.21, 47.201, 47.204, 47.58, 47.60, 48.153, 48.185, 48.195, 59A.01 to 59A.15, ~~168.66 to 168.77,~~ 334.01, 334.011, 334.012, 334.021, 334.06, and 334.061 to 334.19.

may, but need not, be made according to those sections in lieu of the authority set forth in this section to the extent those sections authorize the financial institution to make extensions of credit or purchase extensions of credit under those sections. If a financial institution elects to make an extension of credit or to purchase an extension of credit under those other sections, the extension of credit or the purchase of an extension of credit is subject to those sections and not this section, except this subdivision, and except as expressly provided in those sections. A financial institution may also charge an organization a rate of interest and any charges agreed to by the organization and may calculate and collect finance and other charges in any manner agreed to by that organization. Except for extensions of credit a financial institution elects to make under section 334.01, 334.011, 334.012, 334.021, 334.06, or 334.061 to 334.19, chapter 334 does not apply to extensions of credit made according to this section or the sections listed in this subdivision. This subdivision does not authorize a financial institution to extend credit or purchase an extension of credit under any of the sections listed in this subdivision if the financial institution is not authorized to do so under those sections. A financial institution extending credit under any of the sections listed in this subdivision shall specify in the promissory note, contract, or other loan document the section under which the extension of credit is made.

Sec. 2. Minnesota Statutes 1995 Supplement, section 47.59, subdivision 3, is amended to read:

Subd. 3. **FINANCE CHARGE FOR LOANS.** (a) With respect to a loan, including a loan pursuant to open–end credit but excluding open–end credit pursuant to a credit card, a financial institution may contract for and receive a finance charge on the unpaid balance of the principal amount not to exceed the greater of:

(1) an annual percentage rate not exceeding 21.75 percent; or

(2) the total of:

(i) 33 percent per year on that part of the unpaid balance of the principal amount not exceeding $750; and

(ii) 19 percent per year on that part of the unpaid balance of the principal amount exceeding $750.

With respect to open–end credit pursuant to a credit card, the financial institution may contract for and receive a finance charge on the unpaid balance of the principal amount at an annual percentage rate not exceeding 18 percent per year.

(b) On a loan where the finance charge is calculated according to the method provided for in paragraph (a), clause (2), the finance charge must be contracted for and earned as provided in that provision or at the single annual percentage rate computed to the nearest ~~.001~~ one–tenth of one percent that would earn the same total finance charge at maturity of the contract as would be earned by the application of the graduated rates provided in paragraph (a), clause (2), when the debt is paid according to the agreed terms and the calculations are made according to the actuarial method.

(c) With respect to a loan, the finance charge must be considered not to exceed the maximum annual percentage rate permitted under this section if the finance charge contracted for and received does not exceed the equivalent of the maximum annual percentage rate calculated in accordance with Code of Federal Regulations, title 12, part 226, but using the definition of finance charge provided in this section.

(d) This subdivision does not limit or restrict the manner of calculating the finance charge, whether by way of add–on, discount, discount points, precomputed charges, single annual percentage rate, variable rate, interest in advance, compounding, average daily balance method, or otherwise, if the annual percentage rate does not exceed that permitted by this section. Discount points permitted by this paragraph and not collected but included in the principal amount must not be included in the amount on which credit insurance premiums are calculated and charged.

(e) With respect to a loan secured by real estate, if a finance charge is calculated or collected in advance, or included in the principal amount of the loan, and the borrower prepays the loan in full, the financial institution shall credit the borrower with a refund of the charge to the extent that the annual percentage rate yield on the loan would exceed the maximum rate permitted under paragraph (a), taking into account the prepayment. The refund need not be made if it would be less than $5.

(f) With respect to all other loans, if the finance charge is calculated or collected in advance, or included in the principal amount of the loan, and the borrower prepays the loan in full, the financial institution shall credit the borrower with a refund of the charge to the extent the annual percentage rate yield on the loan would exceed the annual percentage rate on the loan as originally determined under paragraph (a) and taking into account the prepayment. The refund need not be made if it would be less than $5.

(g) For the purpose of calculating the refund under this subdivision, the financial institution may assume that the contract was paid before the date of prepayment according to the schedule of payments under the loan and that all payments were paid on their due dates.

(h) For loans repayable in substantially equal successive monthly installments, the financial institution may calculate the refund under paragraph (f) as the portion of the finance charge allocable on an actuarial basis to all wholly unexpired payment periods following the date of prepayment, based on the annual percentage rate on the loan as originally determined under paragraph (a), and for the purpose of calculating the refund may assume that all payments are made on the due date.

(i) The dollar amounts in this subdivision and subdivision 6, paragraph (a), clause (4), shall change periodically, as provided in this section, according to and to the extent of changes in the implicit price deflator for the gross domestic product, 1987 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for December 1991 is the reference base index for adjustments of dollar amounts.

(j) 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 1995, chapter 202, on May 24, 1995; and

(2) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to Laws 1995, chapter 202, as a result of earlier application of this section.

(k) 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.

(l) 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 (j); and

(2) promptly after the changes occur, changes in the index required by paragraph (k) 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.

(m) 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 (j), clause (2), or appearing in the last publication of the commissioner announcing the then current dollar amounts.

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

Sec. 3. Minnesota Statutes 1995 Supplement, section 47.59, subdivision 4, is amended to read:

Subd. 4. **FINANCE CHARGE FOR CREDIT SALES MADE BY A THIRD PARTY.** (a) A person may enter into a credit sale contract for sale to a financial institution and a financial institution may purchase and enforce the contract, if the annual percentage rate provided for in the contract does not exceed that permitted in this section, or, in the case of contracts governed by sections 168.66 to 168.77, the rates permitted by ~~those sections~~ subdivision 4a.

(b) The annual percentage rate may not exceed the equivalent of the greater of either of the following:

(1) the total of:

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

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

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

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

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

permitted by this section. The finance charge may be contracted for and earned at the single annual percentage rate that would earn the same finance charge as the graduated rates when the debt is paid according to the agreed terms and the finance charge is calculated under paragraph (d). If the finance charge is calculated and collected in advance, or included in the principal amount of the contract, and the borrower prepays the contract in full, the financial institution shall credit the borrower with a refund of the charge to the extent the annual percentage rate yield on the contract would exceed the annual percentage rate on the contract as originally determined under paragraph (d) and taking into account the prepayment. For the purpose of calculating the refund under this subdivision, the financial institution may assume that the contract was paid before the date of prepayment according to the schedule of payments under the contract and that all payments were paid on their due dates. For contracts repayable in substantially equal successive monthly installments, the financial institution may calculate the refund as the portion of the finance charge allocable on an actuarial basis to all wholly unexpired payment periods following the date of prepayment, based on the annual percentage rate on the contract as originally determined under paragraph (d), and for the purpose of calculating the refund may assume that all payments are made on the due date.

(d) The annual percentage rate must be calculated in accordance with Code of Federal Regulations, title 12, part 226, except that the following will not in any event be considered a finance charge:

(1) a charge as a result of delinquency or default under subdivision 6 if made for actual unanticipated late payment, delinquency, default, or other similar occurrence, and a charge made for an extension or deferment under subdivision 5, unless the parties agree that these charges are finance charges;

(2) an additional charge under subdivision 6; or

(3) a discount, if a financial institution purchases a contract evidencing a credit sale at less than the face amount of the obligation or purchases or satisfies obligations of a cardholder according to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation.

Sec. 4. Minnesota Statutes 1995 Supplement, section 47.59, is amended by adding a subdivision to read:

Subd. 4a. **FINANCE CHARGE FOR MOTOR VEHICLE RETAIL INSTALLMENT SALES.** A retail installment contract evidencing the retail installment sale of a motor vehicle as defined in section 168.66 is subject to the finance charge limitations in paragraphs (a) and (b).

(a) The finance charge authorized by this subdivision in a retail installment sale may not exceed the following annual percentage rates:

(1) Class 1. A motor vehicle designated by the manufacturer by a year model of the same or not more than one year before the year in which the sale is made, 18 percent per year.

(2) Class 2. A motor vehicle designated by the manufacturer by a year model of two to three years before the year in which the sale is made, 19.75 percent per year.

(3) Class 3. Any motor vehicle not in Class 1 or Class 2, 23.25 percent per year.

(b) A sale of a manufactured home made after July 31, 1983, is governed by this subdivision for purposes of determining the lawful finance charge rate, except that the maximum finance charge for a Class 1 manufactured home may not exceed 14.5 percent per year. A retail installment sale of a manufactured home that imposes a finance charge that is greater than the rate permitted by this subdivision is lawful and enforceable in accordance with its terms until the indebtedness is fully satisfied if the rate was lawful when the sale was made.

Sec. 5. Minnesota Statutes 1995 Supplement, section 47.59, subdivision 5, is amended to read:

Subd. 5. **EXTENSIONS ~~AND~~, DEFERMENTS, AND CONVERSION TO INTEREST BEARING.** (a) The parties may agree in writing, either in the loan contract or credit sale contract or in a subsequent agreement, to a deferment of wholly unpaid installments. For precomputed loans and credit sale contracts, the manner of deferment charge shall be determined as provided for in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one–month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred payment. A proportionate charge may be made for deferment periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. If a loan or credit sale is prepaid in full during a deferment period, the financial institution shall make or credit to the borrower a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan or credit sale in full.

For the purpose of this subdivision, "applicable charge" means the amount of finance charge attributable to each monthly installment period for the loan or credit sale contract. The applicable charge is computed as if each installment period were one month and any charge for extending the first installment period beyond the one month, or reduction in charge for a first installment less than one month, is ignored. The applicable charge for any installment period is that which would have been made for the period had the loan been made on an interest–bearing basis at the single annual percentage rate provided for in the contract based upon the assumption that all payments were made according to schedule. For convenience in computation, the financial institution may round the single annual rate to the nearest one quarter of one percent.

(b) Subject to a refund of unearned finance or deferment charge required by this section, a financial institution may convert a loan or credit sale contract to an interest bearing balance, if:

(1) the loan contract or credit sale contract so provides and is subject to a change of the terms of the written agreement between the parties; or

(2) the loan contract so provides and two or more installments are delinquent one full month or more on any due date.

Thereafter, and in lieu of any other default, extension, or deferment charges, the single annual percentage rate must be determined under the applicable charge provisions of this subdivision.

Sec. 6. Minnesota Statutes 1995 Supplement, section 47.59, subdivision 6, is amended to read:

Subd. 6. **ADDITIONAL CHARGES.** (a) In addition to the finance charges permitted by this section, a financial institution may contract for and receive the following additional charges that may be included in the principal amount ~~financed~~ of the loan or credit sale unpaid balances:

(1) official fees and taxes;

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

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

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

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

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

(iv) fees for notarizing deeds and other documents;

(v) appraisal and credit report fees; and

(vi) fees for determining whether any portion of the property is located in a flood zone and fees for ongoing monitoring of the property to determine changes, if any, in flood zone status;

(4) a delinquency charge on a payment, including the minimum payment due in connection with the open–end credit, not paid in full on or before the tenth day after its due date in an amount not to exceed five percent of the amount of the payment or $5.20, whichever is greater;

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

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

(b) An additional charge may be made for insurance written in connection with the loan or credit sale contract, which may be included in the principal amount ~~financed~~ of the loan or credit sale unpaid balances:

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

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

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

(c) In addition to the finance charges and other additional charges permitted by this section, a financial institution may contract for and receive the following additional charges in connection with open-end credit, which may be included in the principal amount ~~financed~~ of the loan or balance upon which the finance charge is computed:

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

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

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

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

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

(d) In addition to the finance charges and other additional charges permitted by this section, a financial institution may contract for and receive a one-time loan administrative fee not exceeding $25 in connection with closed-end credit, which may be included in the ~~amount financed or~~ principal balance upon which the finance charge is computed. This paragraph applies only to closed-end credit in an original principal amount of $4,320 or less. The determination of an original principal amount must exclude the administrative fee contracted for and received according to this paragraph.

Sec. 7. Minnesota Statutes 1995 Supplement, section 47.60, subdivision 2, is amended to read:

Subd. 2. **AUTHORIZATION, TERMS, CONDITIONS, AND PROHIBITIONS.** (a) In lieu of the interest, finance charges, or fees in any other law, a consumer small loan lender may charge the following:

~~(i)~~ (1) on any amount up to and including $50, a charge of $5.50 may be added;

~~(ii)~~ (2) on amounts in excess of $50, but not more than $100, a charge may be added equal to ten percent of the loan proceeds plus a $5 administrative fee;

~~(iii)~~ (3) on amounts in excess of $100, but not more than $250, a charge may be added equal to seven percent of the loan proceeds with a minimum of $10 plus a $5 administrative fee;

~~(iv)~~ (4) for amounts in excess of $250 and not greater than the maximum in subdivision 1, paragraph (a), a charge may be added equal to six percent of the loan proceeds with a minimum of $17.50 plus a $5 administrative fee.

(b) The term of a loan made under this section shall be for no more than 30 calendar days.

(c) After maturity, the contract rate must not exceed 2.75 percent per month of the remaining loan proceeds after the maturity date calculated at a rate of 1/30 of the monthly rate in the contract for each calendar day the balance is outstanding.

(d) No insurance charges or other charges must be permitted to be charged, collected, or imposed on a consumer small loan except as authorized in this section.

(e) On a loan transaction in which cash is advanced in exchange for a personal check, a return check charge may be charged as authorized by section 332.50, subdivision 2, paragraph (d).

(f) A loan made under this section must not be repaid by the proceeds of another loan made under this section by the same lender or related interest. The proceeds from a loan made under this section must not be applied to another loan from the same lender or related interest. No loan to a single borrower made pursuant to this section shall be split or divided and no single borrower shall have outstanding more than one loan with the result of collecting a higher charge than permitted by this section or in an aggregate amount of principal exceed at any one time the maximum of $350.

Sec. 8. Minnesota Statutes 1995 Supplement, section 53.04, subdivision 3a, is amended to read:

Subd. 3a. (a) The right to make loans, secured or unsecured, at the rates and on the terms and other conditions permitted ~~in section 47.59~~ under chapters 47 and 334. Loans made under this authority must be in amounts in compliance with section 53.05, clause (7). ~~The right to extend credit or lend money and to collect and receive charges therefor as provided by chapter 334. The provisions of sections 47.20 and 47.21 do not apply to loans made under this subdivision, except as specifically provided in this subdivision. Nothing in this subdivision is deemed to supersede, repeal, or amend any provision of section 53.05.~~ 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.

(b) Loans made under this subdivision ~~at a rate of interest not in excess of that provided for in paragraph (a)~~ may be secured by real or personal property, or both. If the proceeds of a loan secured by a first lien on the borrower's primary residence are used to finance the purchase of the borrower's primary residence, the loan must comply with the provisions of section 47.20.

(c) ~~A loan made under this subdivision that is secured by real estate and that is in a principal amount of $12,000 or more and a maturity of 60 months or more may contain a provision permitting discount points, if the loan does not provide a loan yield in excess of the maximum rate of interest permitted by this subdivision.~~

~~(d)~~ An agency or instrumentality of the United States government or a corporation otherwise created by an act of the United States Congress or a lender approved or certified by the secretary of housing and urban development, or approved or certified by the

administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association, that engages in the business of purchasing or taking assignments of mortgage loans and undertakes direct collection of payments from or enforcement of rights against borrowers arising from mortgage loans, is not required to obtain a certificate of authorization under this chapter in order to purchase or take assignments of mortgage loans from persons holding a certificate of authorization under this chapter.

(d) This subdivision does not authorize an industrial loan and thrift company to make loans under an overdraft checking plan.

Sec. 9. Minnesota Statutes 1995 Supplement, section 56.131, subdivision 2, is amended to read:

Subd. 2. **ADDITIONAL CHARGES.** In addition to the charges provided for by this section and section 56.155, and notwithstanding section 47.59, subdivision ~~5~~ 6, to the contrary, no further or other amount whatsoever, shall be directly or indirectly charged, contracted for, or received for the loan made, except actual out of pocket expenses of the licensee to realize on a security after default, and except for the following additional charges which may be included in the principal amount of the loan:

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

(b) with respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section; provided the costs do not exceed one percent of the principal amount or $400, whichever is greater:

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

(2) fees, if not paid to the licensee, an employee of the licensee, or a person related to the licensee, for preparation of a mortgage, settlement statement, or other documents, fees for notarizing mortgages and other documents, and appraisal fees;

(c) the premium for insurance in lieu of perfecting and releasing a security interest to the extent that the premium does not exceed the fees described in paragraph (a);

(d) discount points and appraisal fees may not be included in the principal amount of a loan secured by an interest in real estate when the loan is a refinancing for the purpose of bringing the refinanced loan current and is made within 24 months of the original date of the refinanced loan. For purposes of this paragraph, a refinancing is not considered to be for the purpose of bringing the refinanced loan current if new funds advanced to the customer, not including closing costs or delinquent installments, exceed $1,000;

(e) the one-time loan administrative fee in section 47.59, subdivision 6, paragraph (d).

Sec. 10. Minnesota Statutes 1995 Supplement, section 56.131, subdivision 6, is amended to read:

Subd. 6. **DISCOUNT POINTS.** A loan made under this section that is secured by real estate and that is in a principal amount of $12,000 or more and has a maturity of 60

months or more may contain a provision permitting discount points, if the loan does not provide a loan yield in excess of the maximum rate of interest permitted by this section. Loan yield means the annual rate of return obtained by a licensee computed as the annual percentage rate is computed under Federal Regulation Z. If the loan is prepaid in full, the licensee must make a refund to the borrower to the extent that the loan yield will exceed the maximum rate of interest provided by this section when the prepayment is taken into account. Discount points permitted by this subdivision and not collected but included in the principal amount must not be included in the amount on which credit insurance premiums are calculated and charged.

Sec. 11. Minnesota Statutes 1994, section 168.72, is amended by adding a subdivision to read:

Subd. 5. In lieu of this section and sections 168.66, subdivisions 9, 10, and 11; 168.71; 168.73; and 168.74, a retail seller may proceed under section 47.59 relating to credit sales made by a third party. In cases where the retail seller proceeds under section 47.59, the remaining provisions of sections 168.66 to 168.77 apply notwithstanding section 47.59.

Sec. 12. Minnesota Statutes 1994, section 334.02, is amended to read:

334.02 **USURIOUS INTEREST; RECOVERY.**

Every person who for any such loan or forbearance shall have paid or delivered any greater sum or value than in section 334.01 allowed to be received may, personally or through personal representatives, recover in an action against the person who shall have received the same, or the receiver's personal representatives, the full amount of interest or premium so paid, with costs, if action is brought within two years after such payment or delivery. This section does not apply when the loan or forbearance is made by a lender and the lender is ~~liable for the penalty provided in~~ subject to section 47.59 or 48.196 or chapter 56 in connection with the loan or forbearance. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings ~~and loan~~ association or savings bank, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, an industrial loan and thrift company organized under chapter 53, a licensed lender under chapter 56, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

Sec. 13. Minnesota Statutes 1994, section 334.03, is amended to read:

334.03 **USURIOUS CONTRACTS INVALID; EXCEPTIONS.**

All bonds, bills, notes, mortgages, and all other contracts and securities, and all deposits of goods, or any other thing, whereupon or whereby there shall be reserved, secured, or taken any greater sum or value for the loan or forbearance of any money, goods, or things in action than prescribed, except such instruments which are taken or received in accordance with and in reliance upon the provisions of any statute, shall be void except as to a holder in due course. No merely clerical error in the computation of interest, made without intent to avoid the provisions of this chapter, shall constitute usury. Interest at the rate of 1/12 of eight percent for every 30 days shall not be construed to exceed eight percent per annum; nor shall the payment of interest in advance of one year, or any less time,

at a rate not exceeding eight percent per annum constitute usury; and nothing herein shall prevent the purchase of negotiable mercantile paper, usurious or otherwise, for a valuable consideration, by a purchaser without notice, at any price before the maturity of the same, when there has been no intent to evade the provisions of this chapter, or where such purchase has not been a part of the original usurious transactions; but where the original holder of a usurious note sells the same to an innocent purchaser, the maker thereof, or the maker's representatives, may recover back from the original holder the amount of principal and interest paid on the note. This section does not apply when the loan or forbearance is made by a lender and the lender is ~~liable for the penalty provided in~~ subject to section 47.59 or 48.196 or chapter 56 in connection with the loan or forbearance. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings ~~and loan~~ association or savings bank, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, an industrial loan and thrift company organized under chapter 53, a licensed lender under chapter 56, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

Sec. 14. **[334.062] AGRICULTURAL COOPERATIVES AND FARM SUPPLY.**

Notwithstanding sections 334.01 and 334.011, a cooperative organized for agricultural purposes under chapter 308A, or a similar statute of another state and registered to conduct business in this state, and other persons or entities engaged in an agricultural retail or farm supply business, may impose, charge, and collect a finance charge on goods, products, and services, including sales and open– and closed–end credit transactions that do not exceed a monthly rate of 1–1/2 percent or an annual rate of 18 percent, and the delinquency and collection charge authorized under section 334.171, provided, however, for a cooperative, the finance, delinquency, and collection charge is the same for member and nonmember patrons.

Sec. 15. **REPEALER.**

Minnesota Statutes 1994, section 53.04, subdivision 3b; and Minnesota Statutes 1995 Supplement, section 53.04, subdivisions 3c and 4a, are repealed.

Sec. 16. **EFFECTIVE DATE.**

Sections 1, 3 to 9, 11 to 13, and 15 are effective the day following final enactment.

ARTICLE 3

BANKING SERVICES DEVELOPMENT ACT

Section 1. Minnesota Statutes 1994, section 47.101, subdivision 2, is amended to read:

Subd. 2. **BANKING INSTITUTIONS; CERTAIN RELOCATIONS, APPLICATIONS, NOTICE, APPROVAL.** A banking institution defined in section 48.01, subdivision 2, desiring to relocate its main office within the lesser of a radius of three miles measured in a straight line or the municipality, as defined in section 47.51, in which it is located shall ~~submit an application~~ notify the commissioner of commerce in a form prescribed by the commissioner of commerce.~~, an investigation fee of $500 and additional fees as prescribed in section 46.041 if subsequently processed under subdivision 3. After the application is deemed to be complete and accepted by the commissioner of commerce,~~ The applicant shall publish once in a form prescribed by the commissioner a notice of the ~~filing of the application~~ relocation in a qualified newspaper published in the ~~municipalities~~ municipality where the banking institution is located ~~and relocating if different~~. If there are no such newspapers, then notice ~~of the filing~~ shall be published in qualified newspapers likely to give notice in the ~~existing and proposed municipalities~~ municipality. The applicant shall cause the notice to be publicly displayed in its lobby and sent by certified mail to all banking institutions within three miles of the proposed location measured in a straight line. ~~Upon expiration of a period of 21 days for comment, the commissioner, after considering the applicable conditions for issuance of the bank charter defined in section 46.044, shall within 60 days approve or disapprove the application.~~

Sec. 2. Minnesota Statutes 1994, 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~~ other than those provided for in subdivision 2 shall be approved or disapproved by the commissioner of commerce as provided for in sections 46.041 and 46.044.

Sec. 3. Minnesota Statutes 1994, section 47.51, is amended to read:

47.51 **DETACHED BANKING FACILITIES; DEFINITIONS.**

As used in sections 47.51 to 47.57:

"Extension of the main banking house" means any structure or stationary mechanical device serving as a drive–in or walk–up facility, or both, which is located within ~~150~~ 1,500 feet of the main banking house or detached facility, the distance to be measured in a straight line from the closest points of the closest structures involved and which performs one or more of the functions described in section 47.53.

"Detached facility" means any permanent structure, office accommodation located within the premises of any existing commercial or business establishment, stationary automated remote controlled teller facility, stationary unstaffed cash dispensing or receiving device, located separate and apart from the main banking house which is not an "extension of the main banking house" as above defined, that serves as a drive–in or walk–up facility, or both, with one or more tellers windows, or as a remote controlled teller facility

or a cash dispensing or receiving device, and which performs one or more of those functions described in section 47.53.

"Bank" means a bank as defined in section 46.046 and any banking office established prior to the effective date of Laws 1923, chapter 170, section 1.

"Commissioner" means the commissioner of commerce.

"Municipality" means the geographical area encompassing the boundaries of any home rule charter or statutory city located in this state, and any detached area, pursuant to section 473.625, operated as a major airport by the metropolitan airports commission pursuant to sections 473.601 to 473.679. When a bank is located in a township, the term municipality is expanded to mean the geographical area encompassing the boundaries of the township.

Sec. 4. Minnesota Statutes 1995 Supplement, section 47.52, is amended to read:

47.52 **AUTHORIZATION.**

(a) With the prior approval of the commissioner, any bank doing business in this state may establish and maintain ~~not more than five~~ detached facilities provided the facilities are located within: (1) the municipality in which the principal office of the applicant bank is located; or ~~within~~ (2) 5,000 feet of its principal office measured in a straight line from the closest points of the closest structures involved; or ~~within 100 miles of its principal office measured in a straight line from the closest points of the closest structures involved, if the detached facility is within any~~ (3) a municipality in which no bank is located at the time of application; or ~~if the detached facility is in~~ (4) a municipality having a population of more than 10,000~~,~~; or ~~if the detached facility is located in~~ (5) a municipality having a population of 10,000 or less, as determined by the commissioner from the latest available data from the state demographer, or for municipalities located in the seven-county metropolitan area from the metropolitan council, and all the banks having a principal office in the municipality have consented in writing to the establishment of the facility.

(b) A detached facility shall not be closer than 50 feet to a detached facility operated by any other bank and shall not be closer than 100 feet to the principal office of any other bank, the measurement to be made in the same manner as provided above. This paragraph shall not be applicable if the proximity to the facility or the bank is waived in writing by the other bank and filed with the application to establish a detached facility.

(c) ~~Any bank is allowed, in addition to other facilities, one drive-in or walk-up facility located between 150 to 1,500 feet of the main banking house or within 1,500 feet from a detached facility. The drive-in or walk-up facility permitted by this clause is subject to paragraph (b) and section 47.53.~~

~~(d)~~ A bank is allowed, in addition to other facilities, part-time deposit-taking locations at elementary and secondary schools located within the municipality in which the main banking house or a detached facility is located if they are established in connection with student education programs approved by the school administration and consistent with safe, sound banking practices.

~~(e)~~ (d) A bank whose home state is Minnesota as defined in section 48.92 is allowed, in addition to facilities otherwise permitted, to establish and operate a de novo detached

facility in a location in the host states of Iowa, North Dakota, South Dakota, and Wisconsin not more than 30 miles from its principal office measured in a straight line from the closest points of the closest structures involved and subject to requirements of sections 47.54 and 47.561 and the following additional requirements and conditions:

(1) there is in effect in the host state a law, rule, or ruling that permits Minnesota home state banks to establish de novo branches in the host state under conditions substantially similar to those imposed by the laws of Minnesota as determined by the commissioner; and

(2) there is in effect a cooperative agreement between the home and host state banking regulators to facilitate their respective regulation and supervision of the bank including the coordination of examinations.

For purposes of this paragraph, "host state" means a state other than the home state, as defined in section 48.92.

Sec. 5. Minnesota Statutes 1994, section 47.62, subdivision 1, is amended to read:

Subdivision 1. Any person may establish and maintain one or more electronic financial terminals. Any financial institution may provide for its customers the use of an electronic financial terminal by entering into an agreement with any person who has established and maintains one or more electronic financial terminals if that person authorizes use of the electronic financial terminal to all financial institutions on a nondiscriminatory basis pursuant to section 47.64. Electronic financial terminals to be established and maintained in this state by financial institutions located in states other than Minnesota must file a notification to the commissioner as required in this section. The notification may be in the form lawfully required by the state regulator responsible for the examination and supervision of that financial institution. If there is no such requirement, then notification must be in the form required by this section for Minnesota financial institutions.

Sec. 6. Minnesota Statutes 1994, section 48.34, is amended to read:

48.34 **BRANCH BANKS PROHIBITED.**

No bank or trust company organized under the laws of this state shall maintain a branch bank or receive deposits or pay checks within this state, except at its own banking house, and except as authorized by sections 47.51 to 47.57 ~~and~~, 47.61 to 47.74, and 49.411. The commissioner shall take possession of and liquidate the business and affairs of any state bank or trust company violating the provisions of this section, in the manner prescribed by law for the liquidation of insolvent state banks and trust companies.

Sec. 7. **[49.411] INTERSTATE BANK MERGERS AFFECTING INTERSTATE BRANCHING.**

Subdivision 1. **PURPOSE.** It is the express intent of this section to permit interstate branching by mergers under section 102 of the Riegle–Neal Interstate Banking and Branching Efficiency Act of 1994, Public Law Number 103–328, according to this section.

Subd. 2. **DEFINITIONS.** As used in this section, unless the context clearly indicates otherwise, the following terms have the meanings given them.

(a) "Bank" has the meaning given in United States Code, title 12, section 1813(h) with the following exceptions: (1) the term does not include a foreign bank as defined in

United States Code, title 12, section 3101(7); and (2) the term includes a foreign bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(b) "Bank holding company" has the meaning given in United States Code, title 12, section 1841(a)(1).

(c) "Bank supervisory agency" means:

(1) an agency of another state with the primary responsibility for chartering and supervising banks; and

(2) the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and any successor to these agencies.

(d) "Branch" has the meaning given in United States Code, title 12, section 1813(o).

(e) "Commissioner" means the commissioner of commerce.

(f) "Control" has the meaning given in section 46.048, subdivision 1.

(g) "Home state" has the meaning given in section 48.92, subdivision 6, except in relation to foreign banks, for which home state means the state determined to be the home state of the foreign bank under United States Code, title 12, section 3103(c).

(h) "Home state regulator" means, with respect to an out-of-state state bank, the bank supervisory agency of the state in which the bank is chartered.

(i) "Host state" means a state other than the home state of a bank in which the bank maintains or seeks to establish and maintain a branch.

(j) "Interstate merger transaction" means:

(1) the merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; or

(2) the purchase of all or substantially all of the assets including all or substantially all of the branches of a bank whose home state is different from the home state of the acquiring bank.

(k) "Out-of-state bank" has the meaning given in section 48.92, subdivision 11.

(l) "Out-of-state state bank" means a bank chartered under the laws of any state other than Minnesota.

(m) "Resulting bank" means a bank that has resulted from an interstate merger transaction under this section.

(n) "State" means any state of the United States, the District of Columbia, or any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(o) "Minnesota bank" means a bank whose home state is Minnesota.

(p) "Minnesota state bank" means a bank chartered under the laws of Minnesota.

Subd. 3. **AUTHORITY OF STATE BANKS TO ESTABLISH INTERSTATE BRANCHES BY MERGER.** With the prior approval of the commissioner, a Minnesota state bank may establish, maintain, and operate one or more branches in a state other than Minnesota as a result of an interstate merger transaction in which the Minnesota state bank is the resulting bank. Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the applicant Minnesota state bank shall file with the commissioner an application on a form prescribed by the commissioner and pay the fee prescribed by section 49.36. The applicant shall also comply with the applicable provisions of sections 49.33 to 49.41. After considering the criteria in section 49.36, subdivision 3, the commissioner may approve the interstate merger transaction and the operation of branches outside of Minnesota by the Minnesota state bank. Such an interstate merger transaction may be consummated only after the applicant has received the commissioner's written approval.

Subd. 4. **INTERSTATE MERGER TRANSACTIONS AND BRANCHING PERMITTED.** (a) One or more Minnesota banks may enter into an interstate merger transaction with one or more out–of–state banks under this section, and an out–of–state bank resulting from the transaction may maintain and operate the branches in Minnesota of a Minnesota bank that participated in the transaction if the conditions and filing requirements of this section are met.

(b) An interstate merger transaction resulting in the acquisition by an out–of–state bank of a Minnesota state bank, or all or substantially all of the branches of a Minnesota state bank, shall not be permitted under this section unless the Minnesota state bank has been in continuous operation, on the date of the acquisition, for at least five years. For purposes of this paragraph, a bank that has been chartered solely for the purpose of, and does not open for business before, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank is considered to have been in existence for the same period of time as the bank to be acquired. For determining the time period of existence of a bank, the time period begins after the issuance of a certificate of authorization and from the date the approved bank actually opens for business.

Subd. 5. **NOTICE AND FILING REQUIREMENT.** An out–of–state bank that will be the resulting bank under an interstate merger transaction involving a Minnesota state bank shall notify the commissioner of the proposed merger not later than the date on which it files an application for an interstate merger transaction with the responsible federal bank supervisory agency, and shall submit a copy of that application to the commissioner and pay the filing fee, if any, required by the commissioner. A Minnesota state bank that is a party to an interstate merger transaction shall comply with sections 49.33 to 49.41 and with other applicable state and federal laws. An out–of–state bank that is the resulting bank in such an interstate merger transaction shall provide satisfactory evidence to the commissioner of compliance with applicable requirements of the bank's home state.

Subd. 6. **POWERS; ADDITIONAL BRANCHES.** (a) An out–of–state state bank that establishes and maintains one or more branches in Minnesota under this section may conduct any activities at the branch or branches that are authorized under the laws of this state for Minnesota state banks.

(b) A Minnesota state bank may conduct any activities at or in connection with a branch outside Minnesota that are permissible for a bank chartered by the host state

where the branch is located, except to the extent that the activities are expressly prohibited by the laws of this state or by any rule or order of the commissioner applicable to the Minnesota state bank. The commissioner may waive the prohibition if the commissioner determines, by rule or order, that the involvement of out–of–state branches of Minnesota state banks in particular activities would not threaten the safety or soundness of the banks.

(c) An out–of–state bank that has established or acquired a branch in Minnesota under this section may establish or acquire additional branches in Minnesota to the same extent that a Minnesota bank may establish or acquire a branch in Minnesota under applicable federal and state law where a bank involved in the transaction could have established, acquired, or operated the additional branches if the bank had not been a party to the merger transaction.

Subd. 7. **EXAMINATIONS; PERIODIC REPORTS; COOPERATIVE AGREEMENTS; ASSESSMENT OF FEES.** (a) To the extent consistent with paragraph (c), the commissioner may make examinations of a branch established and maintained in this state under this section by an out–of–state state bank as the commissioner considers necessary to determine whether the branch is being operated in compliance with the laws of this state and according to safe and sound banking practices. Section 46.04 applies to the examinations.

(b) The commissioner may prescribe requirements for periodic reports regarding an out–of–state bank that operates a branch in Minnesota under this section. The required reports must be provided by the bank or by the bank supervisory agency having primary responsibility for the bank. Reporting requirements prescribed by the commissioner under this paragraph must be: (1) consistent with the reporting requirements applicable to Minnesota state banks; and (2) appropriate for the purpose of enabling the commissioner to carry out responsibilities under this section.

(c) The commissioner may enter into cooperative, coordinating, and information–sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies with respect to the periodic examination or other supervision of a branch in Minnesota of an out–of–state state bank, or a branch of a Minnesota state bank in a host state. The commissioner may accept the parties' reports of examination and reports of investigation in lieu of conducting the commissioner's own examinations or investigations.

(d) The commissioner may enter into contracts with a bank supervisory agency that has concurrent jurisdiction over a Minnesota state bank or an out–of–state state bank operating a branch in this state under this section to engage the services of the agency's examiners at a reasonable rate of compensation, or to provide the services of the commissioner's examiners to the agency at a reasonable rate of compensation.

(e) The commissioner may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over a branch in Minnesota of an out–of–state state bank or a branch of a Minnesota state bank in a host state. However, the commissioner may at any time take the actions independently if the commissioner considers the actions to be necessary or appropriate to carry out responsibilities under this section or to ensure compliance with the laws of this state. In the case of an out–of–state state bank, the commissioner shall recognize the exclusive authority of

the home state regulator over corporate governance matters and the primary responsibility of the home state regulator with respect to safety and soundness matters.

(f) Each out–of–state state bank that maintains one or more branches in this state may be assessed and charged according to section 46.131 as if it were a Minnesota state bank and, if assessed, shall pay supervisory and examination fees according to the laws of this state and rules of the commissioner. The fees may be shared with other bank supervisory agencies or an organization affiliated with or representing one or more bank supervisory agencies according to agreements between the parties and the commissioner.

Subd. 8. **ENFORCEMENT.** If the commissioner determines that a branch maintained by an out–of–state state bank in this state is being operated in violation of the laws of this state, or that the branch is being operated in an unsafe and unsound manner, the commissioner has the authority to take all enforcement actions the commissioner would be empowered to take if the branch were a Minnesota state bank. The commissioner shall promptly give notice to the home state regulator of each enforcement action taken against an out–of–state state bank and, to the extent practicable, shall consult and cooperate with the home state regulator in pursuing and resolving enforcement action.

Subd. 9. **NOTICE OF SUBSEQUENT MERGER.** Each out–of–state state bank that has established and maintains a branch in this state under this section shall give at least 60 days' prior written notice or, in the case of an emergency transaction, shorter notice as is consistent with applicable state or federal law to the commissioner of any merger, consolidation, or other transaction that would cause a change of control with respect to the bank or any bank holding company that controls the bank, with the result that an application would be required to be filed under United States Code, title 12, section 1817(j), or the federal Bank Holding Company Act of 1956, as amended, United States Code, title 12, section 1841, et seq.

Subd. 10. **SEVERABILITY.** If a provision of this section, or the application of the provision, is found by any court of competent jurisdiction in the United States to be invalid as to a bank, bank holding company, foreign bank, or other person or circumstances, or to be superseded by federal law, the remaining provisions of this section shall not be affected and shall continue to apply to a bank, bank holding company, foreign bank, or other person or circumstance.

Sec. 8. Minnesota Statutes 1995 Supplement, section 50.245, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY FOR BRANCH OFFICES.** A savings bank may establish ~~five~~ any number of detached facilities as may be approved by the commissioner of commerce pursuant to sections 47.51 to 47.57 ~~in the territories of Hennepin and Anoka counties~~. The savings bank shall not change the location of a detached facility without prior written approval of the commissioner of commerce. A savings bank may establish a loan production office, without restriction as to geographical location, upon written notice to the commissioner of commerce.

Sec. 9. **EFFECTIVE DATE.**

Sections 1 to 5 and 8 are effective the day following final enactment. Sections 6 and 7 are effective June 1, 1997.

Presented to the governor March 30, 1996

Signed by the governor April 2, 1996, 12:35 p.m.

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