

## CHAPTER 56

### REGULATED LOANS

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NOTE: "Commissioner" means commissioner of banks. See sections 46.03 and 46.04.

#### 56.0001 CITATION.

Sections 56.001 to 56.26 may be cited as the "Minnesota Regulated Loan Act."

**History:** 1982 c 547 s 4

#### 56.001 DEFINITIONS.

Subdivision 1. **Terms.** When used in this chapter, the terms defined in this section have the meanings given them, unless their context requires a different meaning.

Subd. 2. **Actuarial method.** "Actuarial method" means the method of allocating payments made on a loan between the principal amount and interest whereby a payment is applied first to the accumulated interest and then to the unpaid principal amount.

Subd. 3. **Applicable charge.** "Applicable charge" means the amount of interest attributable to each monthly installment period of the loan contract. The applicable charge is computed as if each installment period were one month and any charge for extending the first installment period beyond one month is ignored. The applicable charge for any installment period is that which would have been made for the period had the loan been made on an interest-bearing basis at the single annual percentage rate permitted by section 56.131, subdivision 1, based upon the assumption that all payments were made according to schedule. For convenience in computation, the licensee may round the single annual rate to the nearest one quarter of one percent.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of banks.

Subd. 5. **Interest.** "Interest" means all charges payable directly or indirectly by a borrower which are imposed directly or indirectly by the licensee as an incident to the loan, however denominated, including interest, discount, loan fee, or credit or investigation fee, but shall not include permissible default or deferment charges, lawful fees for any security taken, insurance charges or premiums, court costs, or other charges specifically authorized by law.

Subd. 6. **Interest-bearing loan.** "Interest-bearing loan" means a loan in which the debt is expressed as the principal amount and interest is computed, charged, and collected on unpaid principal balances outstanding from time to time, for the time outstanding.

Subd. 7. **Precomputed loan.** "Precomputed loan" means a loan in which the debt is a sum comprising the principal amount and the amount of interest computed actuarially in advance on the assumption that all scheduled payments will be made when due.

Subd. 8. **Person.** "Person" includes individuals, copartnerships, associations, and corporations.

Subd. 9. **Principal amount.** "Principal amount" means the amount of cash paid to, or paid or payable for, the account of the borrower.

**History:** 1981 c 258 s 1; 1Sp1981 c 4 art 4 s 35

## 56.002 APPLICATION.

This chapter does not apply to a person doing business under and as permitted by any law of this state or of the United States relating to banks, building and loan associations, savings and loan associations, trust companies, licensed pawnbrokers, or credit unions. Notwithstanding the provisions of section 56.01, an industrial loan and thrift company under chapter 53 may contract for and receive the charges, including those in section 56.155, authorized by this chapter without being licensed pursuant to this chapter, but shall comply with all other provisions of this chapter when contracting for or receiving charges on loans regulated by this chapter.

**History:** 1981 c 258 s 2; 1Sp1981 c 4 art 4 s 11

## 56.01 NECESSITY OF LICENSE.

Except as authorized by this chapter and without first obtaining a license from the commissioner, no person shall engage in the business of making loans of money, credit, goods, or things in action, in the amount or of the value of \$35,000 or less, and charge, contract for, or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if he were not a licensee under this chapter.

**History:** 1939 c 12 s 1; 1959 c 573 s 1; 1967 c 261 s 1; 1974 c 412 s 1; 1981 c 258 s 3 (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 \$250 as a fee for investigating the application, and the additional sum of \$150 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 30 in any year the additional sum shall be only \$75. 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 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 \$50,000.

**History:** 1939 c 12 s 2; 1959 c 573 s 2; 1969 c 347 s 3; 1969 c 399 s 1; 1975 c 379 s 1; 1981 c 258 s 4 (7774-42)

**56.03** [Repealed, 1959 c 573 s 13]

**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 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 \$50,000 (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. 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 sum paid by the applicant as a license fee, retaining the \$250 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 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.

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.

Should substantially all of a licensee's outstanding loan accounts subject to this chapter be sold, the purchaser of the accounts, if otherwise fully qualified, may obtain a license, without establishing convenience and advantage, in the same municipality upon surrender of the seller's license to the commissioner.

**History:** 1939 c 12 s 4; 1959 c 157 s 4; 1959 c 573 s 3; 1971 c 526 s 1; 1981 c 258 s 5 (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.

**History:** 1939 c 12 s 5 (7774-45)

**56.06** [Repealed, 1981 c 258 s 23]

**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 in the same municipality designated in his license, he shall give written notice thereof 30 days in advance to the commissioner, who shall within 30 days of receipt of such notice, issue an amended license approving the change. 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.

A licensed place of business shall be open during regular business hours each weekday, except for legal holidays and for any weekday the commissioner grants approval to the licensee to remain closed. A licensed place of business may be open on Saturday, but shall be closed on Sunday.

**History:** 1939 c 12 s 7; 1965 c 45 s 7; 1981 c 258 s 6 (7774-47)

**56.08 ANNUAL LICENSE FEE.**

Every licensee shall, on or before the 20th day of each December, pay to the commissioner the sum of \$150 as an annual license fee for the next succeeding calendar year.

**History:** 1939 c 12 s 8; 1959 c 573 s 5; 1975 c 379 s 2 (7774-48)

**56.09 REVOCATION OF LICENSE.**

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 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 material 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.

**History:** 1939 c 12 s 9; 1959 c 573 s 6; 1981 c 258 s 7 (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.

Each licensee shall pay to the commissioner such amount as may be required under section 46.131, and the commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

**History:** 1939 c 12 s 10; 1965 c 475 s 3; 1981 c 258 s 8 (7774-50)

#### 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. Accounting systems maintained in whole or in part by mechanical or electronic data processing methods which provide information equivalent to that otherwise required are acceptable for this purpose.

Each licensee shall annually on or before the fifteenth day of March, except in odd numbered years and then on or before the seventh day of February, 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 such licensee within the state. Such 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 such reports.

**History:** 1939 c 12 s 11; 1943 c 106 s 1; 1981 c 258 s 9 (7774-51)

**56.12 ADVERTISING; TAKING OF SECURITY; PLACE OF BUSINESS.**

No licensee 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 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. A statement of rates of charge that meets the requirements of the federal Truth-in-Lending Act and regulations thereunder shall be deemed full compliance with this section.

A licensee may take a lien upon real estate as security for any loan exceeding \$2,700 in principal amount made under this chapter. The provisions of sections 47.20 and 47.21 do not apply to loans made under this chapter, except as provided in this section. No loan secured by a first lien on a borrower's primary residence shall be made pursuant to this section if the proceeds of the loan are used to finance the purchase of the borrower's primary residence, unless:

(1) the proceeds of the loan are used to finance the purchase of a manufactured home; or

(2) the proceeds of the loan are used in whole or in part to satisfy the balance owed on a contract for deed. The rate of interest charged on such a loan made after August 1, 1984, shall not exceed the rate provided in section 47.20, subdivision 4a.

If the proceeds of the loan are used to finance the purchase of the borrower's primary residence, the licensee shall consent to the subsequent transfer of the real estate if the existing borrower continues after transfer to be obligated for repayment of the entire remaining indebtedness. The licensee shall release the existing borrower from all obligations under the loan instruments, if the transferee (1) meets the standards of credit worthiness normally used by persons in the business of making loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the property used as collateral, and (2) executes an agreement in writing with the licensee whereby the transferee assumes the obligations of the existing borrower under the loan instruments. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument. A licensee may charge a fee not in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan is assumed by the transferee and the existing borrower continues after the transfer to be obligated for repayment of the entire assumed indebtedness. A licensee may charge a fee not in excess of one percent of the remaining unpaid principal balance in the event the remaining indebtedness is assumed by the transferee and the existing borrower is released from all obligations under the loan instruments, but in no event shall the fee exceed \$150.

A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8.

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, if the commissioner finds that the character of the other business is such that it would facilitate evasions of this chapter or of the rules and regulations lawfully made hereunder. The commissioner may promulgate rules dealing with such other businesses.

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 or any power of attorney. No licensee shall take any note or promise to pay that does not accurately disclose the principal amount of the loan, the time for which it is made, and the agreed rate or amount of charge, nor any instrument in which blanks are left to be filled in after execution. Nothing herein is deemed to prohibit the making of loans by mail.

**History:** 1939 c 12 s 12; 1959 c 573 s 7; 1967 c 261 s 2; 1974 c 412 s 2; 1981 c 258 s 10; 1982 c 547 s 5; 1982 c 642 s 13 (7774-52)

**56.13** [Repealed, 1981 c 258 s 23]

### **56.131 MAXIMUM RATES AND CHARGES.**

Subdivision 1. **Interest rates and charges.** (a) On any loan in the principal amount of \$35,000 or less, a licensee may contract for and receive interest, calculated according to the actuarial method, not exceeding the equivalent of the greater of any of the following:

(1) the total of: (i) 33 percent per year on that part of the unpaid balance of the principal amount not exceeding \$350; and (ii) 19 percent per year on that part of the unpaid balance of the principal amount exceeding \$350; or

(2) 21.75 percent per year on the unpaid balance of the principal amount.

(b) On any loan where interest has been calculated according to the method provided for in paragraph (a), clause (1), interest shall be contracted for and earned as provided in that provision or at the single annual percentage rate computed to the nearest one hundredth of one percent that would earn the same total interest at maturity of the contract as would be earned by the application of the graduated rates provided in paragraph (a), clause (1), when the debt is paid according to the agreed terms and the calculations are made according to the actuarial method.

(c) Loans may be interest-bearing or precomputed.

(d) To compute time on interest-bearing and precomputed loans, including, but not limited to the calculation of interest, a day shall be considered 1/30 of a month when calculation is made for a fraction of a calendar month. A year shall be 12 calendar months. A calendar month shall be that period from a given date in one month to the same numbered date in the following month, and if there is no same numbered date, to the last day of the following month.

(e) With respect to interest-bearing loans:

(1) Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding. Each payment shall be applied first to the accumulated interest and the remainder of the payment applied to the unpaid principal balance; provided however, that if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest shall not be payable in advance or compounded. However, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the new loan contract may include any unpaid interest which has accrued. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in paragraph (f), clause (3). The resulting loan contract shall be deemed a new and separate loan transaction for all purposes.

(f) With respect to precomputed loans:

(1) Loans shall be repayable in substantially equal and consecutive monthly installments of principal and interest combined, except that the first installment period may be longer than one month by not more than 15 days, and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days; and provided further that monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until the loan is fully paid. Payments shall be applied in the order in which they become due.

(3) When any loan contract is paid in full by cash, renewal or refinancing, or a new loan, one month or more before the final installment due date, a licensee shall refund or credit the borrower with the total of the applicable charges for all fully unexpired installment periods, as originally scheduled or as deferred, which follow the day of prepayment; if the prepayment is made other than on a scheduled payment date, the nearest scheduled installment payment date shall be used in the computation; provided further, if the prepayment occurs prior to the first installment due date, the licensee may retain 1/30 of the applicable charge for a first installment period of one month for each day from the date of the loan to the date of prepayment, and shall refund or credit the borrower with the balance of the total interest contracted for. If the maturity of the loan is accelerated for any reason and judgment is entered, the licensee shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

(4) If an installment, other than the final installment, is not paid in full within ten days of its scheduled due date, a licensee may contract for and receive a default charge not exceeding five percent of the amount of the installment, but not less than \$2.

(5) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a licensee may grant a deferment and may collect a deferment charge as provided in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one-month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred payment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. Should a loan be prepaid in full during a deferment period, the licensee shall make or credit to the borrower a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

(6) If two or more installments are delinquent one full month or more on any due date, and if the contract so provides, the licensee may reduce the unpaid balance by the refund credit which would be required for prepayment in full on the due date of the most recent maturing installment in default. Thereafter, and in lieu of any other default or deferment charges, the single annual percentage rate permitted by this subdivision may be charged on the unpaid balance until fully paid.

(7) Following the final installment as originally scheduled or deferred, the licensee, for any loan contract which has not previously been converted to interest-bearing under paragraph (f), clause (6), may charge interest on any



balance remaining unpaid, including unpaid default or deferment charges, at the single annual percentage rate permitted by this subdivision until fully paid.

Subd. 2. **Additional charges.** In addition to the charges provided for by this section and section 56.155, no further or other amount whatsoever, shall be directly or indirectly charged, contracted for, or received for the loan made, except actual out of pocket expenses of the licensee to realize on a security after default, and except for the following additional charges which may be included in the principal amount of the loan:

(a) Lawful fees and taxes paid to any public officer to record, file, or release security;

(b) With respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section; provided the costs do not exceed one percent of the principal amount or \$250, whichever is greater:

(1) Fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;

(2) An amount not to exceed \$150, if not paid to the licensee, an employee of the licensee, or a person related to the licensee, for fees for preparation of a mortgage, settlement statement, or other documents, fees for notarizing mortgages and other documents, and appraisal fees.

Subd. 3. **Splitting.** No licensee shall induce or permit any borrower to split up or divide any loan or permit any person 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.

Subd. 4. **Adjustment of dollar amounts.** (a) The dollar amounts in this section, sections 56.01 and 56.12 shall change periodically, as provided in this section, according to and to the extent of changes in the implicit price deflator for the gross national product, 1972 = 100, compiled by the United States department of commerce, and hereafter referred to as the index. The index for December, 1980 is the reference base index.

(b) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more, but;

(1) the portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts appearing in Laws 1981, Chapter 258 on the date of enactment; and

(2) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to Laws 1981, Chapter 258 as a result of earlier application of this section.

(c) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the department of commerce. If the index is superseded, the index referred to in this section is the one represented by the department of commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(d) The commissioner shall announce and publish:

(1) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (b); and

(2) promptly after the changes occur, changes in the index required by paragraph (c) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if he relies on dollar amounts either determined according to paragraph (b), clause (2) or appearing in the last publication of the commissioner announcing the then current dollar amounts.

Subd. 5. **Attorney's fees.** No term of writing may provide for the payment by the debtor of attorney's fees, except for lawful fees to be paid to an attorney in connection with the foreclosure of a real estate mortgage.

**History:** 1981 c 258 s 11; 1Sp1981 c 4 art 4 s 12; 1982 c 473 s 25; 1982 c 547 s 6,7

#### 56.14 DUTIES OF LICENSEE.

Every licensee shall:

(1) deliver to the borrower (or if there are two or more borrowers to one of them) at the time any loan is made a statement making the disclosures and furnishing the information required by the federal Truth-in-Lending Act with respect to the contract of loan. A copy of the loan contract may be delivered in lieu of a statement if it discloses the required information;

(2) deliver or mail to the borrower without request, a written receipt within 30 days following payment for each payment by coin, currency, or money order made on account of any loan wherein charges are computed and paid on unpaid principal balances for the time actually outstanding, 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; and wherein precomputed charges have been added to the principal of the loan specifying the amount of the payment applied to principal and charges combined, the amount applied to default or extension charges, if any, and stating the unpaid balance, if any, of the precomputed loan contract. A periodic statement showing a payment received by mail complies with this clause;

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

(4) upon repayment of the loan in full, mark indelibly every obligation and security, other than a mortgage or security agreement which secures a new loan to the licensee, signed by the borrower with the word "Paid" or "Canceled," and release any mortgage or security agreement which no longer secures a loan to the licensee, restore any pledge, and cancel and return any note, and any assignment given to the licensee which does not secure a new loan to the licensee within 20 days after the repayment;

(5) 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; Furnish a copy of the contract of loan to any person obligated on it or who may become obligated on it at any time upon the request of that person;

(6) show in the loan contract or statement of loan the rate or rates of charge on which the charge in the contract is based, expressed in terms of rate or rates per annum. The rate expression shall be printed in at least 8 point type on the loan statement or copy of the loan contract given to the borrower.

**History:** 1939 c 12 s 14; 1959 c 573 s 9; 1967 c 261 s 4; 1981 c 258 s 12; 1982 c 473 s 26 (7774-54)

**56.15 LIMITATION ON AMOUNT OF CHARGES.**

Subdivision 1. No licensee shall directly or indirectly, charge, contract for, or receive any interest, discount, charges, 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 that regulated by this chapter. 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 that regulated by this chapter for principal.

Subd. 2. [Repealed, 1981 c 258 s 23]

**History:** 1939 c 12 s 15; 1959 c 573 s 10; 1963 c 117 s 1; 1967 c 261 s 5; 1974 c 412 s 5; 1977 c 382 s 2; 1981 c 258 s 13 (7774-55)

**56.155 INSURANCE IN CONNECTION WITH LOAN.**

Subdivision 1. **Authorization.** No licensee shall, directly or indirectly, sell or offer for sale any insurance in connection with any loan made under this chapter except as and to the extent authorized by this section. The sale of credit life and credit accident and health insurance shall be subject to the provisions of chapter 62B, except that the term of the insurance may exceed 60 months if the term of the loan exceeds 60 months. Life, accident, and health insurance, or any of them, may be written upon or in connection with any loan but shall not be required as additional security for the indebtedness. If the debtor chooses to procure credit life insurance or credit accident and health insurance as security for the indebtedness, he shall have the option of furnishing this security through existing policies of insurance owned or controlled by him or of furnishing the coverage through any insurer authorized to transact business in this state. A statement in substantially the following form in bold face type of a minimum size of 12 points shall be provided to the borrower before the transaction is completed:

**CREDIT LIFE INSURANCE AND CREDIT DISABILITY INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT. YOU MAY BUY ANY INSURANCE FROM ANYONE YOU CHOOSE OR YOU MAY USE EXISTING INSURANCE. THE CREDIT LIFE INSURANCE AND CREDIT DISABILITY INSURANCE AVAILABLE THROUGH THIS LENDER HAD AN ACTUAL LOSS RATIO DURING THE CALENDAR YEAR LAST REPORTED TO THE DEPARTMENT OF COMMERCE OF ..... PERCENT. THIS MEANS THAT, ON THE AVERAGE, \$..... OF EVERY \$100 IN PREMIUMS PAID TO THE INSURANCE COMPANY WERE RETURNED AS BENEFITS TO POLICYHOLDERS DURING THAT YEAR.**

The licensee shall have 30 days after the insurance company submits its report of losses to the department of commerce for the previous calendar year to change its disclosure to reflect the current loss ratio.

The licensee shall disclose whether or not the benefits shall commence as of the first day of disability and shall further disclose the number of days that an insured obligor must be disabled, as defined in the policy, before benefits, whether retroactive or nonretroactive, shall commence. In case there are multiple obligors under a transaction subject to this chapter, no policy or certificate of insurance providing credit accident and health benefits shall be procured by or through a licensee upon more than one of the obligors. In case there are multiple obligors under a transaction subject to this chapter, no policy or certificate of insurance providing credit life insurance shall be procured by or through a licensee upon more than two of the obligors in which case they shall be insured jointly. The

premium or identifiable charge for the insurance shall not exceed that filed by the insurer with the insurance division of the department of commerce. The charge, computed at the time the loan is made for a period not to exceed the full term of the loan contract on an amount not to exceed the total amount required to pay principal and charges, may be deducted from the proceeds or may be included as part of the principal of any loan. If a borrower procures insurance by or through a licensee, the statement required by section 56.14 shall disclose the cost to the borrower and the type of insurance, and the licensee shall cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. No licensee shall decline new or existing insurance which meets the standards set out in this section nor prevent any obligor from obtaining such insurance coverage from other sources. Notwithstanding any other provision of this chapter, any gain or advantage to the licensee or to any employee, affiliate, or associate of the licensee from such insurance or the sale or provision thereof shall not be deemed to be additional or further charges in connection with the loan; nor shall any of the provisions pertaining to insurance contained in this section be deemed prohibited by any other provision of this chapter.

**Subd. 2. Property insurance.** A licensee may require the obligors to provide insurance on real or personal property security against reasonable risks of loss, damage, and destruction. The amount and term of the insurance shall be reasonable in relation to the value of the security, but the amount and term of the insurance shall not exceed the principal amount of the loan and term of the loan, except that the lender may insure or arrange for insurance not to exceed the reasonable value of any motor vehicle collateral. The restrictions contained in this subdivision shall not apply to the sale or provision of homeowner's insurance as defined in section 65A.27. In all cases when insurance is offered the obligor shall be informed that he has the option of providing insurance through existing policies of insurance owned or controlled by him or by procuring and furnishing the offered coverage through any insurer authorized to transact an insurance business within this state. The purchase of such insurance through the licensee or from an agent, broker, or insurer specified by the licensee shall not be required.

**History:** 1981 c 258 s 14; 1982 c 547 s 8

## **56.16 OVERAGES DEEMED INTEREST.**

The payment of 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.

**History:** 1939 c 12 s 16; 1959 c 573 s 11; 1967 c 261 s 6; 1974 c 412 s 6; 1981 c 258 s 15 (7774-56)

## **56.17 LIMITATION; ASSIGNMENT OF WAGES; SECURITY AGREEMENT.**

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 principal amount of the loan is \$1,200 or less and is paid to the borrower simultaneously with its execution; nor shall any assignment or order, or any security agreement 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 of at least five months prior to the making of the assignment, order, security agreement, 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 percent 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 this section 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.

*History: 1939 c 12 s 17; 1981 c 258 s 16 (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 authorized 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 regulated by this chapter.

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 made by a person not authorized hereunder in an amount regulated by this chapter for which a greater rate of interest, consideration, or charges than is permitted by the laws of this state has been charged, contracted for, or received, wherever made, shall be enforced by a licensee 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 another state.

*History: 1939 c 12 s 18; 1959 c 573 s 12; 1967 c 261 s 7; 1974 c 412 s 7; 1981 c 258 s 17 (7774-58)*

### **56.19 VIOLATION.**

**Subdivision 1. Criminal penalty.** 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, 56.131, 56.14, 56.17, and 56.18 shall be guilty of a gross misdemeanor.

**Subd. 2. Penalty for usurious interest.** The taking, receiving or charging by a lender of a rate of interest greater than is allowed by state law shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In the case the greater rate of interest has been paid, the person paying it, or his legal representatives, may recover, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the lender taking or receiving the interest, if the action is commenced within two years from the time the usurious transaction occurred.

Subd. 3. **Unlicensed lenders.** If a person has violated this chapter by not obtaining a license when required to make loans subject to this chapter, the loan is void and the debtor is not obligated to pay any amounts owing. The debtor may recover from such persons all amounts paid. No action may be brought under this subdivision more than one year after the date of the last scheduled payment on the loan.

Subd. 4. **Remedies exclusive.** The remedies set forth in this section are exclusive and, except as otherwise provided in this chapter, a violation of any provision of this chapter does not impair rights on a debt.

**History:** 1939 c 12 s 19; 1981 c 258 s 18; 1Sp1981 c 4 art 4 s 13 (7774-59)

## **56.20** [Repealed, 1981 c 258 s 23]

## **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.

**History:** 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 cancelation or alteration of any license or right of a licensee hereunder; provided, that such cancelation or alteration shall not impair or affect the obligation of any preexisting lawful contract between any licensee and any borrower.

**History:** 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.

**History:** 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.

**History:** 1913 c 439 s 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 beholden 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.

**History:** 1939 c 12 s 25 (7774-65)

#### **56.26 CONTINUATION OF LICENSING.**

All persons licensed under the provisions of this chapter on August 1, 1981 are licensed to make loans regulated by Laws 1981, Chapter 258, and the commissioner shall, upon request, within 90 days deliver evidence of licensing to the requester.

**History:** 1939 c 22 s 1; 1981 c 258 s 19 (7774-60a)