

Subd. 6. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a registrant or licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the registrant or licensee pursuant to sections 525.54 to 525.61, or commits a registrant or licensee pursuant to chapter 253B.

Subd. 7. **SELF-REPORTING.** A registrant or licensee shall report to the board any personal action that would require that a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. **DEADLINES; FORMS.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 9. **SUBPOENAS.** The board may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.

Sec. 3. [150A.14] IMMUNITY.

Subdivision 1. **REPORTING IMMUNITY.** A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report in good faith to the board under section 150A.13, or for cooperating with an investigation of a report or with staff of the board. Reports are confidential data on individuals under section 13.02, subdivision 3, and are privileged communications.

Subd. 2. **PROGRAM IMMUNITY.** Members of the board, persons employed by the board, and board consultants are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under section 150A.13.

Presented to the governor April 15, 2002

Signed by the governor April 17, 2002, 9:37 a.m.

CHAPTER 342—S.F.No. 2988

An act relating to financial institutions; regulating detached facilities, certain charges and fees, and mortgage prepayment penalties; amending Minnesota Statutes 2000, sections 47.20, subdivision 5; 47.204, subdivision 1; 47.21; 47.54, subdivisions 1, 2; 47.59, subdivision 1; 58.04, subdivision 4; 334.01, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 58; 334; repealing Minnesota Statutes 2000, sections 52.17, subdivision 1; 334.021; Laws 2002, chapter 330, sections 30, 34, if enacted.

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

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

Section 1. Minnesota Statutes 2000, section 47.20, subdivision 5, is amended to read:

Subd. 5. PREPAYMENT PENALTY PRECOMPUTED LOAN REFUNDS.

(a) ~~Unless the mortgagor waives its right to prepay the mortgage loan without penalty, in a uniform written disclosure waiver approved by the commissioner and signed by the mortgagor, no conventional loan or loan authorized in subdivision 1 shall contain a provision requiring or permitting the imposition of a penalty in the event the loan or advance of credit is prepaid. The prepayment penalty shall not exceed the lesser of two percent of the unpaid principal balance or 60 days interest on the unpaid principal balance. A lender that offers a mortgage loan with a prepayment penalty shall also offer a mortgage loan without a prepayment penalty.~~

This section does not permit the imposition of a prepayment penalty in the event that the property securing the mortgage loan is sold or the mortgage loan is prepaid in part. No prepayment penalty may be enforced after 42 months from the date of the mortgage loan.

(b) A precomputed conventional loan or precomputed loan authorized in subdivision 1 shall provide for a refund of the precomputed finance charge according to the actuarial method if the loan is paid in full by cash, renewal or refinancing, or a new loan, one month or more before the final installment due date. The actuarial method for the purpose of this section is the amount of interest attributable to each fully unexpired monthly installment period of the loan contract following the date of prepayment in full, calculated as if the loan was made on an interest-bearing basis at the rate of interest provided for in the note based on the assumption that all payments were made according to schedule. A precomputed loan for the purpose of this section means a loan for which the debt is expressed as a sum comprised of the principal amount and the amount of interest for the entire term of the loan computed actuarially in advance on the assumption that all scheduled payments will be made when due, and does not include a loan for which interest is computed from time to time by application of a rate to the unpaid principal balance, interest-bearing loans, or simple-interest loans. For the purpose of calculating a refund for precomputed loans under this section, any portion of the finance charge for extending the first payment period beyond one month may be ignored. Nothing in this section shall be considered a limitation on discount points or other finance charges charged or collected in advance, and nothing in this section shall require a refund of the charges in the event of prepayment. Nothing in this section shall be considered to supersede section 47.204.

Sec. 2. Minnesota Statutes 2000, section 47.204, subdivision 1, is amended to read:

Subdivision 1. **NO USURY LIMITS ON INTEREST AND OTHER CHARGES.** Notwithstanding any law to the contrary, except as stated in section 58.137, no limitation on the rate or amount of interest, discount points, finance charges, fees, or other charges shall apply applies to a loan, mortgage, credit sale, or advance ~~which would have been exempt from the laws of this state pursuant to Public Law~~

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Number 96-221, title V, part A, section 501 (as described in 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. 3. Minnesota Statutes 2000, section 47.21, is amended to read:

47.21 INAPPLICABLE LAWS PRESCRIBING TYPE OF SECURITY NOT TO APPLY; AUTHORIZED INVESTMENTS.

Subdivision 1. LIMITS RELATING TO LOANS. No other law in this state, except as stated in section 58.137, prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit or purchases made pursuant to section 47.20, subdivisions 1, 3 and 4a.

~~(1) Such~~ Subd. 2. INVESTMENTS. (a) The institutions described in section 47.20, subdivision 1, may invest in notes or bonds secured by mortgage or trust deed mortgages, trust deeds, or security interests insured pursuant to or guaranteed as described in section 47.20, subdivision 1, clause (2), and in securities issued by national mortgage associations;

~~(2) (b) The notes, bonds, and other securities herein made eligible for investment described in paragraph (a) may be used wherever; by statute, collateral is required as security is required by statute or rule for the deposit of public funds or other funds; or wherever deposits are required by statute or rule to be made with any public official or public department; or wherever an investment of capital or surplus, or a reserve or other fund, is required by statute or rule to be maintained consisting of designated securities.~~

Sec. 4. Minnesota Statutes 2000, section 47.54, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** Any bank desiring to establish a detached facility shall execute and acknowledge a written application in the form prescribed by the commissioner and shall file the application in the commissioner's office with a fee of \$500. The applicant shall within 30 days of the receipt of the form prescribed by the commissioner publish a notice of the filing of the application in a qualified newspaper published in the municipality in which the proposed detached facility is to be located, and if there is no such newspaper, then in a qualified newspaper likely to give notice in the municipality in which the proposed detached facility is to be located. ~~In addition to the publication, the applicant must mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the detached facility, measured in the manner provided in section 47.52.~~

Sec. 5. Minnesota Statutes 2000, section 47.54, subdivision 2, is amended to read:

Subd. 2. **APPROVAL ORDER.** If no objection is received by the commissioner within 15 days after the publication and mailing of the notices notice, the commissioner shall issue an order approving the application without a hearing if it is found that

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(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. 6. Minnesota Statutes 2000, section 47.59, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section, the following definitions shall apply.

(a) "Actuarial method" has the meaning given the term in the Code of Federal Regulations, title 12, part 226, and appendix J thereto.

(b) "Annual percentage rate" has the meaning given the term in the Code of Federal Regulations, title 12, part 226, but using the definition of "finance charge" used in this section.

(c) "Borrower" means a debtor under a loan or a purchaser or debtor under a credit sale contract.

(d) "Business purpose" means a purpose other than a personal, family, household, or agricultural purpose.

(e) "Cardholder" means a person to whom a credit card is issued or who has agreed with the financial institution to pay obligations arising from the issuance to or use of the card by another person.

(f) "Consumer loan" means a loan made by a financial institution in which:

- (1) the debtor is a person other than an organization;
- (2) the debt is incurred primarily for a personal, family, or household purpose; and
- (3) the debt is payable in installments or a finance charge is made.

(g) "Credit" means the right granted by a financial institution to a borrower to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment.

(h) "Credit card" means a card or device issued under an arrangement pursuant to which a financial institution gives to a cardholder the privilege of obtaining credit from the financial institution or other person in purchasing or leasing property or services,

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obtaining loans, or otherwise. A transaction is "pursuant to a credit card" only if credit is obtained according to the terms of the arrangement by transmitting information contained on the card or device orally, in writing, by mechanical or electronic methods, or in any other manner. A transaction is not "pursuant to a credit card" if the card or device is used solely in that transaction to:

(1) identify the cardholder or evidence the cardholder's creditworthiness and credit is not obtained according to the terms of the arrangement;

(2) obtain a guarantee of payment from the cardholder's deposit account, whether or not the payment results in a credit extension to the cardholder by the financial institution; or

(3) effect an immediate transfer of funds from the cardholder's deposit account by electronic or other means, whether or not the transfer results in a credit extension to the cardholder by the financial institution.

(i) "Credit sale contract" means a contract evidencing a credit sale. "Credit sale" means a sale of goods or services, or an interest in land, in which:

(1) credit is granted by a seller who regularly engages as a seller in credit transactions of the same kind; and

(2) the debt is payable in installments or a finance charge is made.

(j) "Finance charge" has the meaning given in the Code of Federal Regulations, title 12, part 226, except that the following will not in any event be considered a finance charge:

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

(2) an additional charge under subdivision 6;

(3) a discount, if a financial institution purchases a loan at less than the face amount of the obligation or purchases or satisfies obligations of a cardholder pursuant to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation;

(4) fees paid by a borrower to a broker, provided the financial institution or a person described in subdivision 4 does not require use of the broker to obtain credit; or

(5) a commission, expense reimbursement, or other sum received by a financial institution or a person described in subdivision 4 in connection with insurance described in subdivision 6.

(k) "Financial institution" means a state or federally chartered bank, a state or federally chartered bank and trust, a trust company with banking powers, a state or federally chartered saving bank, a state or federally chartered savings association, an

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industrial loan and thrift company organized under chapter 53, a regulated lender organized under chapter 56, or an operating subsidiary of any such institution.

(l) "Loan" means:

(1) the creation of debt by the financial institution's payment of money to the borrower or a third person for the account of the borrower;

(2) the creation of debt pursuant to a credit card in any manner, including a cash advance or the financial institution's honoring a draft or similar order for the payment of money drawn or accepted by the borrower, paying or agreeing to pay the borrower's obligation, or purchasing or otherwise acquiring the borrower's obligation from the obligee or the borrower's assignee;

(3) the creation of debt by a cash advance to a borrower pursuant to an overdraft line of credit arrangement;

(4) the creation of debt by a credit to an account with the financial institution upon which the borrower is entitled to draw immediately;

(5) the forbearance of debt arising from a loan; and

(6) the creation of debt pursuant to open-end credit.

"Loan" does not include the forbearance of debt arising from a sale or lease, a credit sale contract, or an overdraft from a person's deposit account with a financial institution which is not pursuant to a written agreement to pay overdrafts with the right to defer repayment thereof.

(m) "Official fees" means:

(1) fees and charges which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, terminating, or satisfying a security interest or mortgage relating to a loan or credit sale, and any separate fees or charges which actually are or will be paid to public officials for recording a notice described in section 580.032, subdivision 1; and

(2) premiums payable for insurance in lieu of perfecting a security interest or mortgage otherwise required by a financial institution in connection with a loan or credit sale, if the premium does not exceed the fees and charges described in clause (1), which would otherwise be payable.

(n) "Organization" means a corporation, government, government subdivision or agency, trust, estate, partnership, joint venture, cooperative, limited liability company, limited liability partnership, or association.

(o) "Person" means a natural person or an organization.

(p) "Principal" means the total of:

(1) the amount paid to, received by, or paid or repayable for the account of, the borrower; and

(2) to the extent that payment is deferred:

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(i) the amount actually paid or to be paid by the financial institution for additional charges permitted under this section; and

(ii) prepaid finance charges.

Sec. 7. Minnesota Statutes 2000, section 58.04, subdivision 4, is amended to read:

Subd. 4. **APPLICABILITY TO BANKS AND CREDIT UNIONS.** Except for ~~section~~ sections 58.13 and 58.137, subdivisions 2 and 3, this chapter does not apply to a bank, savings bank, savings association, or credit union, or to any subsidiary of any of them, that is subject to supervision by either a federal regulatory agency or the commissioner.

Sec. 8. [58.137] INTEREST, POINTS, FINANCE CHARGES, FEES, AND OTHER CHARGES.

Subdivision 1. **FINANCED INTEREST, POINTS, FINANCE CHARGES, FEES, AND OTHER CHARGES.** A residential mortgage originator making or modifying a residential mortgage loan to a borrower located in this state must not include in the principal amount of any residential mortgage loan all or any portion of any lender fee in an aggregate amount exceeding five percent of the loan amount. This subdivision shall not apply to residential mortgage loans which are insured or guaranteed by the secretary of housing and urban development or the administrator of veterans affairs or the administrator of the farmers home administration or any successor.

"Lender fee" means interest, points, finance charges, fees, and other charges payable by the borrower to any residential mortgage originator or to any assignee of any residential mortgage originator. Lender fee does not include recording fees, mortgage registration taxes, passthroughs, or other amounts that are paid by any person to any government entity, filing office, or other third party that is not a residential mortgage originator or an assignee of a residential mortgage originator. Lender fee also does not include any amount that is set aside to pay taxes or insurance on any property securing the residential mortgage loan.

"Loan amount" means: (1) for a line of credit, the maximum principal amount of the line of credit; and (2) for any other residential mortgage loan, the principal amount of the residential mortgage loan excluding all interest, points, finance charges, fees, and other charges. A residential mortgage originator shall not charge, receive, or collect any excess financed interest, points, finance charges, fees, or other charges described in this subdivision, or any interest, points, finance charges, fees, or other charges with respect to this excess.

Subd. 2. **PREPAYMENT PENALTIES.** (a) A residential mortgage originator making a residential mortgage loan to a borrower located in this state shall not charge, receive, or collect any prepayment penalty, fee, premium, or other charge:

(1) for any partial prepayment of the residential mortgage loan; or

(2) for any prepayment of the residential mortgage loan upon the sale of any residential real property, or the sale of any stock, interest, or lease relating to

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cooperative ownership of residential real property, securing the loan; or

(3) for any prepayment of the residential mortgage loan if the prepayment is made more than 42 months after the date of the note or other agreement for the residential mortgage loan; or

(4) for any prepayment of the residential mortgage loan if the aggregate amount of all prepayment penalties, fees, premiums, and other charges exceeds the lesser of (i) an amount equal to two percent of the unpaid principal balance of the residential mortgage loan at the time of prepayment, or (ii) an amount equal to 60 days' interest, at the interest rate in effect on the residential mortgage loan at the time of prepayment, on the unpaid principal balance of the residential mortgage loan at the time of prepayment.

(b) If a residential mortgage originator offers or makes residential mortgage loans to any borrowers located in this state with prepayment penalties, fees, premiums, or other charges exceeding the maximum amount under clause (4), then the residential mortgage originator shall provide the following disclosure to each prospective borrower located in this state that requests a residential mortgage loan from the residential mortgage originator, whether or not the prospective borrower receives a residential mortgage loan:

THIS IS VERY IMPORTANT

THIS LENDER CHARGES YOU A SUBSTANTIAL PENALTY IF YOU PAY OFF OR REFINANCE YOUR LOAN BEFORE MATURITY. ASK THE LENDER HOW MUCH THE PENALTY WILL BE FOR YOUR LOAN.

The residential mortgage originator shall read the disclosure to the prospective borrower when the prospective borrower requests a residential mortgage loan, and again within three days before the borrower signs the note or other agreement for the residential mortgage loan. The residential mortgage originator also shall provide the disclosure to the prospective borrower in writing so that it is received by the prospective borrower within five days after the residential mortgage originator receives the prospective borrower's request for a residential mortgage loan, and again within three days before the prospective borrower signs the note or other agreement for the residential mortgage loan. The written disclosure must be stated in at least 16-point capitalized bold face type on a single sheet of paper that contains only the disclosure, the date on which the disclosure form is sent or provided, the name, address, and telephone number of the residential mortgage originator, the name and address of the prospective borrower, and, at the option of the residential mortgage originator, the prospective borrower's dated and signed acknowledgment of receipt of the disclosure form. The provisions of the disclosure form, other than the disclosure in this subdivision, are not required to be in at least 16-point capitalized bold face type. The prospective borrower shall be permitted to keep a copy of each written disclosure form. When a prospective borrower asks a residential mortgage originator for information about a prepayment penalty, the residential mortgage originator shall give the prospective borrower the requested information, and shall tell the borrower the highest aggregate amount of the prepayment penalties, fees, premiums, and other charges that

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the residential mortgage originator would charge to the prospective borrower for prepayment of the residential mortgage loan one year after it is funded, based on a hypothetical unpaid principal balance of \$100,000 and also based on the highest interest rate that the residential mortgage originator would charge to the prospective borrower. A mortgage originator responding to requests for residential mortgage loans via the Internet may make the disclosure in a manner acceptable to the commissioner.

Subd. 3. APPLICATION. This section applies to residential mortgage originators located in this state and residential mortgage originators located outside this state.

Sec. 9. Minnesota Statutes 2000, section 334.01, subdivision 2, is amended to read:

Subd. 2. CONTRACTS OF \$100,000 OR MORE. A contract for the loan or forbearance of money, goods, or things in action, in the amount of \$100,000 or more, and any extensions, including extensions of installments and related changes in the terms thereof, shall be exempt from the provisions of this chapter and the interest for the indebtedness shall be at the rate of \$6 upon \$100 for a year, unless a different rate is contracted for in writing. Notwithstanding any law to the contrary, except as stated in section 58.137, no limitation on the rate or amount of interest, points, finance charges, fees, or other charges applies to a loan, mortgage, credit sale, or advance made under a written contract, signed by the debtor, for the extension of credit to the debtor in the amount of \$100,000 or more, or any written extension and other written modification of the written contract. The written contract, written extension, and written modification are exempt from the other provisions of this chapter.

Sec. 10. [334.022] CREDIT TO ORGANIZATIONS.

Notwithstanding any law to the contrary, no limitation on the rate or amount of interest, points, finance charges, fees, or other charges applies to an extension of credit to an organization, and any such extension of credit is exempt from the other provisions of this chapter. "Organization" means a corporation, government, government subdivision or agency, trust, estate, partnership, joint venture, cooperative, limited liability company, or association.

Sec. 11. REPEALER.

Minnesota Statutes 2000, sections 52.17, subdivision 1; and 334.021, are repealed. Sections 30 and 34 of Laws 2002, chapter 330, if enacted, are repealed effective retroactive to their date of enactment, notwithstanding Minnesota Statutes, section 645.26, subdivision 3.

Sec. 12. EFFECTIVE DATE.

Section 8 is effective January 1, 2003.

Presented to the governor April 15, 2002

Signed by the governor April 17, 2002, 9:35 a.m.

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