

**CHAPTER 56—H.F.No. 1084**

*An act relating to financial institutions; modifying investment authority and recordkeeping requirements; regulating certain rates, charges, fees, and disclosures; exempting certain unstaffed after-hour drop boxes from detached facilities regulation; amending Minnesota Statutes 2000, sections 47.10, subdivision 1; 47.51; 48.03, subdivisions 1 and 2; 48.16; 48.61, subdivision 7; 56.04; 58.02, by adding a subdivision; 58.14, subdivision 5; and 58.15, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 58; repealing Minnesota Statutes 2000, sections 48.03, subdivision 3; and 58.135.*

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

Section 1. Minnesota Statutes 2000, section 47.10, subdivision 1, is amended to read:

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

(1) for a bank, trust company, savings bank, or stock savings association, if investment is for acquisition and improvements to establish a new bank, or is for improvements to existing property or acquisition and improvements to adjacent property, approval by the commissioner of commerce is not required if the total investment does not exceed 50 percent of its existing capital stock and paid-in surplus. Upon written prior approval of the commissioner of commerce, a bank, trust company, savings bank, or stock savings association may invest in the property and improvements in clause (1) or for acquisition of nonadjacent property for expansion or future use, if the aggregate of all such investments does not exceed ~~75~~ 100 percent of its existing capital stock and paid-in surplus;

(2) for a mutual savings association, five percent of its net assets.

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

Sec. 2. Minnesota Statutes 2000, 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 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. An unstaffed after-hour depository drop box located anywhere within the municipality where the bank’s main office or detached facility is located is also considered an extension of the main banking house even if it is not located within 1,500 feet of the main banking house or detached facility.

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"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. 3. Minnesota Statutes 2000, section 48.03, subdivision 1, is amended to read:

Subdivision 1. The president and cashier of any bank of discount and deposit shall at all times keep an accurate verified list of all its stockholders, with the amount of stock held by each, the dates of all transfers and names of transferees, and shall annually file a copy of such list as it appears on the date of the annual stockholders meeting with the commissioner.

Sec. 4. Minnesota Statutes 2000, section 48.03, subdivision 2, is amended to read:

Subd. 2. Except as provided in section 300.27, no stockholder in any bank of discount and deposit or in any banking or trust corporation or association shall be personally liable for debts of such bank, corporation or association. ~~Except that the president and cashier of any bank of discount and deposit not insured by the Federal Deposit Insurance Corporation shall keep at all times an accurate list of all its stockholders, with the amount of stock held by each, the dates of all transfers and names of transferees, and on May first, annually, file a copy thereof with the county recorder in the county where said bank is located.~~

Sec. 5. Minnesota Statutes 2000, section 48.16, is amended to read:

#### **48.16 BANKS MAY NOT PLEDGE ASSETS; EXCEPTIONS.**

No bank or trust company shall pledge, hypothecate, assign, transfer, or create a lien upon or charge against any of its assets except as follows:

- (1) to the state;
- (2) to secure public deposits;
- (3) to secure funds of trustees in bankruptcy;

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(4) to secure money borrowed in good faith from other banks, trust companies, a financial agency created by act of Congress, or the state in programs specifically authorizing state banks to participate as an eligible local lender;

(5) to finance the acquisition of real estate to be carried as an asset as provided for in section 47.10;

(6) to secure a liability that arises from a transfer of a direct obligation of, or obligations that are fully guaranteed as to principal and interest by, the United States government or an agency thereof, or obligations of United States government-sponsored entities which are exempt from the registration requirements of the Securities Act of 1933, United States Code, title 15, section 77a, that the bank or trust company is obligated to repurchase;

(7) to a counterparty to secure an interest rate swap agreement.

This section shall not be construed to permit the use of assets as security for public deposits other than the securities made eligible by law for that purpose.

Sec. 6. Minnesota Statutes 2000, section 48.61, subdivision 7, is amended to read:

Subd. 7. **SUBSIDIARIES.** (a) A state bank or trust company may organize, acquire, or invest in a subsidiary located in this state for the purposes of engaging in one or more of the following activities, subject to the prior written approval of the commissioner:

(1) any activity, not including receiving deposits or paying checks, that a state bank is authorized to engage in under state law or rule or under federal law or regulation unless the activity is prohibited by the laws of this state;

(2) any activity that a bank clerical service corporation is authorized to engage in under section 48.89; and

(3) any other activity authorized for a national bank, a bank holding company, or a subsidiary of a national bank or bank holding company under federal law or regulation of general applicability, and approved by the commissioner.

(b) A bank or trust company subsidiary may engage in an activity under this section only upon application together with a filing fee of \$250 and with the prior written approval of the commissioner. In approving or denying a proposed activity, the commissioner shall consider the financial and management strength of the bank or trust company, the current written operating plan and policies of the proposed subsidiary corporation, the bank or trust company's community reinvestment record, and whether the proposed activity should be conducted through a subsidiary of the bank or trust company.

(c) The aggregate amount of funds invested in either an equity or loan capacity in all of the subsidiaries of the bank or trust company authorized under this subdivision shall not exceed 25 50 percent of the capital stock and paid in surplus of the bank or trust company.

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(d) A subsidiary organized or acquired under this subdivision is subject to the examination and enforcement authority of the commissioner under chapters 45 and 46 to the same extent as a state bank or trust company.

(e) For the purposes of this section, "subsidiary" means a corporation of which ~~more than 50~~ at least 20 percent of the voting shares are owned or controlled by the bank or trust company.

Sec. 7. Minnesota Statutes 2000, section 56.04, is amended to read:

**56.04 INVESTIGATION; ISSUANCE OF LICENSE; DENIAL; REFUNDS.**

Upon the filing of the application and payment of these fees, the commissioner shall investigate the facts, and if the commissioner shall find (1) that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a copartnership or association, and of the person with direct responsibility for the operation and management of the proposed office are such as to command confidence and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter, and primarily for purposes other than making loans to finance the purchase of products or services, other than insurance products authorized in this chapter or chapter 62B, offered by the applicant, a person which controls or is controlled by the applicant, or a person which is controlled by persons which also control the applicant; and (2) that the applicant has available for the operation of the business, at the specified location, liquid assets of at least \$50,000 (the foregoing facts being conditions precedent to the issuance of a license under this chapter), the commissioner shall thereupon issue and deliver a license to the applicant to make loans, in accordance with the provisions of this chapter, at the location specified in the application. If the commissioner shall not so find, the commissioner shall not issue a license and shall notify the applicant of the denial and return to the applicant the sum paid by the applicant as a license fee, retaining the \$250 \$500 investigation fee to cover the costs of investigating the application. The commissioner shall approve or deny every application for license hereunder within 60 days from the filing thereof with the fees.

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

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

Sec. 8. Minnesota Statutes 2000, section 58.02, is amended by adding a subdivision to read:

Subd. 3a. ADVERTISEMENT. "Advertisement" includes, but is not limited to, any illustration, circular, or statement that presents information to the public in either a paper, electronic, or other medium that is intended to attract clients, generate interest, or otherwise make known the existence of the licensee and which addresses services,

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fees, or products provided by or available through the licensee, including, but not limited to, interest rates, loan origination fees, types of available loans, discount points, closing costs, or sample mortgage terms.

**Sec. 9. [58.136] RATES AND CHARGES.**

Notwithstanding any other law to the contrary, a residential mortgage originator making a residential mortgage loan to a borrower located in this state must comply with any applicable limits on the rate and amount of interest, discount points, finance charges, fees, and other charges as found in the laws of this state.

Nothing in this section authorizes a residential mortgage originator to make loans on terms and conditions that would not be available to it in the absence of this section.

This section applies to residential mortgage originators located in this state and residential mortgage originators located outside this state.

Sec. 10. Minnesota Statutes 2000, section 58.14, subdivision 5, is amended to read:

Subd. 5. **RECORD RETENTION.** A licensee or exempt person must keep and maintain for 26 months the business records, including advertisements, regarding residential mortgage loans applied for, originated, or serviced in the course of its business.

Sec. 11. Minnesota Statutes 2000, section 58.15, subdivision 1, is amended to read:

Subdivision 1. **NONAGENCY DISCLOSURE.** If a residential mortgage originator or exempt person does not contract or offer to contract to act as an agent of a borrower, or accept an advance fee, it must, within ~~72 hours~~ three business days of accepting an application for a residential mortgage loan, provide the borrower with a written disclosure as provided in subdivision 2.

**Sec. 12. REPEALER.**

Minnesota Statutes 2000, sections 48.03, subdivision 3; and 58.135, are repealed.

**Sec. 13. EFFECTIVE DATE.**

Sections 1 to 7, 11, and 12 are effective the day following final enactment.

Presented to the governor April 26, 2001

Signed by the governor April 30, 2001, 2:58 p.m.

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**CHAPTER 57—H.F.No. 285**

*An act relating to liens; regulating agricultural liens; revising and consolidating crop liens and agricultural liens on livestock; amending Minnesota Statutes 2000, section 514.19; proposing coding for new law in Minnesota Statutes, chapter 514; repealing Minnesota Statutes 2000,*

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