

Subd. 4. **REMEDIES.** In addition to any other remedies, a landlord who violates this section is liable to the applicant for the application fee plus a civil penalty of up to \$100, civil court filing costs, and reasonable attorney fees incurred to enforce this remedy.

**Sec. 2. REPEALER.**

Minnesota Statutes 1998, section 504.30, subdivision 5, is repealed.

Presented to the governor May 10, 1999

Signed by the governor May 13, 1999, 1:12 p.m.

**CHAPTER 151—S.F.No. 1330**

*An act relating to financial institutions; regulating fees, charges, investments, and time periods; authorizing certain part-time banking locations; authorizing reverse stock splits; regulating mortgage insurance and loans; modifying the application requirements for credit unions; making corrections and conforming changes; regulating deposit and investment of local public funds; modifying a definition; authorizing a detached facility in Chisago Lakes Township; amending Minnesota Statutes 1998, sections 46.041, subdivisions 1 and 3; 46.048, subdivisions 1 and 2b; 46.131, subdivision 10; 47.0156; 47.101, subdivision 3; 47.20, subdivision 6b; 47.203; 47.204, subdivision 1; 47.27, subdivision 3; 47.52; 47.54, subdivisions 2 and 3; 47.59, subdivision 12; 47.60, subdivision 3; 48.15, subdivisions 2a and 3; 48.24, subdivision 7, and by adding a subdivision; 48A.15, subdivision 1; 49.36, subdivision 1; 52.01; 52.05, subdivision 2; 53.03, subdivisions 1, 6, and 7; 55.04, subdivision 2; 56.02; 56.131, subdivision 1; 58.04, subdivision 1; 58.06, subdivision 2; 58.08, subdivision 1; 59A.03, subdivision 2; 60K.11, subdivision 1; 118A.01, subdivision 2; 168.67; 168.71; 303.25, subdivision 5; 332.15, subdivisions 2 and 3; 332.17; and 332.30; proposing coding for new law in Minnesota Statutes, chapters 47; 48; 52; and 334; repealing Minnesota Statutes 1998, sections 47.20, subdivision 14; and 58.07.*

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

Section 1. Minnesota Statutes 1998, 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 an \$8,000 filing fee and a \$500 investigation fee. The commissioner may waive the fee for a bank to be located in a low- or moderate-income area as defined in Code of Federal Regulations, title 12, part 25(1), (n)(1) and (n)(2) and where no other depository institution operates an office. If the proposed bank is being organized in connection with a reorganization or merger of an existing bank, the filing fee is \$2,000. 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

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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. 2. Minnesota Statutes 1998, section 46.041, subdivision 3, is amended to read:

Subd. 3. **COMMENTS, REQUESTS FOR HEARING.** Within ~~21~~ 15 days after the notice of application has been published, any person may submit to the commissioner either or both written comments on an application and a written request for a hearing on the application. The request must state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the commissioner. Comments challenging the legality of an application should be submitted separately in writing.

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

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

Sec. 3. Minnesota Statutes 1998, section 46.048, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** Whenever a change in the outstanding voting stock of a banking institution will result in control or in a change in the control of the banking institution, the person acquiring control of the banking institution, including an out-of-state bank holding company, shall file notice of the proposed acquisition of control with the commissioner of commerce at least 60 days before the actual effective date of the change, except that the commissioner may extend the 60-day period an additional 30 days if in the commissioner's judgment any material information submitted is substantially inaccurate or the acquiring party has not furnished all the information required. The notice must be accompanied by a filing fee of \$3,000 payable to the commissioner of commerce, unless the person filing the notice has been associated with the banking institution as an officer or director for at least three years, in which case the filing fee is \$1,000. No filing fee is required of a person required to file a notice because of a stock redemption or other transaction by others that caused the change in control. As used in this section, the term "control" means the power to directly or indirectly direct or cause the direction of the management or policies of the banking institution. A change in ownership of capital stock that would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of less than 25 percent of the outstanding capital stock is not considered a change of control. If there is any doubt as to whether a change in the outstanding voting stock is sufficient to result in control or to effect a change in the control, the doubt

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shall be resolved in favor of reporting the facts to the commissioner. The commissioner shall use the criteria established by the Financial Institution Regulatory and Interest Rate Control Act of 1978, United States Code, title 12, section 1817(j), and the regulations adopted under it, when reviewing the acquisition and determining if the acquisition should or should not be disapproved. Within three days after making the decision to disapprove a proposed acquisition, the commissioner shall notify the acquiring party in writing of the disapproval. The notice must provide a statement of the basis for the disapproval.

Sec. 4. Minnesota Statutes 1998, section 46.048, subdivision 2b, is amended to read:

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

(1) an 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 a notice for a period of not less than ~~30~~ 21 days from the date of the publication required by clause (1).

Sec. 5. Minnesota Statutes 1998, section 46.131, subdivision 10, is amended to read:

Subd. 10. Each financial institution described in subdivision 2 shall pay a fee of ~~\$25~~ \$50 to the commissioner of commerce upon application to the commissioner for approval of a change in its certificate, charter, articles of incorporation, bylaws, powers or license. Money collected by the commissioner under this subdivision shall be deposited in the general fund.

Sec. 6. Minnesota Statutes 1998, section 47.0156, is amended to read:

**47.0156 CLOSING EFFECTING A PERMANENT CESSATION OF BUSINESS.**

The permanent closing of a financial institution as defined in section 47.015 or 47.0151 for purposes, or with a result, other than authorized in sections 47.015 to 47.0155 is unlawful unless at least ~~90~~ 60 days' written notice is given to the commissioner.

Sec. 7. Minnesota Statutes 1998, 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 other than those provided for in subdivision 2 shall be accompanied by a filing fee of \$3,000 payable to the commissioner of commerce and approved or disapproved by the commissioner of commerce as provided for in sections 46.041 and 46.044.

Sec. 8. Minnesota Statutes 1998, section 47.20, subdivision 6b, is amended to read:

Subd. 6b. **DELINQUENCY OR LATE PAYMENT FEES.** Charges or fees for late payments on conventional loans shall be governed by chapter 51A for all lenders. A lender making a conventional loan may assess and collect fees for late payments according to the provision of section 47.59.

Sec. 9. Minnesota Statutes 1998, section 47.203, is amended to read:

**47.203 FEDERAL PREEMPTION OVERRIDE.**

The provisions of Public Law Number 96-221, title V, part A, section 501(a)(1) (United States Code, title 12, section 1735f-7a), do not apply with respect to a loan, mort-

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gage, credit sale or advance made in this state after June 2, 1981, nor with respect to a loan, mortgage, credit sale or advance secured by real property located in this state and made after June 2, 1981.

Sec. 10. Minnesota Statutes 1998, section 47.204, subdivision 1, is amended to read:

Subdivision 1. **NO USURY LIMITS.** Notwithstanding any law to the contrary, no limitation on the rate or amount of interest, discount points, finance charges, or other charges shall apply to a loan, mortgage, credit sale, or advance which would have been exempt from the laws of this state pursuant to Public Law Number 96-221, title V, part A, section 501 (United States Code, title 12, section 1735f-7a), as amended as of June 2, 1981, but for section 47.203 and which is made in this state after June 2, 1981.

Sec. 11. **[47.207] PRIVATE MORTGAGE INSURANCE.**

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given:

(a) "Current fair market value" means the value of the mortgagor's property determined by an appraisal conducted within 90 days of a mortgagor's written request for cancellation of private mortgage insurance. The appraisal shall be conducted by a real estate appraiser, licensed or certified by a state or federal agency, who is reasonably acceptable to the servicer. The appraisal may be conducted at either the request of the lender, mortgagor, or servicer. The mortgagor is responsible for the cost of the appraisal.

(b) "Lender" means a person who makes or holds a residential mortgage loan.

(c) "Private mortgage insurance" means insurance paid for by the mortgagor, including any mortgage guaranty insurance, against the nonpayment of, or default on, a residential mortgage loan, other than mortgage insurance made available under the federal National Housing Act, United States Code, title 38, or title V of the federal Housing Act of 1949. "Private mortgage insurance" does not mean lender-paid mortgage insurance.

(d) "Residential mortgage loan" means a loan secured by either: (1) a mortgage on residential real property; or (2) by certificates of stock or other evidence of ownership interest in and proprietary lease from corporations, partnerships, or other forms of business organizations formed for the purpose of cooperative ownership of residential real property.

(e) "Servicer" means a person who, through any medium or mode of communication, engages in the collection or remittance for, or the right or obligation to collect or remit for, a lender, mortgagee, note owner, noteholder, or for a person's own account, of payments, interest, principal, and escrow items such as insurance and taxes for property subject to a residential mortgage loan.

Subd. 2. **RIGHT TO CANCEL PRIVATE MORTGAGE INSURANCE.** With respect to an existing or future residential mortgage loan, a mortgagor shall have the right to elect, in writing, to cancel private mortgage insurance in connection with a residential mortgage loan if all of the following terms and conditions have been met:

(1) the current unpaid principal balance of the mortgage is 80 percent or less of the current fair market value of the property;

(2) the mortgagor has not:

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(i) been 60 days or longer past due on a mortgage payment during the 12-month period beginning 24 months before the date on which the servicer receives the mortgagor's written request for cancellation; or

(ii) been 30 days or longer past due on a mortgage payment during the 12 months preceding the date on which the servicer receives the mortgagor's written request for cancellation;

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

(4) the property securing the mortgage loan 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.

**Subd. 3. NOTICE OF RIGHT TO CANCEL PRIVATE MORTGAGE INSURANCE.** (a) With respect to each existing or future residential mortgage loan, a servicer must provide an annual written notice to the mortgagor currently paying premiums for private mortgage insurance. The notice must be in 12-point type or greater and 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 under federal law or Minnesota law to cancel the insurance and stop paying premiums. This would reduce your total monthly payment.

You may have the right to cancel private mortgage insurance if the principal balance of your loan is 80 percent or less of the current market value of your home. Under Minnesota law, the value of your property can be determined by a professional appraisal. You need to pay for this appraisal, but in most cases you will be able to recover this cost in less than a year if your mortgage insurance is canceled.

If you wish to learn whether you are eligible to cancel this insurance, please contact us at (enter address and phone number of servicer).

(b) The notice required by this subdivision must be on its own page, but a disclosure notice concerning private mortgage insurance required by federal law may be included on the same page as the disclosure notice required by this subdivision. The page containing the notice required by this subdivision may be included with other disclosures or notices required by federal law that are sent to the mortgagor.

(c) If the mortgage has 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

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of Minnesota and notice of right to cancel private mortgage insurance is required under federal law, no notice under this subdivision is required.

**Subd. 4. SERVICER RESPONSE TO CANCELLATION REQUEST.** (a) Within 30 days of receipt of a mortgagor's written request to cancel private mortgage insurance, a servicer shall:

(1) provide a written notice to the insurer to cancel the private mortgage insurance and written notice to the mortgagor that a request for cancellation has been sent to the insurer if the servicer determines that the private mortgage insurance should be canceled;

(2) provide a written response to the mortgagor identifying all additional information needed from the mortgagor if the servicer reasonably needs more information from the mortgagor to determine whether the mortgagor is eligible for cancellation of private mortgage insurance; or

(3) provide a written notice to the mortgagor of the reasons for the servicer's refusal to cancel the private mortgage insurance if the servicer determines that the mortgagor does not meet the requirements for cancellation of private mortgage insurance.

(b) If a lender, or any other person involved in the mortgage transaction, receives a written request for cancellation of private mortgage insurance, the lender or other person shall promptly forward the mortgagor's request for cancellation to the servicer, if the servicer is known to the lender or other person. If the servicer is not known to the lender or other person, the lender or other person shall advise the mortgagor to contact the company to which the mortgagor sends the monthly payment.

**Subd. 5. LENDER CHARGES; RETURN OF UNEARNED PREMIUM.** (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 mortgagor or other person actually providing the funds for payment of the premium.

(c) A lender or servicer shall not charge the mortgagor a fee or other consideration for cancellation of the private mortgage insurance or for any of the acts required by this section, except that the lender or servicer shall have the right to recover the cost of an appraisal if the mortgagor elects to have the lender or servicer perform or arrange for the appraisal.

**Subd. 6. INTERPRETATION.** Nothing in this section shall be deemed to be inconsistent with the federal Homeowner's Protection Act of 1998, codified at United States Code, title 12, sections 4901 to 4910, within the meaning of "inconsistent" as used in section 9 of that act, codified at United States Code, title 12, section 4908.

Sec. 12. Minnesota Statutes 1998, section 47.27, subdivision 3, is amended to read:

Subd. 3. "Savings association" shall have the meaning set forth in section 51.01-51A.02, subdivision 2 ~~7~~.

Sec. 13. Minnesota Statutes 1998, 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 detached facilities provided the facilities are located

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within: (1) the municipality in which the principal office of the applicant bank is located; or (2) 5,000 feet of its principal office measured in a straight line from the closest points of the closest structures involved; or (3) a municipality in which no bank is located at the time of application; or (4) a municipality having a population of more than 10,000; or (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) 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.

(d) In addition to other facilities, a bank may operate part-time locations at nursing homes and senior citizen housing facilities located within the municipality in which the main banking house or a detached facility is located, if they are operated in a manner consistent with safe, sound banking practices.

Sec. 14. Minnesota Statutes 1998, section 47.54, subdivision 2, is amended to read:

Subd. 2. **APPROVAL ORDER.** If no objection is received by the commissioner within ~~24~~ 15 days after the publication and mailing of the notices, the commissioner shall issue an order approving the application without a hearing if it is found that (a) the applicant bank meets current industry standards of capital adequacy, management quality, and asset condition, (b) the establishment of the proposed detached facility will improve the quality or increase the availability of banking services in the community to be served, and (c) the establishment of the proposed detached facility will not have an undue adverse effect upon the solvency of existing financial institutions in the community to be served. Otherwise, the commissioner shall deny the application. Any proceedings for judicial review of an order of the commissioner issued under this subdivision without a contested case hearing shall be conducted pursuant to the provisions of the Administrative Procedure Act relating to judicial review of agency decisions, sections 14.63 to 14.69, and the scope of judicial review in such proceedings shall be as provided therein. Nothing herein shall be construed as requiring the commissioner to conduct a contested case hearing if no written objection is timely received by the commissioner from a bank within three miles of the proposed location of the detached facility.

Sec. 15. Minnesota Statutes 1998, section 47.54, subdivision 3, is amended to read:

Subd. 3. **OBJECTIONS; HEARING.** If any bank within three miles of the proposed location of the detached facility objects in writing within ~~24~~ 15 days, the commissioner shall consider the objection. If the objection also requests a hearing, the objector must include the nature of the issues or facts to be presented and the reasons why written

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submissions would be insufficient to make an adequate presentation to the commissioner. Comments challenging the legality of an application should be submitted separately in writing.

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

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

Sec. 16. Minnesota Statutes 1998, section 47.59, subdivision 12, is amended to read:

Subd. 12. **CONSUMER PROTECTIONS.** (a) Financial institutions shall comply with the requirements of the federal Truth in Lending Act, United States Code, title 15, sections 1601 to 1693, as the same may be amended from time to time, in connection with a consumer loan or credit sale for a consumer purpose where the federal Truth in Lending Act is applicable. A financial institution shall give the following disclosure to the borrower in writing at the time an open-end credit account is established if the financial institution imposes a loan fee, points, or similar charge that relates to the opening of the account which is not included in the annual percentage rate given pursuant to the federal Truth in Lending Act: "YOU HAVE BEEN ASSESSED FINANCE CHARGES, OR POINTS, WHICH ARE NOT INCLUDED IN THE ANNUAL PERCENTAGE RATE. THESE CHARGES MAY BE REFUNDED, IN WHOLE OR IN PART, IF YOU DO NOT USE YOUR LINE OF CREDIT OR IF YOU REPAY YOUR LINE OF CREDIT EARLY. THESE CHARGES INCREASE THE COST OF YOUR CREDIT."

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

(c) An assignment of a consumer's earnings by the consumer to a financial institution as payment or as security for payment of a debt arising out of a consumer loan or consumer credit sale is unenforceable by the financial institution except where the assignment: (1) by its terms is revocable at the will of the consumer; (2) is a payroll deduction plan or preauthorized payment plan, beginning at the time of the transaction, in which the consumer authorizes a series of wage deductions as a method of making each payment; or (3) applies only to wages or other earnings already earned at the time of the assignment.

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Sec. 17, Minnesota Statutes 1998, section 47.60, subdivision 3, is amended to read:

Subd. 3. **FILING.** Before a person other than a financial institution as defined by section 47.59 engages in the business of making consumer small loans, the person shall file with the commissioner as a consumer small loan lender. The filing must be on a form prescribed by the commissioner together with a fee of \$150 \$250 for each place of business and contain the following information in addition to the information required by the commissioner:

(1) evidence that the filer has available for the operation of the business at the location specified, liquid assets of at least \$50,000; and

(2) a biographical statement on the principal person responsible for the operation and management of the business to be certified.

Revocation of the filing and the right to engage in the business of a consumer small loan lender is the same as in the case of a regulated lender license in section 56.09.

Sec. 18. **[48.056] REVERSE STOCK SPLIT.**

Subdivision 1. POWER TO EFFECT. (a) A banking institution may effect a reverse stock split by reducing its outstanding shares of stock if the commissioner finds that the transaction:

(1) has a legitimate business purpose including, but not limited to, reducing corporate expenses, simplifying corporate procedures, or becoming a qualified S corporation under the Internal Revenue Code of 1986, as amended through December 31, 1998; and

(2) complies with safe and sound banking practices.

(b) The stock reduction is effective upon approval by the shareholders and the commissioner and filing with the commissioner and with the secretary of state, of the articles of amendment to the certificate of incorporation of the banking institution.

Subd. 2. FRACTIONAL SHARES. A banking institution may issue fractions of a share as a result of a reverse stock split by reducing its outstanding shares of stock according to this subdivision. If a banking institution inserts into its certificate of incorporation a provision prohibiting the issue of fractions of a share, it shall pay in cash the value of fractions of a share as of the time when persons entitled to receive the fractions are determined.

Subd. 3. PAR VALUE. Notwithstanding section 300.30, a banking institution proceeding under this subdivision may divide its capital into shares greater than \$100 each.

Subd. 4. RIGHTS OF DISSENTING STOCKHOLDERS. A stockholder of the banking institution not voting in favor of the amendment of the certificate of incorporation of the banking institution to effect a reverse stock split that will impact upon the stockholder's voting rights in the banking institution may, at the meeting of the stockholders held on the amendment, or within 20 days after the meeting, object to the stock reduction and demand payment for that person's stock. If the stock reduction takes effect at any time after this demand, the stockholder may, at any time within 60 days after the demand, apply to the district court in the county of the banking institution's principal place of business for the appointment of three persons to appraise the value of that person's stock. The court shall appoint the appraisers and designate the time and place of

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their first meeting, give directions with regard to their proceedings the court considers proper, and direct the time and manner in which payment must be made of the value of that person's stock to the stockholder. The appraisers shall meet at the time and place designated, after being duly sworn to discharge their duties honestly and faithfully, make and certify a written estimate of the value of the stock at the time of the appraisal, and deliver one copy to the banking institution and another to the stockholder. The stockholder and the banking institution shall each pay one-half of the charges and expenses of the appraisers.

Sec. 19. Minnesota Statutes 1998, section 48.15, subdivision 2a, is amended to read:

Subd. 2a. **AUTHORIZED ACTIVITIES.** The commissioner may authorize a state bank to undertake any activities, exercise any powers, or make any investments that are authorized activities, powers, or investments by chapter 50, as of August 1, 1995, for any state savings bank doing business in this state, or that become authorized activities, powers, or investments by chapter 50, for state savings banks after August 1, 1995. The commissioner may not authorize state banks to engage in any banking activity prohibited by the laws of this state.

Sec. 20. Minnesota Statutes 1998, section 48.15, subdivision 3, is amended to read:

Subd. 3. **LIMITS ON AUTHORITY TO ACT AS PAYING AGENT FOR PUBLIC ISSUERS.** No such bank shall act as paying agent of any municipality or other public issuer of obligations, other than an issuer within whose corporate limits the principal office of the bank is situated, unless the bank is authorized to execute the powers conferred in section ~~48.38~~ 48A.07.

Sec. 21. Minnesota Statutes 1998, section 48.24, subdivision 7, is amended to read:

Subd. 7. Obligations of any ~~person, copartnership, limited liability company, association, or corporation~~ individual or organization, however organized, in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering feeder livestock which is free from all other encumbrances, when the market value of the livestock securing the obligation at the time of the making of the loan is not less than 115 percentum of the face amount of the notes covered by such documents, shall be subject under this subdivision to a limitation of 20 percent of capital and surplus in addition to 20 percent of capital and surplus as included in provisions of subdivision 1. Feeder livestock loans as referred to in this subdivision is defined to include only obligations secured by liens or giving title to cattle, sheep, goats, hogs or poultry being fattened for market, but excluding dairy cattle, milk goats, poultry used for production of eggs, or barnyard or work animals.

Sec. 22. Minnesota Statutes 1998, section 48.24, is amended by adding a subdivision to read:

Subd. 10. **GRAIN FORWARD SALE CONTRACTS; LENDING LIMITS.** Obligations of any individual or organization, however organized, where the note is secured by a perfected first lien on stored grain and a perfected assignment of the proceeds of a forward contract for sale of the grain (1) with a recognized commodity buyer or broker, reasonably satisfactory to the bank, (2) where the delivery of grain under the contract will occur within 270 days, (3) where the grain is insured for full value against loss by fire or other casualty, and (4) where the value of the forward contract exceeds 115 percent of the

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face amount of the secured note, is subject under this subdivision to a limitation of ten percent of capital and surplus in addition to the 20 percent of capital and surplus as included in subdivision 1.

Sec. 23. Minnesota Statutes 1998, section 48A.15, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** A trust company organized under the laws of this state or a state bank and trust may, after completing the notification procedure required by this subdivision, establish and maintain a trust service office at any office in this state or of any other state or national bank. A state bank may, after completing the notification procedure required by this subdivision, permit a trust company organized under the laws of this state or a state bank and trust or a national bank in this state that is authorized to exercise trust powers to establish and maintain a trust service office at any of its banking offices.

The trust company or state bank and trust and a state bank at which a trust service office is to be established according to this section shall jointly file, on forms provided by the commissioner, a notification of intent to establish a trust service office. The notification must be accompanied by a filing fee of \$100 payable to the commissioner, to be deposited in the general fund of the state. No trust service office shall be established according to this section if disallowed by order of the commissioner within 45 30 days of the filing of a complete and acceptable notification of intent to establish a trust service office. An order of the commissioner to disallow the establishment of a trust service office under this section is subject to judicial review under sections 14.63 to 14.69.

Sec. 24. Minnesota Statutes 1998, section 49.36, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS.** This consolidation or merger agreement and certified copy of the proceedings of the meetings of the respective boards of directors, at which the making of the agreement was authorized, must be submitted to the commissioner of commerce for approval with a fee of ~~\$250~~ \$2,000 payable to the commissioner of commerce. The agreement shall not be effective until so approved by the commissioner. The commissioner shall take action after the documents are submitted, and is entitled to further information from any party to the transaction as may be requested by the commissioner, or as may be obtained upon a hearing directed by the commissioner.

Sec. 25. Minnesota Statutes 1998, section 52.01, is amended to read:

**52.01 ORGANIZATION.**

Any seven residents of the state may apply to the commissioner of commerce for permission to organize a credit union.

A credit union is a cooperative society, incorporated for the twofold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes.

A credit union is organized in the following manner:

(1) The applicants execute, in duplicate, a certificate of organization by the terms of which they agree to be bound, which shall state:

(a) the name and location of the proposed credit union;

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(b) the names and addresses of the subscribers to the certificate and the number of shares subscribed by each;

(2) The applicants submit the following in the form prescribed by the commissioner of commerce:

(a) a statement of the common bond of the proposed credit union;

(b) the number of potential members;

(c) the geographic dispersion of the potential members;

(d) evidence of interest, including willingness of potential members to assume responsibility for leadership and service;

(e) a two-year forecast of probable levels of assets, shares and deposits, and income and expense;

(f) the availability of other credit union services to the potential members;

(g) other information the commissioner requires;

(3) They next prepare and adopt bylaws for the general governance of the credit union consistent with the provisions of this chapter, and execute them in duplicate;

(4) The certificate and the bylaws, both executed in duplicate, are forwarded to the commissioner of commerce with a ~~\$100 application fee~~ \$1,000 application fee, which may be waived by the commissioner for a credit union to be located in a low- or moderate-income area as defined in Code of Federal Regulations, title 12, part 25(1), (n)(1) and (n)(2) and where no other depository institution operates an office;

(5) The commissioner of commerce shall, within 60 days of the receipt of the certificate, the information required by paragraph (2), and the bylaws determine whether they comply with the provisions of this chapter, and whether or not the organization of the credit union in question would benefit its members, be economically feasible, and be consistent with the purposes of this chapter;

(6) Thereupon the commissioner of commerce shall notify the applicants of the decision. If it is favorable, the commissioner shall upon receipt of a commitment for insurance of accounts as required by section 52.24, subdivision 2, issue a certificate of approval, attached to the duplicate certificate of organization, and return them with the duplicate bylaws to the applicants. If it is unfavorable, the applicants may, within 60 days after the decision, appeal for a review in a court of competent jurisdiction;

(7) The applicants shall thereupon file the duplicate of the certificate of organization, with the certificate of approval attached thereto, with the secretary of state, who shall make a record of the certificate and return it, with a certificate of record attached thereto, to the commissioner of commerce for permanent records; and

(8) Thereupon the applicants shall be a credit union incorporated in accordance with the provisions of this chapter.

In order to simplify the organization of credit unions, the commissioner of commerce shall prepare approved forms of certificate of organization and bylaws, consistent with this chapter, which may be used by credit union incorporators for their guidance, and

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on written application of seven residents of the state, shall supply them without charge with a blank certificate of organization and a copy of the form of suggested bylaws.

Sec. 26. Minnesota Statutes 1998, section 52.05, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** Any ~~25~~ 15 persons representing a group may apply to the commissioner, advising the commissioner of the common bond of the group and its number of potential members, for a determination whether it is feasible for the group to form a credit union. Upon a determination that it is not feasible to organize because the number of potential members is too small, the applicants will be certified by the commissioner as eligible to petition for membership in an existing credit union capable of serving the group. If the credit union so petitioned resolves to accept the group into membership, it shall follow the bylaw amendment and approval procedure set forth in section 52.02.

The commissioner shall adopt rules to implement this subdivision. These rules must provide that:

(1) for the purpose of this subdivision, groups with a potential membership of less than 1,500 will be considered too small to be feasible as a separate credit union, unless there are compelling reasons to the contrary, relevant to the objectives of this subdivision;

(2) groups with a potential membership in excess of 1,500 will be considered in light of all circumstances relevant to the objectives of this subdivision; and

(3) all group applications, except for applications from groups made up of members of existing credit unions or groups made up of people who have a common employer which qualifies them for membership in an existing credit union, will be considered separately from any consideration of the membership provisions of existing credit unions; except that, groups made up of members of an existing credit union may be certified under this subdivision with the agreement of the credit union.

Sec. 27. **[52.212] SENIOR CITIZEN LOCATIONS.**

In addition to its primary member location, a credit union may operate part-time locations in nursing homes and senior citizen housing facilities if they are operated in a manner consistent with safe and sound practices.

Sec. 28. Minnesota Statutes 1998, 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 \$1,500 filing fee if the corporation will not sell or issue thrift certificates for investment, and a filing fee of \$8,000 if the corporation will sell or issue thrift certificates for investment. The fees must be turned over by the commissioner to the state treasurer and

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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. 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 ~~21~~ 15 days of the notice having been fully published, the commissioner shall proceed in the same manner as required under section 46.041, subdivisions 3 and 4, relating to state banks.

Sec. 29. Minnesota Statutes 1998, section 53.03, subdivision 6, is amended to read:

Subd. 6. **AMENDED CERTIFICATES, THRIFT CERTIFICATES FOR INVESTMENT, APPLICATION, FEE, NOTICE.** Upon approval by the commissioner of commerce of a commitment for insurance or guarantee of certificates to be held for investment as required in section 53.10, subdivision 3, an industrial loan and thrift company may apply to the department of commerce for an amended certificate of authorization and consent to sell and issue thrift certificates for investment.

The application, in triplicate, must be in the form prescribed by the department of commerce and filed in its office. At the time of filing the application, the applicant shall pay a filing fee of \$500 \$8,000 and if an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, must be paid by the applicant and 50 percent equally by the intervening parties. 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 newspaper published in the municipality in which the place of business under the application is located, or if there is none, in a newspaper published at the county seat of the county in which the place of business is located. Not more than one place of business maintained under a certificate of authorization may be the subject of an application.

Sec. 30. Minnesota Statutes 1998, section 53.03, subdivision 7, is amended to read:

Subd. 7. **OBJECTION TO APPLICATION.** Upon receiving written objection to the application from any person within ~~20~~ 15 days of the notice having been fully published, the department of commerce shall order a contested case hearing to be conducted on the application.

Sec. 31. Minnesota Statutes 1998, section 55.04, subdivision 2, is amended to read:

Subd. 2. **APPLICATION FOR LICENSE.** Application for license shall be in writing, under oath, and in the form prescribed by the commissioner of commerce, and contain the name and address, both of the residence and place of business, of the applicant, and if the applicant is a partnership or unincorporated association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality, with street and number, if any, where the business is to be conducted; and further information the commissioner of commerce requires. The applicant at the time of

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making application shall pay to the commissioner the sum of \$250 as a fee for investigating the application, and the additional sum of \$150 as an annual license fee for a period terminating on the last day of the current calendar year. ~~If the application is filed after June 30 in any year the additional sum shall be only \$75.~~

Sec. 32. Minnesota Statutes 1998, section 56.02, is amended to read:

**56.02 APPLICATION FEE.**

Application for license shall be in writing, under oath, and in the form prescribed by the commissioner, and contain the name and the address, both of the residence and place of business, of the applicant and, if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality, with street and number, if any, where the business is to be conducted, and such further information as the commissioner may require. The applicant at the time of making application, shall pay to the commissioner the sum of ~~\$250~~ \$500 as a fee for investigating the application, and the additional sum of ~~\$150~~ \$250 as an annual license fee for a period terminating on the last day of the current calendar year; ~~provided, that if the application is filed after June 30 in any year the additional sum shall be only \$75.~~ In addition to the annual license fee, every licensee hereunder shall pay to the commissioner the actual costs of each examination, as provided for in section 56.10. All moneys collected by the commissioner under this chapter shall be turned over to the state treasurer and credited by the treasurer to the general fund of the state.

Every applicant shall also prove, in form satisfactory to the commissioner, that the applicant has available for the operation of the business at the location specified in the application, liquid assets of at least \$50,000.

Sec. 33. Minnesota Statutes 1998, section 56.131, subdivision 1, is amended to read:

Subdivision 1. **INTEREST RATES AND CHARGES.** (a) On any loan in a principal amount not exceeding \$100,000 or 15 percent of a Minnesota corporate licensee's capital stock and surplus as defined in section 53.015, if greater, a licensee may contract for and receive interest, finance charges, and other charges as provided in section 47.59.

(b) Loans may be interest-bearing or precomputed.

(c) Notwithstanding section 47.59 to the contrary, to compute time on interest-bearing and precomputed loans, including, but not limited to the calculation of interest, a day is considered 1/30 of a month when calculation is made for a fraction of a calendar month. A year is 12 calendar months. A calendar month is that period from a given date in one month to the same numbered date in the following month, and if there is no same numbered date, to the last day of the following month. When a period of time includes a whole month and a fraction of a month, the fraction of a month is considered to follow the whole month.

In the alternative, for interest-bearing loans, a licensee may charge interest at the rate of 1/365 of the agreed annual rate for each actual day elapsed.

(d) With respect to interest-bearing loans and notwithstanding section 47.59:

(1) Interest must be computed on unpaid principal balances outstanding from time to time, for the time outstanding. Each payment must be applied first to the accumulated

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interest and the remainder of the payment applied to the unpaid principal balance; provided however, that if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest must not be payable in advance or compounded. However, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the new loan contract may include any unpaid interest which has accrued. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in paragraph (e), clause (3). The resulting loan contract is deemed a new and separate loan transaction for all purposes.

(e) With respect to precomputed loans and notwithstanding section 47.59 to the contrary:

(1) Loans must be repayable in substantially equal and consecutive monthly installments of principal and interest combined, except that the first installment period may be more or less than one month by not more than 15 days, and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days and must be reduced by the amount of interest for the number of days less than one month to the first installment payment; and monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until the loan is fully paid. Payments must be applied in the order in which they become due.

(3) If the maturity of the loan is accelerated for any reason and judgment is entered, the licensee shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

(4) Following the final installment as originally scheduled or deferred, the licensee, for any loan contract which has not previously been converted to interest-bearing under clause (7) paragraph (g), may charge interest on any balance remaining unpaid, including unpaid default or deferment charges, at the single annual percentage rate permitted by this subdivision until fully paid.

(5) With respect to a loan secured by an interest in real estate, and having a maturity of more than 60 months, the original schedule of installment payments must fully amortize the principal and interest on the loan. The original schedule of installment payments for any other loan secured by an interest in real estate must provide for payment amounts that are sufficient to pay all interest scheduled to be due on the loan.

~~(6)~~ (f) A licensee may contract for and collect a delinquency charge as provided for in section 47.59, subdivision 6, paragraph (a), clause (4).

~~(7)~~ (g) A licensee may grant extensions, deferments, or conversions to interest-bearing as provided in section 47.59, subdivision 5.

Sec. 34. Minnesota Statutes 1998, section 58.04, subdivision 1, is amended to read:

Subdivision 1. **RESIDENTIAL MORTGAGE ORIGINATOR LICENSING REQUIREMENTS.** (a) Beginning August 1, 1999, no person shall act as a residential

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mortgage originator, or make residential mortgage loans without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) The following persons are exempt from the residential mortgage originator licensing requirements:

(1) an employee of one mortgage originator licensee or one person holding a certificate of exemption;

(2) a person engaged solely in commercial mortgage activities;

(3) a person licensed as a real estate broker under chapter 82, and an individual licensee who is licensed to the broker if:

(i) the individual licensee acts only under the name, authority, and supervision of the broker to whom the licensee is licensed;

(ii) the broker obtains a certificate of exemption according to section 58.05, subdivision 2;

(iii) the broker does not collect an advance fee for its residential mortgage-related activities; and

(iv) the residential mortgage origination activities are incidental to the real estate licensee's primary activities as a real estate broker or salesperson;

(4) an individual licensed as a property/casualty or life/health insurance agent under chapter 60K if:

(i) the insurance agent acts on behalf of only one residential mortgage originator, which is in compliance with chapter 58;

(ii) the insurance agent has entered into a written contract with the mortgage originator under the terms of which the mortgage originator agrees to accept responsibility for the insurance agent's residential mortgage-related activities;

(iii) the insurance agent obtains a certificate of exemption under section 58.05, subdivision 2; and

(iv) the insurance agent does not collect an advance fee for the insurance agent's residential mortgage-related activities;

(5) a person making no more than five residential mortgage loans with its own funds, during any 12-month period;

(6) a financial institution as defined in section 58.02, subdivision 10;

(7) an agency of the federal government, or of a state or municipal government;

(8) an employee or employer pension plan making loans only to its participants;

(9) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; or

(10) a person exempted by order of the commissioner.

Sec. 35. Minnesota Statutes 1998, section 58.06, subdivision 2, is amended to read:

Subd. 2. **APPLICATION CONTENTS.** The application must contain the name and complete business address or addresses of the license applicant. If the license appli-

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cant is a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require. The application must also include all of the following:

(a) an affirmation under oath that the applicant:

(1) will maintain competent staff and adequate staffing levels, through direct employees or otherwise, to meet the requirements of this chapter;

(2) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;

(3) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;

(4) is financially solvent and in compliance with net worth requirements;

(5) complies with federal and state tax laws;

(6) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law; and

(7) is, or that a person in control of the license applicant is, at least 18 years of age;

(b) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;

(c) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;

(d) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;

(e) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and

(f) other information required by the commissioner.

Sec. 36. Minnesota Statutes 1998, section 58.08, subdivision 1, is amended to read:

**Subdivision 1. REQUIREMENT OF RESIDENTIAL MORTGAGE ORIGINATORS.** A residential mortgage originator licensee engaging in servicing a residential mortgage loan shall continuously maintain a surety bond or irrevocable letter of credit in an amount not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter relating to servicing, and for losses or damages incurred by borrowers as the re-

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sult of a licensee's servicing-related noncompliance with the requirements of this chapter, sections 325D.43 to 325D.48, and 325F.67 to 325F.69, or breach of contract.

The bond or irrevocable letter of credit must be submitted with the originator's license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner, within ten days of its execution.

Sec. 37. Minnesota Statutes 1998, section 59A.03, subdivision 2, is amended to read:

Subd. 2. The applicant at the time of making application, shall pay to the commissioner the sum of \$250 as a fee for investigating the application, and the additional sum of ~~\$100~~ \$200 as an annual licensee fee for a period terminating on May 31 of each year. In addition to the annual license fee, every licensee shall pay to the commissioner the actual costs of each examination as may be required to be conducted under the terms of sections 59A.01 to 59A.15.

Sec. 38. Minnesota Statutes 1998, section 60K.11, subdivision 1, is amended to read:

Subdivision 1. **GROUND**S. The commissioner may by order take any or all of the following actions:

- (1) deny, suspend, or revoke an insurance agent or agency license;
- (2) censure the licensee; or
- (3) impose a civil penalty as provided for in section 45.027, subdivision 6.

In order to take this action the commissioner must find that the order is in the public interest and that the applicant, licensee, or in the case of an insurance agency, partner, director, shareholder, officer, or agent of that insurance agency:

- (i) does not intend to or is not in good faith carrying on the business of an insurance agent;
- (ii) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, contains any misrepresentation, or is false, misleading, or fraudulent;
- (iii) has engaged in an act or practice, whether or not such act or practice involves the business of insurance, which demonstrates that the applicant or licensee is untrustworthy, financially irresponsible, or otherwise incompetent or unqualified to act as an insurance agent or agency;
- (iv) has pled guilty, with or without explicitly admitting guilt, pled nolo contendere, or been convicted of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, including, but not limited to, assault or similar conduct;
- (v) has violated or failed to comply with any of the provisions of the insurance laws including chapter 45 or chapters 60A to 72A or any rule or order under those chapters;
- (vi) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the insurance business;

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(vii) has violated or failed to comply with any order of the insurance regulator of any other state or jurisdiction;

(viii) has had an insurance agent or agency license denied, suspended, or revoked, has been censured or reprimanded, has been the subject of any other discipline imposed by, or has paid or has been required to pay a monetary penalty or fine to, another state or jurisdiction;

(ix) has misrepresented the terms of any actual or proposed insurance contract;

(x) has engaged in any fraudulent, coercive, deceptive, or dishonest act or practice whether or not such act or practice involves the business of insurance;

(xi) has improperly withheld, misappropriated, or converted to the licensee's or applicant's own use any money belonging to a policyholder, insurer, beneficiary, or other person; or

(xii) has forged another's name to any document whether or not the document relates to an application for insurance or a policy of insurance; or

(xiii) has, while performing residential mortgage activity regulated under chapter 58, violated any notification, disclosure, or recordkeeping requirement, or any standard of conduct, imposed by chapter 58.

Sec. 39. Minnesota Statutes 1998, section 118A.01, subdivision 2, is amended to read:

Subd. 2. **GOVERNMENT ENTITY.** "Government entity" means a county, city, town, school district, hospital district, public authority, public corporation, public commission, special district, any other political subdivision, except an entity whose investment authority is specified under chapter 11A or 356A.

For the purposes of sections 118A.02 and 118A.03 only, the term includes an American Indian tribal government entity located within a federally recognized American Indian reservation.

Sec. 40. Minnesota Statutes 1998, section 168.67, is amended to read:

**168.67 SALES FINANCE COMPANY; LICENSE, FEES, REFUND.**

(a) No person shall engage in the business of a sales finance company in this state without a license therefor as provided in sections 168.66 to 168.77 provided, however, that no bank, trust company, savings bank, savings association, or credit union, whether state or federally chartered, industrial loan and thrift company, or licensee under the Minnesota Regulated Loan Act authorized to do business in this state shall be required to obtain a license under sections 168.66 to 168.77.

(b) The application for a license shall be in writing, under oath and in the form prescribed by the administrator. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners, or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information the administrator requires.

(c) The licensee fee for the fiscal year beginning July 1 and ending June 30 of the following year, or any part thereof shall be the sum of \$150 ~~\$250~~ for the principal place of

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business of the licensee, and the sum of ~~\$75~~ \$125 for each branch of the licensee, maintained in this state. Any licensee who proves to the satisfaction of the administrator, by affidavit or other proof satisfactory to the administrator, that during the 12 calendar months of the immediately preceding fiscal year, for which the license has been paid that the licensee has not held retail installment contracts exceeding \$15,000 in amount, shall be entitled to a refund of that portion of each license fee paid in excess of \$25. The administrator shall certify to the commissioner of finance that the licensee is entitled to a refund, and payment thereof shall be made by the state treasurer. The amount necessary to pay for the refundment of the license fee is appropriated out of the general fund. All license fees received by the administrator under sections 168.66 to 168.77 shall be deposited with the state treasurer.

(d) Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location be changed, the administrator shall endorse the change of location on the license.

(e) Upon the filing of such application, and the payment of the fee, the administrator shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of sections 168.66 to 168.77 for a period which shall expire the last day of June next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by sections 168.66 to 168.77 under any other name.

Sec. 41. Minnesota Statutes 1998, section 168.71, is amended to read:

**168.71 MOTOR VEHICLE RETAIL INSTALLMENT CONTRACT.**

(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 signed by the retail buyer shall be furnished to such retail buyer at the time the 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.

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(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 to pay the balance of an existing purchase money motor vehicle lien which exceeds the value of the trade-in amount, or 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.

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(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. 42. Minnesota Statutes 1998, section 303.25, subdivision 5, is amended to read:

Subd. 5. **SOLICITATION OF BUSINESS.** A foreign trust association may not ~~maintain an office within this state, but~~ it may solicit business within this state if banking or trust associations or corporations organized under the laws of this state or national banking associations maintaining their principal offices in this state may solicit business in the state in which the foreign trust association maintains its principal office. For purposes of this subdivision, solicitation of business includes the activities authorized for state or national banking associations exercising fiduciary powers maintaining their principal offices in this state considered a representative trust office established under section 48.476 48A.14. A foreign trust association must follow the procedures in section 48A.18 to establish a trust office and the procedures in section 48A.19 to establish a representative trust office.

Sec. 43. Minnesota Statutes 1998, section 332.15, subdivision 2, is amended to read:

Subd. 2. **LICENSE FOR EACH LOCATION.** Each person operating a debt pro-rating service shall obtain a license for each location and place of business, including each branch office. Such person shall submit a separate application for each place of business. The full license fee shall be payable only for one such place of business. For each additional place of business the license fee shall be ~~\$25~~ \$100.

Sec. 44. Minnesota Statutes 1998, section 332.15, subdivision 3, is amended to read:

Subd. 3. **FEES.** Each applicant, at the time of making such application, shall pay to the commissioner the sum of ~~\$50~~ \$100 as a fee for investigation of the applicant, and the additional sum of ~~\$100~~ \$250 as a license fee. If the application is denied, said license fee shall be returned to the applicant.

Sec. 45. Minnesota Statutes 1998, section 332.17, is amended to read:

**332.17 RENEWAL OF LICENSE.**

Each licensee under the provisions of sections 332.12 to 332.29 shall, not more than 60 nor less than 30 days before its license is to expire, make application to the commissioner for renewal of its license. Such application for renewal shall be on a form prescribed by the commissioner and shall be accompanied by payment of the sum of ~~\$25~~ as a fee for investigation of the renewal applicant, the additional sum of ~~\$100~~ \$250 as a license fee, and a bond as required in the case of an original application. The commissioner may investigate the licensee and determine its continued fitness as in the case of an original application. If the commissioner shall renew the license, said renewal shall be effective for one year from the date on which the previous license expired.

Sec. 46. Minnesota Statutes 1998, section 332.30, is amended to read:

**332.30 ACCELERATED MORTGAGE PAYMENT PROVIDER; BOND REQUIREMENTS.**

(a) Before beginning business in this state, an accelerated mortgage payment provider, as defined in section 332.13, subdivision 2, clause (10), shall submit to the commissioner of commerce an authorization fee of \$250 and either:

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(1) a surety bond in which the accelerated mortgage payment provider is the obligor, in an amount determined by the commissioner; or

(2) if the commissioner agrees to accept it, a deposit:

(i) in cash in an amount equivalent to the bond amount; or

(ii) of authorized securities, as defined in section 50.14, with an aggregate market value equal to the bond amount. The cash or securities must be deposited with the state treasurer.

(b) The amount of the bond required by the commissioner shall vary with the amount of Minnesota client funds held or to be held by the obligor. For new businesses, the bond must be no less than \$100,000, except as provided in section 332.301. The commissioner may increase the required bond amount upon 30 days' notice to the accelerated mortgage payment provider.

(c) If a bond is submitted, it must name as surety an insurance company authorized to transact fidelity and surety business in this state. The bond must run to the state of Minnesota for the use of the state and of any person who may have a claim against the obligor arising out of the obligor's activities as an accelerated mortgage payment provider. The bond must be conditioned that the obligor will not commit any fraudulent act and will faithfully conform to and abide by the provisions of accelerated mortgage payment agreements with Minnesota residents.

If an accelerated mortgage payment provider has failed to account to a mortgagor or distribute funds to the mortgagee as required by an accelerated mortgage payment agreement, the mortgagor or the mortgagor's legal representative or receiver or the commissioner shall have, in addition to any other legal remedies, a right of action in the name of the debtor on the bond or the security given pursuant to this section.

#### Sec. 47. [334.21] MOTOR VEHICLE LEASE AGREEMENTS.

A motor vehicle lease agreement may include the outstanding balance from a prior motor vehicle loan or lease.

#### Sec. 48. **CHISAGO LAKES TOWNSHIP; DETACHED BANKING FACILITY.**

With the prior approval of the commissioner of commerce, a bank operating its principal office in Marine on St. Croix may establish and maintain not more than one detached facility in Chisago Lakes township. A bank desiring to establish such a detached facility must follow the approval procedure prescribed in Minnesota Statutes, section 47.54. The establishment of a detached facility under this section is subject to Minnesota Statutes, sections 47.51 to 47.57, except to the extent those sections are inconsistent with this section.

#### Sec. 49. **REPEALER.**

(a) Minnesota Statutes 1998, section 47.20, subdivision 14, is repealed.

(b) Minnesota Statutes 1998, section 58.07, is repealed.

#### Sec. 50. **EFFECTIVE DATE.**

Sections 1 to 7, 14, 15, 17, 23 to 25, 28 to 32, 37, 40, and 43 to 46 are effective July 1, 1999. Sections 11 and 49, paragraph (a), are effective July 29, 1999. Section 48 takes ef-

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fect the day after compliance by the governing body of Chisago Lakes township with Minnesota Statutes, section 645.021, subdivision 3. Sections 8 to 10, 12, 13, 16, 18, 19, 20 to 22, 26, 27, 33, 35, 36, 41, 42, 47, and 49, paragraph (b), are effective the day following final enactment.

Presented to the governor May 10, 1999

Signed by the governor May 13, 1999, 1:13 p.m.

## CHAPTER 152—S.F.No. 1615

*An act relating to human services; establishing a task force to develop a new day training and habilitation payment rate structure with technical assistance from the commissioner of human services.*

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

### Section 1. **TASK FORCE.**

A day training and habilitation task force is established. Task force membership shall consist of representatives of counties, service consumers, and vendors of day training and habilitation as defined in Minnesota Statutes, section 252.41, subdivision 9, including at least one representative from each association representing day training and habilitation vendors. Appointments to the task force shall be made by the commissioner of human services and technical assistance shall be provided by the department of human services.

### Sec. 2. **PAYMENT STRUCTURE.**

The task force shall develop a new payment rate structure for day training and habilitation services that reflects individual consumer needs and demands for services. The payment structure shall be based on individual need, flexibility, and simplicity in administration and a reflection of costs. An equitable distribution of funds based on need shall be ensured.

### Sec. 3. **OPTIONS.**

The task force shall explore the following options as they relate to the payment rate structure for day training and habilitation services: waived services, existing pilot projects, hourly rates, regional rates, performance-based contracting, and day training and habilitation vendors as medical assistance providers. The task force shall consider additional issues related to the payment rate structure which shall include but not be limited to the following: transportation, disparity of rates among day training and habilitation programs, payment based on clients' enrollment in a day training and habilitation program rather than attendance at the program, consumers' transition from school to work, and capital improvement needs of day training and habilitation programs' physical facilities.

### Sec. 4. **REPORT.**

The task force shall present a report recommending a new payment rate structure to the legislature by January 15, 2000. The task force expires on March 15, 2000.

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