

CHAPTER 56

BANKING DIVISION; SMALL LOAN ACT

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56.01 PERSONS SHALL BE LICENSED. No person, copartnership, association, or corporation shall engage in the business of making loans of money, credit, goods, or things in action, in the amount or of the value of \$300.00 or less, and charge, contract for, or receive on any such loan a greater rate of interest, discount, or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder, except as authorized by this chapter and without first obtaining a license from the commissioner of banks, hereinafter called the commissioner. The word "person," as used in this chapter, includes individuals, copartnerships, associations, and corporations, unless the context requires a different meaning.

[1939 c. 12 s. 1] (7774-41)

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 \$50.00 as a fee for investigating the application, and the additional sum of \$100.00 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 30th in any year the additional sum shall be only \$50.00. 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 by him to the state treasurer and credited by the treasurer to the general revenue fund of the state.

Every applicant shall also prove, in form satisfactory to the commissioner, that he or it has available for the operation of the business, at the location specified in the application, liquid assets of at least \$15,000.

[1939 c. 12 s. 2] (7774-42)

56.03 APPLICANT SHALL FURNISH BOND. The applicant shall, at the same time, file with the commissioner corporate surety bond, to be approved by him, in which the applicant shall be the obligor, in the sum of \$1,000, with one or more sureties, to be approved by him, whose liability as such sureties need not exceed that sum in the aggregate. The bond shall run to the state, for the use of the state and of any person who may have cause of action against the obligor of the bond under the provisions of this chapter. The bond shall be conditioned that the obligor will faithfully conform to, and abide by, the provisions of this chapter and of all rules and regulations lawfully made by the commissioner hereunder, and will pay to the state and to any such person any and all moneys that may become due or

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owing to the state or to such person from the obligor under and by virtue of the provisions of this chapter.

[1939 c. 12 s. 3] (7774-43)

56.04 INVESTIGATION. Upon the filing of the application and the payment of these fees and the approval of the bond, the commissioner shall investigate the facts, and if he 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 officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter, and (2) that allowing the applicant to engage in business will promote the convenience and advantage of the community in which the business of the applicant is to be conducted, and (3) that the applicant has available for the operation of the business, at the specified location, liquid assets of at least \$15,000 (the foregoing facts being conditions precedent to the issuance of a license under this chapter), he 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, which license shall remain in full force and effect until it is surrendered by the licensee or revoked and suspended, as hereinafter provided; if the commissioner shall not so find, he shall not issue a license and he shall notify the applicant of the denial and return to the applicant the bond and the sum paid by the applicant as a license fee, retaining the \$50.00 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 and the approved bond.

If the application is denied, the commissioner shall, within 20 days thereafter, file in his 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.

[1939 c. 12 s. 4] (7774-44)

56.05 LICENSE; TO BE POSTED. The license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership or association, the names of the members thereof, and if a corporation, the date and place of its incorporation. The license shall be kept conspicuously posted in the place of business of the licensee, and shall not be transferable or assignable.

[1939 c. 12 s. 5] (7774-45)

56.06 CONTINUING REQUIREMENTS AS TO BOND AND CAPITAL. If the commissioner shall find at any time that the bond is insecure or exhausted or otherwise doubtful, an additional bond to be approved by him, with one or more sureties to be approved by him and of the character specified in section 56.03, in the sum of not more than \$1,000, shall be filed by the licensee within ten days after written demand upon the licensee by the commissioner.

Every licensee shall maintain, at all times, assets of at least \$15,000 either in liquid form available for the operation of, or actually used in, the conduct of the business at the location specified in the license.

[1939 c. 12 s. 6] (7774-46)

56.07 CONTROL OVER LOCATION. Not more than one place of business shall be maintained under the same license, but the commissioner may issue more than one license to the same licensee upon compliance with all the provisions of this chapter governing an original issuance of a license, for each such new license.

When a licensee shall wish to change his place of business to a street address other than that designated in his license, he shall give written notice thereof to the commissioner, who shall investigate the facts and, if he shall find that allowing the licensee to engage in business in the new location will promote the convenience and advantage of the community in which the licensee desires to conduct his business, he shall attach to the license, in writing, his approval of the change and the date thereof, which shall be authority for the operation of the business under the license at the new location; if the commissioner shall not so find, he shall deny the licensee permission so to change the location of his place of business, in the manner specified and subject to the provisions contained in the last paragraph of section 56.04. No

change in the place of business of a licensee to a location outside of the original municipality shall be permitted under the same license.

[1939 c. 12 s. 7] (7774-47)

56.08 ANNUAL LICENSE FEE; ANNUAL BOND. Every licensee shall, on or before the 20th day of each December, pay to the commissioner the sum of \$100.00 as an annual license fee for the next succeeding calendar year, and shall, at the same time, file with the commissioner a bond in the same amount and of the same character as required by section 56.03.

[1939 c. 12 s. 8] (7774-48)

56.09 REVOKE OF LICENSE; PROCEDURE. The commissioner shall, upon ten days' notice to the licensee stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, revoke any license issued hereunder if he shall find that:

(1) The licensee has failed to pay the annual license fee or to maintain in effect the bond or bonds required under the provisions of this chapter, or to comply with any demand, ruling, or requirement of the commissioner lawfully made pursuant to and within the authority of this chapter, or that

(2) The licensee has violated any provision of this chapter or any rule or regulation lawfully made by the commissioner under and within the authority of this chapter; or that

(3) Any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the commissioner in refusing originally to issue the license.

The commissioner may, upon three days' notice and a hearing, suspend any license for a period not exceeding 30 days, pending investigation.

The commissioner may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if he shall find that the grounds for revocation or suspension are of general application to all offices, or to more than one office, operated by the licensee, he shall revoke or suspend all of the licenses issued to the licensee or the licenses as the grounds apply to, as the case may be.

Any licensee may surrender any license by delivering to the commissioner written notice that he thereby surrenders the license, but the surrender shall not affect the licensee's civil or criminal liability for acts committed prior to the surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked, or suspended in accordance with the provisions of this chapter, but the commissioner shall have authority, on his own initiative, to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the commissioner in refusing originally to issue the license under this chapter.

When the commissioner shall revoke or suspend a license issued pursuant to this chapter, he shall forthwith file in his office a written order to that effect and findings with respect thereto containing the evidence and the reasons supporting the revocation or suspension, and forthwith serve upon the licensee a copy thereof.

[1939 c. 12 s. 9] (7774-49)

56.10 EXAMINATIONS. For the purpose of discovering violations of this chapter or securing information lawfully required by him hereunder, the commissioner may, at any time, either personally or by a person or persons duly designated by him, investigate the loans and business and examine the books, accounts, records, and files used therein, of every licensee and of every person who shall be engaged in the business described in section 56.01, whether the person shall act or claim to act as principal or agent, or under or without the authority of this chapter. For that purpose the commissioner and his duly designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The commissioner and all persons duly designated by him shall have authority to require the attendance of and to examine, under oath, all persons whomsoever whose testimony he may require relative to the loan or the business or to the subject matter of any examination, investigation, or hearing.

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The commissioner shall make such an examination of the affairs, business, office, and records of each licensee at least once each year. The actual cost of every examination shall be paid to the commissioner by every licensee so examined, and the commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

[1939 c. 12 s. 10] (7774-50)

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56.11 BOOKS OF ACCOUNT; ANNUAL REPORT. The licensee shall keep and use in his business such books, accounts, and records as will enable the commissioner to determine whether the licensee is complying with the provisions of this chapter and with the rules and regulations lawfully made by the commissioner hereunder. Every licensee shall preserve such books, accounts, and records, including cards used in the card system, if any, for at least two years after making the final entry on any loan recorded therein.

Each licensee shall annually, on or before the fifteenth day of March, file a report with the commissioner giving such relevant information as the commissioner reasonably may require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by the licensee within the state. This report shall be made under oath and shall be in the form prescribed by the commissioner, who shall make and publish annually an analysis and recapitulation of these reports.

[1939 c. 12 s. 11] (7774-51)

56.12 LIMITATIONS ON ADVERTISING; TAKING OF SECURITY; PLACE OF BUSINESS. No licensee or other person shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner, any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action, in the amount or of the value of \$300.00 or less, at a greater rate of charge than lenders not licensed hereunder would be permitted by law to make, which is false, misleading, or deceptive. The commissioner may order any licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

The commissioner may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers.

No licensee shall take a lien upon real estate as security for any loan made under this chapter, except such lien as is created by law upon the recording of a judgment.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized, in writing, by the commissioner upon his finding that the character of the other business is such that the granting of such authority would not facilitate evasions of this chapter or of the rules and regulations lawfully made hereunder.

No licensee shall transact the business or make any loan provided for by this chapter under any other name or at any other place of business than that named in the license.

No licensee shall take any confession of judgment of any power of attorney. No licensee shall take any note, promise to pay, or security that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, nor any instrument in which blanks are left to be filled in after execution.

[1939 c. 12 s. 12] (7774-52)

56.13 LIMITATION OF LOANS; INTEREST CHARGES. Every licensee hereunder may lend any sum of money not to exceed \$300.00 in amount, and may contract for and receive thereon a charge at a rate not exceeding three per cent per month on the unpaid balance of any loan.

No licensee shall induce or permit any borrower to split up or divide any loan. No licensee shall induce or permit any person, nor any husband and wife, jointly or severally, to become obligated, directly or contingently, or both, under more than one contract of loan at the same time, for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this section.

No charges on loans made under this chapter shall be paid, deducted, or received in advance, or compounded. All charges on loans made under this chapter (1) shall be computed and paid only as a percentage per month of the unpaid principal

balance or portions thereof, (2) shall be so expressed in every obligation signed by the borrower, and (3) shall be computed on the basis of the number of days actually elapsed, and for the purpose of computations a month shall be any period of 30 consecutive days. In addition to the charges herein provided for, no further or other amount shall be, directly or indirectly, charged, contracted for, or received.

If any amount other than or in excess of the charge permitted by this chapter is charged, contracted for, or received, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, charges, or recompense whatsoever.

[1939 c. 12 s. 13] (7774-53)

56.14 BORROWER TO RECEIVE STATEMENT; RECEIPT; RETURN OF SECURITY; SCHEDULE OF CHARGES TO BE DISPLAYED. Every licensee shall:

Deliver to the borrower at the time any loan is made a statement (upon which there shall be printed a copy of section 56.13), in the English language, showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, and the agreed rate of charge;

Give to the borrower a plain and complete receipt for all payments made on account of any such loan at the time the payments are made, specifying the amount applied to charges and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of the loan;

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

Upon repayment of the loan in full, mark indelibly every obligation and security signed by the borrower with the word "Paid" or "Canceled," and release any mortgage, restore any pledge, cancel or return any note, and cancel and return any assignment given to the licensee by the borrower;

Display prominently in each licensed place of business a full and accurate schedule, to be approved by the commissioner, of the charges to be made and the method of computing the same.

[1939 c. 12 s. 14] (7774-54)

56.15 LIMITATION ON AMOUNT OF LOAN. No licensee shall, directly or indirectly, charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than \$300.00. The foregoing prohibition shall also apply to any licensee who permits any person, as borrower, or otherwise, to owe, directly or contingently, or both, to the licensee at any time a sum of more than \$300.00 for principal.

[1939 c. 12 s. 15] (7774-55)

56.16 OVERAGES DEEMED INTEREST. The payment of \$300.00 or less in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall, for the purposes of regulation under this chapter, be deemed a loan secured by the assignment, and the amount by which the assigned compensation exceeds the amount of the consideration actually paid shall, for the purposes of regulation under this chapter, be deemed interest or charges upon the loan from the date of the payment to the date the compensation is payable. This transaction shall be governed by, and subject to, the provisions of this chapter.

[1939 c. 12 s. 16] (7774-56)

56.17 LIMITATION; ASSIGNMENT OF WAGES; CHATTEL MORTGAGES. No assignment of, or order for payment of, any salary, wages, commissions, or other compensation for services earned or to be earned, given to secure any loan made by any licensee under this chapter, shall be valid unless the amount of the loan is paid to the borrower simultaneously with its execution; nor shall any assignment or order, or any chattel mortgage or other lien on household furniture then in the possession and use of the borrower, be valid unless it is in writing, signed in person by the borrower, nor if the borrower is married, unless it is signed in person by both husband and wife; provided, that written assent of a spouse shall not be required when husband and wife have been living separate and apart for a period

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of at least five months prior to the making of the assignment, order, mortgage, or lien.

Under any assignment or order for the payment of future salary, wages, commissions, or other compensation for services, given as security for a loan made by any licensee under this chapter, a sum not to exceed ten per cent of the borrower's salary, wages, commissions, or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time for each payment to the borrower of salary, wages, commissions, or other compensation for services, from the time that a copy of the assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon the loan and a printed copy of section 56.17 is served upon the employer; provided, that this section shall not be construed as giving the assignee any greater rights than he has under section 181.05.

[1939 c. 12 s. 17] (7774-57)

56.18 UNLICENSED PERSONS NOT TO MAKE LOANS. No person, except as authorized in this chapter, shall, directly or indirectly, charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of \$300.00 or less.

The foregoing prohibition shall apply to any person who, by any device, subterfuge, or pretense, shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this chapter for any such loan, use, or forbearance of money, goods, or things in action, or for any such loan, use, or sale of credit.

No loan of the amount or value of \$300.00 or less for which a greater rate of interest, consideration, or charges than is permitted by this chapter has been charged, contracted for, or received, wherever made, shall be enforced in this state, and every person in anywise participating therein in this state shall be subject to the provisions of this chapter; provided, that the foregoing shall not apply to loans legally made in any state which then has in effect a regulatory small loan law similar in principle to this chapter.

[1939 c. 12 s. 18] (7774-58)

56.19 VIOLATION. Any person and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any of the provisions of sections 56.01, 56.12, 56.13, 56.14, 56.17, or 56.18 shall be guilty of a misdemeanor.

Any contract of loan not invalid for any other reason, in the making or collection of which any act shall have been done which constitutes a misdemeanor under this section, shall be void, and the lender shall have no right to collect or receive any principal, interest, or charges whatsoever.

[1939 c. 12 s. 19] (7774-59)

56.20 LIMITATIONS. This chapter shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, industrial loan and thrift companies, as authorized by Minnesota Statutes 1941, Chapter 53.

[1939 c. 12 s. 20] (7774-60)

56.21 RULES OF COMMISSIONER. The commissioner of banks is hereby authorized and empowered to make general rules and regulations and specific rulings, demands, and findings for the enforcement of this chapter, in addition hereto and not inconsistent herewith.

[1939 c. 12 s. 21] (7774-61)

56.22 MODIFICATION OF LAW NOT TO AFFECT CONTRACTS. This chapter, or any part thereof, may be modified, amended, or repealed so as to effect a cancellation or alteration of any license or right of a licensee hereunder; provided, that such cancellation or alteration shall not impair or affect the obligation of any preexisting lawful contract between any licensee and any borrower.

[1939 c. 12 s. 22] (7774-62)

56.23 APPEALS. Any applicant or licensee may appeal from any decision or order of the commissioner to the district court of the county in which his business is to be or is being conducted under this chapter at any time within 20 days after service of the decision or order upon him, by service of a written notice of appeal upon the commissioner. Upon service of the notice of appeal, the commissioner shall forthwith file with the clerk of the court to which appeal is taken a certified

copy of the decision or order under appeal, together with the findings of fact upon which it is based. The appellant shall, within five days after serving the notice of appeal, file the same, with proof of service, with the clerk of the court to which appeal is taken; and thereupon the court shall have jurisdiction over the appeal and the same shall be entered upon the records of the court. Within 20 days after filing of the notice of appeal with the clerk of court, the appellant shall serve upon the commissioner a complaint setting forth his cause of action and, within 20 days thereafter, the commissioner shall serve his answer. Thereafter the case shall be tried according to the rules relating to the trial of civil actions so far as the same are applicable.

On appeal the certified findings of fact filed by the commissioner shall be prima facie evidence of the matters therein stated and the decision or order shall be prima facie lawful and reasonable. The burden of proof upon all issues raised by the appeal shall be on the appellant.

If the court determines that the decision or order appealed from is lawful and reasonable, it shall be affirmed and the decision or order shall be given effect as in this chapter provided. If the court determines that the decision or order is unlawful or unreasonable, it shall be reversed and the commissioner shall forthwith issue or reinstate the license which is the subject of the decision or order, and in all cases where the issuance or revocation of a license is not the subject of the decision or order, the commissioner shall amend his decision or order to conform to the findings and order of the court.

An appeal hereunder shall not stay or supersede the decision or order appealed from unless the court, upon an examination of the decision or order and the return made on the appeal, and after giving the commissioner notice and opportunity to be heard, so directs.

Any party to an appeal in district court under the provisions of this section may appeal to the supreme court as in ordinary civil actions.

If an appeal is not taken from an order of the commissioner according to the provisions of this section, the decision or order of the commissioner shall be final and the person affected thereby shall be deemed to have waived the right to have the decision or order or the findings of fact upon which it was based reviewed by a court.

[1939 c. 12 s. 23] (7774-63)

56.24 EXISTING CONTRACTS VALID. Nothing herein contained shall be so construed as to impair or affect the obligation of any contract of loan, which was lawfully entered into prior to the effective date of this chapter.

[1913 c. 439 ss. 1, 2; 1915 c. 117 s. 1; 1939 c. 12 s. 24] (7774-64)

56.25 LICENSEE TO BE RESPONSIBLE. The licensee hereunder shall, at all times, be holden and liable to the commissioner for all acts and proceedings taken by his assignees, assigns, endorsees, and transferees in enforcing, and as to the method of enforcing, collection of any obligation taken hereunder, as fully and to the same extent as though the same were taken by the licensee hereunder.

[1939 c. 12 s. 25] (7774-65)

56.26 LIMITATIONS. The provisions of sections 56.01 to 56.25 shall not apply to any person, as defined therein, doing business under and as permitted by any law of this state, or of the United States, relating to building and loan associations, credit unions, or licensed pawnbrokers.

[1939 c. 22 s. 1] (7774-60a)