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governing contested cases, including the provisions of the act relating to judicial review of agency decisions.

Subd. 4. If upon the hearing, it appears to the commissioner that the requirements for approval contained in subdivision 2 have been met, he shall, not later than 90 days after the hearing, and after the applicant has otherwise complied with the provisions of law applicable to the establishment of a facility, issue the certificate of authorization. If a facility is not activated within 12 months from the date of issue of the certificate, the certificate shall automatically expire. If the commissioner shall decide that the application should not be granted, he shall issue his order to that effect and forthwith give notice by certified mail to the applicant.

[1977 c 378 s 4]

47.55 Existing facility.

A bank may retain and operate one detached facility as it may have had in operation prior to May 1, 1971 without requirement of approval hereunder, provided that its function is limited as provided in section 47.53 and its location conforms with the provisions of section 47.52. A bank having such a retained detached facility shall be limited to operating two additional detached facilities.

[1977 c 378 s 5]

CHAPTER 48. BANKS, TRUST COMPANIES

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48.02 Capital and surplus; prepayment of capital.

The capital and surplus of every state bank hereafter organized shall be at least \$250,000. In addition thereto undivided profits shall be provided for in such an amount as the commissioner shall determine to be adequate under the circumstances to avoid any possible impairment of capital and surplus. The total of these outlays shall be known as capital funds, and payment thereof shall be made in full, in cash or authorized securities, deposited in an approved custodial bank, and certified to the commissioner, under oath of the president and cashier, as well as the custodial bank, before the proposed state bank shall be authorized to commence business. The capital funds of a proposed bank shall not be less than a total amount which the commissioner considers necessary, having in mind the deposit potential for such a proposed bank and current banking industry standards of capital adequacy.

[1977 c 272 s 7]

48.10 Annual audit; report.

The board of directors shall annually examine the books of a bank, either in person, or by appointing an examining committee, or an auditor, who may be an independent auditor or accountant. The examining committee or auditor shall be solely responsible to the directors. A report shall be made to the directors as to the scope of the examination or audit, and also to show those assets, excluding marketable securities and fixed assets, which are carried on the books for more than actual value. This report shall be retained as a permanent record or incorporated in the minutes of the meeting, and a copy of the report shall be sent to the commissioner of banks.

[1977 c 272 s 8]

48.153 Installment loans; finance charges; minimum charges.

Any bank organized under the laws of this state, or any national banking association doing business in this state, making any loan of money not exceeding \$25,000 repayable in installments, may make a finance charge for such loan to be

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computed at a rate which does not exceed 12 percent per annum upon the unpaid principal balance of the amount financed. Installment payments shall not extend beyond a period of 12 years and 32 days from the date of the loan. The loan may be secured by a mortgage, pledge, or other collateral. Any savings bank organized pursuant to chapter 50, and having its principal place of business in this state, may make a loan for consumer purposes to any natural person in an amount not exceeding \$7,500 repayable in installments, and may make a finance charge for the loan to be computed at a rate not exceeding 12 percent per annum on the unpaid principal balance of the amount financed. Installment payments shall not extend beyond a period of five years and 32 days from the date of the loan. The loan may be secured by a mortgage, pledge or other collateral. Charges in reference to installment loans under this section shall be computed and collected only on the unpaid principal balance of the amount financed actually outstanding. One day's finance charge shall mean an amount equal to 1/365 of the per annum rate provided for in an installment loan. If the total finance charge determined on an installment loan, single payment or demand loan shall be less than \$10 the amount charged may nevertheless be \$10. No loan shall be made pursuant to this section if over 50 percent of the proceeds of the loan are used to finance the purchase of a borrower's primary residence other than a mobile home.

[1977 c 350 s 2]

48.19 Loans on real estate restricted.

Subdivision 1. **Restrictions; exception.** No bank or trust company shall make any loan upon the security of real estate unless it is a first lien thereon, except that a bank or trust company may take a junior lien: (a) upon real estate to secure a loan previously contracted; or (b) upon farm real estate to secure a loan made to a farmer who resides in a county which due to weather conditions is a declared federal disaster area at the time the loan contract is signed. Before any such loans are made the value of the real estate shall be determined by an appraisal made by a committee appointed by the board of directors, which appraisal shall be made a matter of record; except that the board may accept an appraisal made by or for an agency of the United States government when such agency is guaranteeing or insuring the loan or any part thereof.

A bank may take additional liens on the same security and these shall be considered to be part of the same mortgage lien thereon providing it has been established that there are no intervening liens.

Loans in which the small business administration cooperates through agreements to participate on an immediate or deferred basis under the federal small business act or loans or obligations secured or guaranteed by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States, shall not be subject to the restrictions or limitations of this section imposed upon loans secured by real estate.

[For text of subds 2 and 4, see M.S.1976]

[1977 c 103 s 1]

48.36 Application.

Subdivision 1. Any state bank having a capital and surplus of not less than \$500,000 may exercise the powers and privileges conferred by sections 48.36 to 48.43, in addition to all other powers granted by law, upon complying with the conditions and requirements of those sections, and receiving the approval of the commissioner of banks, who may grant or reject, in his judgment, the application of any bank to acquire trust authority, and in doing so he shall take into consideration the following factors:

- (1) The needs of the community for trust service of the kind applied for and the probable volume of such trust business available to the bank;
- (2) The general condition of the bank, particularly the adequacy of its net

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capital and surplus funds in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the proposed exercise of trust powers;

(3) The general character and ability of the management of the bank;

(4) The nature of the supervision to be given to the proposed trust activities, including the qualifications and experience of the members of the proposed trust investment committee;

(5) The qualifications, experience, and character of the proposed executive officer or officers of the trust department;

(6) Whether the bank has available competent legal counsel to advise and pass upon trust matters whenever necessary; and

(7) Any other facts and circumstances that seem proper.

Subd. 2. The application required under subdivision 1 shall be in the form prescribed by the commissioner and shall be accompanied with a \$250 filing fee, which shall be deposited into the general fund.

[1977 c 272 s 9]

48.37 Certificates from commissioner.

In order to exercise the powers herein conferred, any such bank shall invest and keep invested in one or more of the first, second, third, fourth, seventh, and eighth classes of authorized securities, at least 25 percent of its capital, which securities in the amounts above provided shall be duly assigned, transferred to, and deposited with the commissioner, and shall be maintained unimpaired as a guaranty fund for the integrity of its trusts and for the faithful discharge of its duties, in connection therewith, with the right to the bank to collect the income thereof and to substitute other like authorized securities of equal amount and value. The commissioner shall carefully examine the securities offered for deposit and, if they comply with all the provisions of law applicable thereto, and, if the bank making such deposit shall possess the qualifications stated in section 48.36, he shall issue to the bank a certificate stating that it is qualified to exercise the powers herein conferred, and, upon the issuance of this certificate and while the same remains in force, the bank may exercise the powers and privileges conferred by sections 48.36 to 48.43.

In case of any increase in the capital of any bank which has qualified hereunder, this certificate shall be and become revoked and the bank shall not thereafter exercise the powers herein conferred until it shall have deposited the required proportion of its capital in authorized securities and received a new certificate that it is qualified hereunder.

[1977 c 272 s 10]

48.44 Banks may organize as trust company.

Hereafter state banks which may be organized in the manner now provided by law may be organized with the additional authority to exercise the fiduciary powers and privileges set out in section 48.38; provided, that the capital and surplus of any such bank shall not be less than \$500,000.

[1977 c 272 s 11]

48.67 Capital of trust companies.

The capital of every trust company hereafter organized shall be not less than \$500,000. There shall also be provided a surplus of at least 20 percent of capital in addition to such capital amounts in each case and neither the capital nor the surplus so provided shall be reduced without the approval of the commissioner of banks. No trust company hereafter organized shall transact any business until all of its authorized capital stock and required surplus have been paid in, in cash, and at least 25 percent of the capital has been invested in one or more of the first, second, third, and fourth classes of authorized securities and railroad bonds, as described by that statute, and also in the farm loan bonds issued by the federal land banks, federal intermediate credit banks, and the banks for cooperatives duly assigned and

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transferred to and deposited with the state treasurer. The state treasurer shall submit the securities deposited to the commissioner, who shall carefully examine the securities offered for deposit and ascertain that they comply with all the provisions of law applicable thereto. Upon receipt of an order of the commissioner, the state treasurer shall issue his receipt therefor. This deposit shall be maintained unimpaired as a guaranty fund for depositors and creditors and for the faithful discharge of its duties, with the right to collect the income thereof and to substitute other like authorized securities, of equal amount and value, upon approval and order of the commissioner.

If the securities comply with the law, the commissioner shall issue his certificate of authorization for the trust company to commence business.

The capital stock of any trust company may be reduced with the approval of the commissioner, but not below the minimum amounts aforesaid, and no assets shall be returned to the stockholders unless its deposits of authorized securities after such return equal one-fourth of the reduced capital, in no event less than \$125,000; nor shall the liability of any stockholder upon any existing contract be affected thereby.

When two or more trust companies have been or shall hereafter be consolidated under and pursuant to the provisions of sections 49.34 to 49.41, the capital of the consolidated trust company shall be considered as substituted for the capital of the several trust companies entering into the consolidation, and the aggregate of the securities of these trust companies on deposit with the state treasurer, pursuant to the provisions of this section, shall be increased or diminished accordingly; provided, that any company may hereafter be organized, with its principal place of business at any place within the state, with a capital of not less than \$10,000, to be paid in cash, of which 50 percent shall be invested in authorized securities and deposited with the state treasurer, as provided in this section. The powers and business of the company so organized shall be to act as assignee under any assignment for the benefit of creditors, or be appointed and act as a trustee or receiver, as a guardian, as executor of any will, or administrator of any estate, and the company so organized may accept and perform any other lawful trust over which any court, either state or federal, has jurisdiction. This company, before entering upon the duties of its trust, shall give a corporate surety bond in such sum as the court directs, with sufficient surety, conditioned for the faithful performance of its duties. The business of any company so organized shall be limited to the above matters; provided, that the company so organized with a capital stock of \$10,000 shall not use the word "trust" in the title or name of the company.

[1977 c 272 s 12]

48.69 Certain trust companies may assume powers of state banks.

Any trust company organized under the laws of this state, and having a capital of not less than \$500,000, may exercise the powers and privileges conferred by sections 48.69 to 48.73, in addition to all other powers granted by law, upon complying with the conditions and requirements specified in sections 48.69 to 48.73.

[1977 c 272 s 13]

CHAPTER 50. SAVINGS BANKS

Sec. 50.14	Authorized securities.	Sec. 50.157	Limited trusteeship.
50.148	Authorized investments; mobile home loans.	50.175	Negotiable order of withdrawal account. [New]

50.14 Authorized securities.

[For text of subds 1 to 4, see M.S.1976]

Subd. 5. (1) Class four shall be:

(a) Notes or bonds secured by mortgages or trust deeds on unencumbered