

CHAPTER 46

DEPARTMENT OF COMMERCE; BANKING

46.041	Bank applications.	46.131	Examination fees for financial institutions.
46.042	Notice and hearing, when not given.	46.34	Certain securities deposited with the state treasurer.
46.07	Records.		

46.041 BANK APPLICATIONS.

Subdivision 1. **Filing; fee; public inspection.** The incorporators of a bank proposed to be organized under the laws of this state shall execute and acknowledge a written application in the form prescribed by the commissioner of commerce. The application must be signed by two or more of the incorporators and request a certificate authorizing the proposed bank to transact business at the place and in the name stated in the application. The applicant shall file the application with the department with a \$1,000 filing fee and a \$500 investigation fee. The fees must be turned over by the commissioner to the state treasurer and credited to the general fund. The application file must be public, with the exception of financial data on individuals which is private under the Minnesota government data practices act.

Subd. 2. **Notice of filing application; publication.** Upon notice of acceptance of an application as complete in all respects for filing, the applicant shall within 30 days of the receipt of the form prescribed by the commissioner, publish a notice of the filing of the application, in a newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice must be in the form prescribed by the commissioner and, in addition to the publication, the applicant shall mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the bank.

Subd. 3. **Comments, requests for hearing.** Within 21 days after the notice of application has been published, any person may submit to the commissioner either or both written comments on an application and a written request for a hearing on the application. The request must state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the commissioner. Comments challenging the legality of an application should be submitted separately in writing.

Written requests for hearing must be evaluated by the commissioner who may grant or deny the request. A hearing must generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the commissioner.

If a request for a hearing has been denied, the commissioner shall notify the applicant and all interested persons stating the reasons for denial. Interested parties may submit to the commissioner with simultaneous copies to the applicant additional written comments on the application within 14 days after the date of the notice of denial. The applicant shall be provided an additional seven days after the 14-day deadline has expired within which to respond to any comments submitted within the 14-day period. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested parties. The commissioner may waive the additional seven-day comment period if so requested by the applicant.

Subd. 4. **Hearing.** In any case in which the commissioner grants a request for a hearing, the commissioner shall fix a time for a hearing conducted pursuant to chapter 14 to decide whether or not the application will be granted. A notice of the hearing must be published by the applicant in the form prescribed by the commissioner in a newspaper published in the municipality in which the proposed bank is to be located,

and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice must be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicants and witnesses that appear in favor of or against the granting of the application of the proposed bank. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, must be paid by the applicant and 50 percent equally by the intervening parties.

Subd. 5. Approval, disapproval, after hearing. If, upon the hearing or upon other information submitted, it appears to the commissioner that the application should be granted, the commissioner shall, not later than 90 days after the hearing, and after the applicants have otherwise complied with the provisions of law applicable to the organization of a bank, including the provisions herein contained, make and file in the commissioner's office a written order directing the issuance of a certificate of authorization as provided by law. If the certificate of authorization is not activated within a period of 12 months from date of issuance, the commissioner may upon written notice to the applicants request a new hearing. If the commissioner decides that the application should not be granted, the commissioner shall deny the application and make a written order to that effect, file it in the commissioner's office, and forthwith give notice thereof by certified mail to one of the incorporators named in the application for the proposed bank, addressed to the incorporator at the address stated in the application. Thereupon the commissioner shall refuse to issue the certificate of authorization to the proposed bank.

History: 1987 c 349 art 3 s 1

46.042 NOTICE AND HEARING, WHEN NOT GIVEN.

The commissioner of commerce may dispense with the notice and hearing provided for by section 46.041 if application is made for the incorporation of a new bank to take over the assets of one or more existing banks or if the application contemplates the reorganization of a national bank into a state bank in the same locality, or where the application is made for the incorporation of a new bank in the same locality coincidental with the closing of an existing bank by the commissioner or federal authorities. This section does not increase the number of banks in the community affected.

History: 1987 c 349 art 1 s 1

46.07 RECORDS.

[For text of subd 1, see M.S.1986]

Subd. 2. Confidential records. The commissioner shall divulge facts and information obtained in the course of examining financial institutions under the commissioner's supervision only when and to the extent required or permitted by law to report upon or take special action regarding the affairs of an institution, or ordered by a court of law to testify or produce evidence in a civil or criminal proceeding, except that the commissioner may furnish information as to matters of mutual interest to an official or examiner of the federal reserve system, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, comptroller of the currency, a legally constituted state credit union share insurance corporation approved under section 52.24, the issuer of a commitment for insurance or guarantee of the certificates of an industrial loan and thrift company approved under section 53.10, or state and federal law enforcement agencies. The commissioner shall not be required to disclose the name of a debtor of a financial institution under the commissioner's supervision, or anything relative to the private accounts, ownership, or transactions of an institution, or any fact obtained in the course of an examination thereof, except as herein provided. For purposes of this subdivision,

a subpoena is not an order of a court of law. These records are classified confidential or protected nonpublic for purposes of the Minnesota government data practices act and their destruction, as prescribed in section 46.21, is exempt from the provisions of chapter 138 and Laws 1971, chapter 529, so far as their deposit with the state archives.

[For text of subd 3, see M.S.1986]

History: 1987 c 349 art 1 s 2

46.131 EXAMINATION FEES FOR FINANCIAL INSTITUTIONS.

[For text of subds 1 to 8, see M.S.1986]

Subd. 9. These assessments or fees shall be paid by the institution examined within 20 days after a statement of the amount has been submitted to the institution examined by the commissioner of commerce and, if not so paid, shall bear interest at the rate of interest provided for by section 549.09. The penalty shall be payable to the commissioner on request.

[For text of subd 10, see M.S.1986]

History: 1987 c 349 art 1 s 3

46.34 CERTAIN SECURITIES DEPOSITED WITH THE STATE TREASURER.

All securities required or permitted by law to be assigned to and deposited with the commissioner of commerce for any purpose must, after June 2, 1987, be assigned to and deposited with the state treasurer, who shall give a receipt therefor. This receipt must be filed with the commissioner, in lieu of the securities, and in this case neither the commissioner nor the commissioner's bonding agents are responsible for the safekeeping of these securities. The state treasurer shall perform all the duties with regard to the safekeeping of these securities which the commissioner is now required to perform. The state treasurer is subject to the same obligations and under the same liability, with reference to the safekeeping of these securities, as the commissioner. The state treasurer shall accept, release, surrender, and permit substitutions of securities assigned to and deposited with the state treasurer under the provisions of Laws 1923, chapter 155, upon order of the commissioner.

History: 1987 c 349 art 1 s 4