

Banking

CHAPTER 46

BANKING DIVISION

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46.01 POWERS. The banking division shall have charge of the execution of all laws relating to state banks, savings banks, trust companies, building and loan associations, and other financial corporations chartered under the laws of this state, and the business thereof.

[1909 c. 201 s. 1] (5320)

46.02 [Superseded by Laws 1925, c. 426]

46.03 SEAL OF DIVISION. The commissioner of banks, in Minnesota Statutes, Chapters 46 to 59, called the commissioner, shall devise a seal for the use of his office, which shall continue to be the seal of the division of banking. A description of the seal; with an impression thereof, shall be filed in the office of the secretary of state.

[1909 c. 201 s. 3; 1949 c. 533 s. 1] (5322)

46.04 COMMISSIONER; POWERS. The commissioner of banks, referred to in Minnesota Statutes, Chapters 46 to 59, as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, Chapter 201, were conferred by law upon the public examiner, and he shall take over all duties in relation to state banks, savings banks, trust companies, building and loan associations, and other financial corporations within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of banks shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, building and loan associations, and other financial corporations doing business within the state; and shall, through examiners, examine at least once a year such state banks and savings banks as are also subject to annual examinations by the federal deposit insurance corporation or the federal reserve bank and twice a year where they are not subject to such examinations. Trust companies, building and loan associations, credit unions, industrial loan and thrift companies and other financial corporations shall be examined once a year. With the exception of industrial loan and thrift companies which do not have deposit liabilities and small loan companies, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each such corporation as to determine with reasonable certainty that the values are correctly carried on its books. Assets and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. None of the above provisions shall limit the commissioner in making additional examinations as he deems necessary or advisable. He shall investigate the methods of operation and conduct of these corporations and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. He may make such requirements as to records as he deems necessary to facilitate the carrying out of his duties and to properly protect the public interest. He may examine, or cause to be examined by these examiners, on oath, any officer, director, trustee, owner, agent, clerk, customer, or depositor of any such financial corpora-

tions touching the affairs and business thereof, and may issue, or cause to be issued by the examiners, subpoenas, and administer, or cause to be administered by the examiners, oaths. In case of any refusal to obey any subpoena issued by him or under his direction, the refusal may at once be reported to the district court of the district in which the bank or other financial corporation is located, and this court shall enforce obedience to these subpoenas in the manner provided by law for enforcing obedience to subpoenas of the court. In all matters relating to his official duties, the commissioner of banks has the power possessed by courts of law to issue subpoenas and cause them to be served and enforced, and all officers, directors, trustees, and employees of state banks, savings banks, trust companies, building and loan associations, and other financial corporations within the state, and all persons having dealings with or knowledge of the affairs or methods of these institutions, shall afford reasonable facilities for these examinations, make such returns and reports to the commissioner of banks as he may require; attend and answer, under oath, his lawful inquiries; produce and exhibit such books, accounts, documents, and property as he may desire to inspect, and in all things aid him in the performance of his duties.

[1909 c 201 s 4; 1943 c 18 s 1; 1957 c 601 s 25; 1963 c 153 s 1] (5323)

46.05 SUPERVISION OVER FINANCIAL CORPORATIONS. Every state bank, savings bank, trust company, building and loan association, and other financial corporations shall be at all times under the supervision and subject to the control of the commissioner of banks. If, and whenever in the performance of his duties, the commissioner finds it necessary to make a special investigation of any financial corporation under his supervision, and other than a complete examination, he shall make a charge therefor to include only the necessary costs thereof. Such a fee shall be payable to the commissioner on his making a request for payment, except such fees charged one financial institution shall not total more than \$500 in any calendar year.

[1909 c 201 s 5; 1965 c 171 s 2] (5324)

46.06 REFUSAL TO OBEY DIRECTIONS OF COMMISSIONER. Every person who shall refuse or neglect to obey any lawful direction or order of the commissioner of banks; withhold any information, book, record, paper or other thing called for by him for the purpose of examination and ascertaining the true condition of the corporation; wilfully obstruct or mislead him in the execution of his duties, or falsely swear concerning any matter stated under oath, shall be guilty of a felony; the minimum penalty thereof shall be a fine of \$1,000, or imprisonment in the state prison for one year.

[1909 c 201 s 6] (5325)

46.07 RECORDS AND REPORTS. Subdivision 1. The commissioner of banks shall keep all proper records and files pertaining to the duties and work of his office, and report to the governor biennially, previous to the opening of the regular biennial session of the legislature, touching his official acts, giving general information as to banking conditions within the state, and the conditions as to other corporations to which his duties relate and making such recommendations and suggestions as he may deem proper. The report shall contain a list of state banks, trust companies, building and loan associations, and other financial corporations within the state, their capital stocks and surplus funds; also a list of suspended banks and financial corporations and a list of charter applications, together with their disposition, for the biennial period, but the report shall not contain a detailed statement of the condition of each bank or other financial corporation.

Subd. 2. The commissioner shall divulge facts and information obtained in the course of examining financial institutions under his supervision only when and to the extent that he is required or permitted by law to report upon or take special action regarding the affairs of any such institution, or to testify in any criminal proceeding or in a court of justice, except that he may, in his discretion, furnish information as to matters of mutual interest to an official or examiner of the Federal Reserve System or of the Federal Deposit Insurance Corporation. The commissioner shall not be required to disclose the name of any debtor of any financial institution under his supervision, or anything relative to the private accounts, ownership, or transactions of any such institution, or any fact obtained in the course of any examination thereof, except as herein provided.

[1909 c 201 s 7; 1921 c 250 s 1; 1955 c 847 s 6; 1967 c 102 s 1] (5326)

46.08 EMPLOYEES. Subdivision 1. **Assistant commissioner, examiners and other employees.** The commissioner of banks may appoint an assistant commis-

sioner and such examiners, assistant examiners, stenographers, and such other employees as may be necessary to carry out the duties and responsibilities entrusted to him, subject to such rules and regulations as may be established by civil service with regard to qualifications and general fitness. The assistant commissioner and examiners shall each give bond to the state in the sum of \$10,000 and the other employees, whenever so provided, shall each give bond to the state in such sum as may be designated by the commissioner of banks; all such bonds to be approved by the commissioner of banks and filed in the office of the secretary of state. During the absence or disability of the commissioner of banks said assistant commissioner shall have charge of the office and administer its affairs. Such examiners shall confine their work to those institutions which are subject to the supervision of the commissioner of banks and may be transferred from one supervisory district to another at the option of said commissioner when it shall appear that the interest of the division of banking shall be better served by so doing.

Subd. 2. Examiner in charge of liquidation. The commissioner of banks may appoint an examiner in charge of liquidation and such special deputy examiners and other employees as are needed by him in the liquidation of banks. The certificates of appointment of the examiner in charge of liquidation, and of such special deputy examiners shall be filed in the office of the commissioner of banks and a certified copy thereof shall be filed in the office of the secretary of state and in the office of the clerk of the district court of the county in which the principal office of the bank concerned was located. The qualifications of such examiner in charge of liquidation and special deputy examiners shall be the same as prescribed in subdivision 1 of this section for examiners. The commissioner of banks may from time to time authorize any such special deputy examiner to perform such duties connected with such liquidation and distribution as he may deem proper. The commissioner of banks shall require from the examiner in charge of liquidation and each special deputy examiner such bond for the faithful discharge of his duties as he may deem proper. The commissioner of banks may procure such expert assistance as may be necessary in the liquidation and distribution of the assets of such bank and may retain such of its officers or employees as he may deem necessary.

Subd. 3. Examiners not to examine institutions in which they have a financial interest. No examiner shall have the right to examine any bank, savings bank or other financial corporation in which he may have an interest, either directly or indirectly.

[1909 c 201 s 8; 1919 c 121; 1921 c 42; 1923 c 371 s 1; 1943 c 442 s 1; 1957 c 601 s 3; 1959 c 88 s 2] (5327)

46.09 STATE BANK EXAMINERS OR EMPLOYEES NOT TO HOLD BANK STOCK. No person who is a bank examiner or other officer or employee of the division of banking shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the wife, or any other member of the household of a bank examiner, or other officer or employee, shall be so interested, it shall be conclusively presumed that the bank examiner, or other officer or employee, is indirectly interested in the corporation within the meaning of this section; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provisions of this section shall not apply to the commissioner of banks.

[1915 c. 164 s. 1; 1931 c. 43 s. 1] (5328)

46.10 PENALTY FOR VIOLATION. Any person violating the provisions of section 46.09 shall be disqualified from holding any office or employment in the division of banking and shall be removed from such office or employment by the commissioner of banks immediately upon knowledge of the violation.

[1931 c. 43 s. 2] (5328-1)

46.11 EXAMINERS' DISTRICTS. For the purpose of the better administration of his department, the commissioner of banks shall divide the counties of the state into as many districts for the purpose of supervision as may be practical, taking into consideration the volume of work represented and the number of examiners or assistants available, and shall also designate the district in which each of the examiners or assistants appointed under the provisions of section 46.08 shall make examinations. In arranging the districts, the commissioner of banks shall also con-

sider the matter of convenience and economy as much as possible in covering the same by examiners.

[1909 c 201 s 9; 1959 c 88 s 3] (5329)

46.12 REPORTS OF EXAMINERS. Each examiner appointed under Laws 1909, Chapter 201, as amended, shall make report to the commissioner of banks immediately after the completion of an examination of the actual financial condition of the institution examined, with such recommendations and suggestions as he may deem advisable.

[1909 c. 201 s. 10] (5330)

46.13 [Repealed, 1965 c 475 s 4]

46.131 EXAMINATION FEES FOR FINANCIAL INSTITUTIONS. Subdivision 1. Examination fees of the division of banking shall be assessed against financial institutions in accordance with the provisions of this section.

Subd. 2. Each bank, trust company, savings bank, savings, building and loan association, small loan company, industrial loan and thrift company and credit union organized under the laws of this state shall pay into the state treasury its proportionate share of the cost of maintaining the banking division.

Subd. 3. A proportionate share of all annual office expenses of the commissioner of banks, as well as all actual expenses of the examiners in the field, excepting salaries, shall be allocated to each industry affected, and referred to in subdivision 4, as assessments and on the basis of the total time devoted to each.

Subd. 4. Assessments shall be made by the commissioner against each institution within such industry on an equal basis, with exceptions as provided for credit unions in subdivision 6.

Subd. 5. If the income from the fees provided for herein during any fiscal year shall be more than 103 percent of such expenditures for that year, any excess above such sum of 103 percent may be carried over to succeeding years in order to cover any deficit below 103 percent which may occur in such succeeding years. If the income from the fees provided for herein during any fiscal year shall produce less than the expenditures for that year, the division in adjusting its schedule of fees for use in the next fiscal year shall fix the fees so as to produce income in the amount of the expenditures for the latter year plus the amount of the difference between the expenditures for the first year referred to herein and the total income from such fees during the year and plus three percent of the total expenditures for both the latter and the first year referred to herein.

Subd. 6. Total assessments to be paid by credit unions shall be allocated as follows:

(a) Credit unions with assets under \$50,000 as of the end of the calendar year immediately preceding that in which the assessment is levied shall pay an annual assessment of \$10. Credit unions with assets under \$100,000, but with assets of \$50,000 or more, as of the end of the calendar year immediately preceding that in which the assessment is levied shall pay an annual assessment of \$50. Credit unions with assets under \$25,000 shall pay, in addition to the foregoing assessment, an examination fee of 40 cents per \$100 of assets with a minimum examination fee of \$20.

(b) Credit unions examined during their first year of operation shall not be required to pay such examination fee.

(c) The normal share of the total assessment allocation to all credit unions shall be increased by the total amount not allocated to credit unions under \$100,000 by paragraph (a), which total accumulated amount shall be allocated to the remaining credit unions as provided in subdivision 4.

Subd. 7. Such assessments shall be levied on July 1, 1965, and at the beginning of each fiscal period beginning July 1 and ending June 30 thereafter, and shall be based on the total estimated expense as herein referred to during such period.

Subd. 8. In addition to such assessments, each institution referred to in subdivision 2, with the exception of credit unions under \$25,000, shall pay an examination fee upon the request of the commissioner and to be based on the salary cost of examiners or assistants, and at such an average rate per man day or fraction thereof so as to provide for the total cost of such examinations.

Subd. 9. These assessments or fees shall be paid by the institution examined within 20 days after a statement of the amount thereof shall have been rendered the institution examined by the commissioner of banks and, if not so paid, shall bear interest at the rate of six percent per annum; provided, that in no case shall

this penalty be less than \$5. Such penalty shall be payable to the commissioner on his making a request for payment.

[1965 c 475 s 1; 1967 c 102 s 2, 3]

46.14 EXAMINERS' POWERS ENLARGED. The examiner in charge of liquidation in the banking division of the department of commerce is hereby authorized to sign the name of the commissioner of banks and to act for him in all matters connected with the liquidation of insolvent corporations under the supervision and control of the commissioner of banks, with the same force and effect as though the commissioner himself had signed or acted; provided, that the examiner shall have no authority to order an assessment against the stockholders of an insolvent state bank or trust company under the provisions of Laws 1927, Chapter 254, as amended.

[1931 c. 137] (5332-1)

46.15 CERTAIN SECURITIES DEPOSITED WITH STATE TREASURER. All securities required or permitted by law to be assigned to and deposited with the commissioner of banks for any purpose shall hereafter be assigned to and deposited with the state treasurer, who shall give his receipt therefor, and this receipt shall be filed with the commissioner of banks, in lieu of the securities, and in this case neither the commissioner of banks nor his bondsmen shall be responsible for the safe-keeping of these securities, and the state treasurer shall perform all the duties with regard to the safe-keeping of these securities which the commissioner of banks is now required to perform, and the state treasurer shall be subject to the same obligations and under the same liability, with reference to the safe-keeping of these securities, as the commissioner of banks. The state treasurer shall accept, release, surrender, and permit substitutions of securities assigned to and deposited with him under the provisions of Laws 1923, Chapter 155, upon order of the commissioner of banks.

[1923 c 155 s 1] (5334)

46.16 [Repealed, 1951 c 713 s 37]

46.17 SALARY OF EXAMINER IN CHARGE OF LIQUIDATION. The commissioner of banks shall fix the salary of the examiner in charge of liquidation appointed by him, but not to exceed the salary of a bank examiner in the classified service of the state and the same shall be paid out of the funds of banks in the hands of the commissioner of banks for liquidation.

[1913 c 400 s 1; 1933 c 232 s 2; 1959 c 88 s 4] (252(9))

46.21 DESTRUCTION OF CERTAIN RECORDS. Subdivision 1. After 12 years, the commissioner of banks may at his discretion dispose of any examination report, call report of the condition of state banks, earnings and dividend report, oath of office of director or examining committee report. After 20 years he may at his discretion dispose of any correspondence with reference to any examination report. After a period of 6 years the commissioner of banks need not retain the examiner's original pencil copy of any examination report.

Subd. 2. The commissioner of banks may at his own discretion destroy the records, documents or correspondence of any financial corporation of which he has taken possession or any records, documents or correspondence relating to liquidation of any financial corporation which has been liquidated. No material subject to destruction shall be destroyed until at least five years have elapsed since the date of the final liquidating dividend in each case.

[1957 c 505 s 1, 2]