CHAPTER 47

FINANCIAL CORPORATIONS

47.10 REAL ESTATE; ACQUISITION, HOLDING.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. **Leasehold place of business; approval of certain lease agreements.** No bank, trust company, savings bank, or building and loan association may acquire property and improvements of any nature for its place of business by lease agreement if the lessor has an existing direct or indirect interest in the management or ownership of the bank, trust company, savings bank, or building and loan association without prior written approval by the commissioner. This includes subsequent amendments and associated leasehold improvements.

Subd. 4. **Approval of certain insider agreements.** No bank, trust company, savings bank, or savings association may purchase or sell real property, personal property, improvements or equipment of a value of $25,000 or more if the purchaser or seller other than the bank, trust company, savings bank, or savings association has an existing direct or indirect interest in the institution without prior written approval by the commissioner.

History: *1987 c 349 art 1 s 5,6*

47.20 USE OF FEDERAL ACTS; DEFINITIONS; INTEREST RATES; REQUIRED PROVISIONS; INTEREST ON ESCROW ACCOUNTS.

[For text of subds 1 to 14, see M.S.1986]

Subd. 15. (a) Notwithstanding the provisions of any other law to the contrary, any notice of default on homestead property to which the provisions of chapter 583 apply, mailed after May 24, 1983 and prior to May 1, 1985, or After June 8, 1985, and prior to May 1, 1987, shall indicate that the borrower has 60 days from the date the notice is mailed to cure the default. The notice shall include a statement that the borrower may be eligible for an extension of the time prior to foreclosure and execution sale under sections 583.01 to 583.12.

(b) The statement must be in bold type, capitalized letters, or other form sufficient for the reader to quickly and easily distinguish the statement from the rest of the notice. The requirements of this paragraph must be followed on notices mailed under this subdivision on or after August 1, 1985. A violation of this paragraph is a petty misdemeanor.

NOTE: Laws 1987, chapter 292, section 36, delays the repeal of subdivision 15 until July 1, 1989. However, subdivision 15 was not amended to extend the provision of that subdivision relating to the notice of default.

NOTE: Subdivision 15 was repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, Laws 1985, chapter 306, section 26, and Laws 1987, chapter 292, section 36, effective July 1, 1989.

47.204 TEMPORARY REMOVAL OF MORTGAGE USURY LIMITS.

Subdivision 1. **No usury limits.** Notwithstanding any law to the contrary, no

limitation on the rate or amount of interest, discount points, finance charges, or other charges shall apply to a loan, mortgage, credit sale, or advance which would have been exempt from the laws of this state pursuant to Public Law Number 96-221, title V, part A, section 501, as amended as of June 2, 1981, but for section 47.203 and which is made in this state after June 2, 1981.

[For text of subd 2, see M.S.1986]

History: *1987 c 349 art 1 s 7*

47.205 ASSIGNMENT OF MORTGAGE; DUTIES; PENALTIES.

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

Subd. 2. **Assignment or sale of mortgage loans.** If the servicing of mortgage loans financing one-to-four family owner occupied residences located in this state is sold or assigned to another person:

(1) the selling lender shall notify the mortgagor of the sale no more than ten days after the actual date of transfer. The notification must include the name, address, and telephone number of the person who will assume responsibility for servicing and accept payments for the mortgage loan and the notification must also include a detailed written financial breakdown, including but not limited to, interest rate, monthly payment amount, and current escrow balance;

(2) the purchasing lender shall issue corrected coupon or payment books, if used, and shall provide notification to the mortgagor within 20 days after the first payment to the purchasing lender is due, of the name, address, and telephone number of the person from whom the mortgagor can receive information regarding the servicing of the loan, and shall inform the mortgagor of any changes made regarding the mortgage escrow accounts or servicing requirements including, but not limited to, interest rate, monthly payment amount, and current escrow balance; and

(3) the purchasing lender shall respond within 15 business days to a written request for information from a mortgagor. A written response must include the telephone number of the company representative who can assist the mortgagor.

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

Subd. 4. **Penalties.** If a lender fails to comply with the requirements of subdivisions 2 and 3, the lender is liable to the mortgagor for actual damages caused by the violation. In addition, the lender is liable to the mortgager for $500 per occurrence if the violation of subdivision 2 or 3 was due to the lender's failure to exercise reasonable care.

History: *1987 c 349 art 1 s 8,9*

47.206 INTEREST RATE OR DISCOUNT POINT AGREEMENTS.

Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Lender" means a person or entity referred to in section 47.20, subdivision 1, a credit union, or a person making a conventional loan as defined under section 47.20, subdivision 2, clause (3), or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4), except that conventional loans or cooperative apartment loans include any loan or advance of credit in an original principal balance of less than $200,000.

(b) "Loan" means loans and advances of credit authorized under section 47.20, subdivision 1, clauses (1) to (4), and conventional loans as defined under section 47.20, subdivision 2, clause (3), or cooperative apartment loans as defined under section 47.20, subdivision 2, clause (4), except that conventional loans or cooperative apartment loans also include all loans and advances of credit in an original principal balance of less than $200,000. "Loan" does not include a loan or advance of credit secured by

a mortgage upon real property containing more than one residential unit or secured by a security interest in shares of more than one residential unit in a building owned or leased by a cooperative apartment corporation.

(c) "Borrower" means a natural person who has submitted an application for a loan to a lender.

(d) "Interest rate or discount point agreement" or "agreement" means a contract between a lender and a borrower under which the lender agrees, subject to the lender's underwriting and approval requirements, to make a loan at a specified interest rate or number of discount points, or both, and the borrower agrees to make a loan on those terms. The term also includes an offer by a lender that is accepted by a borrower under which the lender promises to guarantee or lock in an interest rate or number of discount points, or both, for a specific period of time.

Subd. 2. **Disclosures.** A lender offering borrowers the opportunity to enter into an agreement in advance of closing shall disclose, in writing, to the borrowers at the time the offer is made: (1) a definite expiration date or term of the agreement, which may not be less than the reasonably anticipated closing date or time required to process, approve, and close the loan; (2) the circumstances, if any, under which the borrower will be permitted to close at a lower rate of interest or points than expressed in the agreement; (3) the steps required to process, approve, and close the loan, including the actions required of the borrower and lender; (4) that the agreement is enforceable by the borrower; and (5) the consideration required for the agreement.

Subd. 3. **Agreements to be in writing.** A borrower or lender may not maintain an action on an agreement unless the agreement is in writing or is permitted by subdivision 4, expresses consideration, sets forth the relevant terms and conditions, and is signed by the borrower and the lender.

Subd. 4. **Oral agreements and acceptances prohibited.** A lender may not offer or induce a borrower to accept an oral agreement and a borrower may not be permitted to orally accept an agreement, provided that if the borrower and lender have not executed a written agreement, this subdivision does not prohibit the offer and acceptance of an oral agreement which is offered and accepted during a period no greater than ten days before closing.

Subd. 5. **Statement of current terms not an offer.** An oral or written statement of current loan terms and conditions, including interest rates and number of discount points, is not an offer or an inducement by a lender to enter into an agreement. A written statement of current loan terms and conditions must be accompanied by a disclaimer that the statement is not an offer to enter into an agreement and that an offer may only be made pursuant to subdivisions 3 and 4.

Subd. 6. **Prohibited acts.** A person, including a lender, may not advise, encourage, or induce a borrower or third party to misrepresent information that is the subject of a loan application or to violate the terms of the agreement.

Subd. 7. **Penalties.** (a) Except as provided in paragraph (c), a lender who violates this section or who causes unreasonable delay in processing a loan application beyond the expiration date of the agreement is liable to the borrower for a penalty in an amount not to exceed the borrower's actual out-of-pocket damages, including the present value of the increased interest costs over the normal life of the loan, or specific performance of the agreement. This paragraph applies to an agreement entered into after January 1, 1987.

(b) In addition to the penalty in paragraph (a), a lender is liable to the borrower for $500 for each violation of this section or for unreasonable delay in processing a loan application which causes the agreement to expire before closing.

(c) A lender who violates subdivision 4 is jointly and severally liable to the borrower for specific performance of the agreement or for a penalty in the amount of $500 or an amount not to exceed the borrower's actual out-of-pocket damages, including the present value of the increased costs over the normal life of the loan, whichever is greater, due to the good faith reliance of the borrower on the lender's oral representation.

(d) For purposes of this subdivision, evidence of unreasonable delay includes, but is not limited to:

(1) failure of the lender to return telephone calls or otherwise respond to the borrower's inquiries concerning the status of the loan;

(2) the addition by the lender of new requirements for processing or approving the loan that were not disclosed to the borrower under subdivision 2, clause (3), unless the requirements result from governmental agency or secondary mortgage market changes, other than changes in interest rates, that occur after the date of the agreement; or

(3) failure by the lender to take actions necessary to process or approve the loan within a reasonable period of time, if the borrower provided information requested by the lender in a timely manner.

History: *1987 c 336 s 5*

47.208 DELIVERY OF SATISFACTION OF MORTGAGE.

Subdivision 1. **Delivery required.** Upon written request, a good and valid satisfaction of mortgage in recordable form shall be delivered to any party paying the full and final balance of a mortgage indebtedness that is secured by Minnesota real estate; such delivery shall be in hand or by certified mail postmarked within 45 days of the receipt of the written request to the holder of any interest of record in said mortgage and within 45 days of the payment of all sums due thereon.

Subd. 2. **Penalty.** If a lender fails to comply with the requirements of subdivision 1, the lender may be held liable to the party paying the balance of the mortgage debt, for a civil penalty of up to $500, in addition to any actual damages caused by the violation.

History: *1987 c 336 s 6*

47.52 AUTHORIZATION.

(a) With the prior approval of the commissioner, any bank doing business in this state may establish and maintain not more than five detached facilities provided the facilities are located within the municipality in which the principal office of the applicant bank is located; or within 5,000 feet of its principal office measured in a straight line from the closest points of the closest structures involved; or within 100 miles of its principal office measured in a straight line from the closest points of the closest structures involved, if the detached facility is within any municipality in which no bank is located at the time of application or if the detached facility is in a municipality having a population of more than 10,000, as determined by the commissioner from the latest available data from the state demographer, or if the detached facility is located in a municipality having a population of 10,000 or less, as determined by the commissioner from the latest available data from the state demographer, and all the banks having a principal office in the municipality have consented in writing to the establishment of the facility.

(b) A detached facility shall not be closer than 50 feet to a detached facility operated by any other bank and shall not be closer than 100 feet to the principal office of any other bank, the measurement to be made in the same manner as provided above. This clause shall not be applicable if the proximity to the facility or the bank is waived in writing by the other bank and filed with the application to establish a detached facility.

(c) Any bank is allowed, in addition to other facilities, one drive-in or walk-up facility located between 150 to 1,500 feet of the main banking house or within 1,500 feet from a detached facility. The drive-in or walk-up facility permitted by this clause is subject to clause (b) and section 47.53.

History: *1987 c 161 s 1*

47.61 ELECTRONIC FUNDS TRANSFER FACILITIES; DEFINITIONS.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. "Electronic financial terminal" means an electronic information processing device, other than a telephone or an electronic information processing device that is used internally by a financial institution to conduct the business activities of the institution, that is established to do either or both of the following:

(a) capture the data necessary to initiate financial transactions; or

(b) through its attendant support system, store or initiate the transmission of the information necessary to consummate a financial transaction.

[For text of subds 4 to 7, see M.S.1986]

History: *1987 c 41 s 1*

47.63 FUNCTIONS OF AN ELECTRONIC FINANCIAL TERMINAL.

Financial transactions which may be performed by an electronic financial terminal shall be limited to the disbursement of funds under a preauthorized credit agreement, the withdrawal of funds from a customer's account, the deposit of funds in a customer's account, the receiving of cash or checks, the disbursement of cash, the payment of loan payments, and the transfer of funds to or from one or more accounts in one or more financial institutions. All permitted transactions must be made pursuant to a preexisting contractual agreement between the financial institution and an account holder. Accounts may not be opened at an electronic financial terminal located separate and apart from a financial institution's principal office, branch, or detached facility. Any retailer may also operate a device which is capable of performing the functions of an electronic financial terminal for any internal business activity of that retailer.

History: *1987 c 41 s 2*

47.64 OPERATION OF AN ELECTRONIC FINANCIAL TERMINAL.

Subdivision 1. (a) Any person establishing and maintaining an electronic financial terminal located separate and apart from a financial institution's principal office, branch, or detached facility for use by one type of financial institution shall, upon written request, make its services available to any requesting financial institution of similar type on a fair, equitable and nondiscriminatory basis approved by the commissioner. A financial institution requesting use of an electronic financial terminal shall be permitted its use only if the financial institution conforms to reasonable technical operation standards which have been established by the electronic financial terminal provider as approved by the commissioner. For purposes of this subdivision, the types of financial institutions are: (1) commercial banks and mutual savings banks; (2) credit unions, industrial loan and thrift companies, and regulated lenders under chapter 56; and (3) savings and loan associations. The services of an electronic financial terminal may be made available to any type of financial institution. After March 1, 1979, or earlier if determined by the commissioner to be technically feasible, an electronic financial terminal which is used by or made available to one type of financial institution shall be made available, upon request, to other types of financial institutions on a fair, equitable and nondiscriminatory basis as approved by the commissioner. The charges required to be paid to any person establishing and maintaining an electronic financial terminal shall be related to an equitable proportion of the direct costs of establishing, operating, and maintaining the terminal plus a reasonable return on those costs to the owner of the terminal. The charges may provide for amortization of development costs and capital expenditures over a reasonable period of time.

(b) Any person establishing and maintaining an electronic financial terminal located on and as a part of a financial institution's principal office, branch, or detached facility may, at the financial institution's option, (1) maintain the electronic financial terminal for the exclusive use of the financial institution's customers; or (2) maintain

the electronic financial terminal for the use of the financial institution's customers and make some or all of the electronic financial terminal's services available to any other requesting financial institution on a fair, equitable, and nondiscriminatory basis approved by the commissioner.

[For text of subd 2, see M.S.1986]

Subd. 3. Any agreement or charge between a person establishing an electronic financial terminal and the person at whose location the terminal is established shall be upon such commercially reasonable terms and conditions as are agreed to by the parties. A person at whose location an electronic financial terminal is established and maintained may limit the kind of financial transaction functions which the terminal may perform. If the electronic financial terminal is not located on the premises of a financial institution's principal office, branch, or detached facility, the person shall make available upon request every financial transaction function which the terminal does perform to all financial institutions, their affiliates, or agents on a nondiscriminatory basis. A function involving either a bank credit card authorized pursuant to section 48.185 or other credit card authorized under any other similar open end consumer credit sales plan need not be made so available.

Subd. 4. An electronic financial terminal located separate and apart from a financial institution's principal office, branch, or detached facility, if staffed, shall be operated exclusively by a person who is not employed by any financial institution, any financial institution holding company, or subsidiary thereof. However, persons assisting customers of financial institutions at the site of the terminal may be trained by employees of a financial institution, financial institution holding company, or subsidiary thereof, and nothing in this section shall be construed to prohibit periodic servicing of an electronic financial terminal by an employee of a financial institution, financial institution holding company, or subsidiary thereof.

[For text of subds 5 and 6, see M.S.1986]

History: *1987 c 41 s 3-5*

47.67 ADVERTISING.

No advertisement by a person which relates to an electronic financial terminal may be inaccurate or misleading with respect to such a terminal. Except with respect to direct mailings by financial institutions to their customers, the advertising of rate of interest paid on accounts in connection with electronic financial terminals is prohibited. Any advertisement, either on or off the site of an electronic financial terminal, promoting the use or identifying the location of an electronic financial terminal, which identifies any financial institution, group or combination of financial institutions, or third parties as owning or providing for the use of its services is prohibited. The following shall be expressly permitted:

(a) a simple directory listing placed at the site of an electronic financial terminal identifying the particular financial institutions using its services;

(b) the use of a generic name, either on or off the site of an electronic financial terminal, which does not promote or identify any particular financial institution, group or combination of financial institutions, or any third parties;

(c) media advertising or direct mailing of information by a financial institution or retailer identifying locations of electronic financial terminals and promoting their usage; and

(d) any advertising, whether on or off the site, relating to electronic financial terminals, or the services performed at the electronic financial terminals located on the premises of the main office, or any office or detached facility of any financial institution.

History: *1987 c 41 s 6*

47.69 CONSUMER PRIVACY.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. Every financial institution using an electronic financial terminal shall maintain reasonable procedures to minimize losses from unauthorized withdrawals from its customers' accounts by use of an electronic financial terminal. After a customer makes a bona fide deposit or payment at an electronic financial terminal and has received a receipt, any loss due to theft or other reason shall not be borne by the customer; provided, loss due to the nonpayment or dishonor of a check, or other order for payment, deposited at an electronic financial terminal shall be governed by the applicable provisions of chapter 336. A financial institution shall be liable for all unauthorized withdrawals unless the unauthorized withdrawal was (1) due to the negligent conduct or the intentional misconduct of the operator of an electronic financial terminal or that operator's agent in which case the operator of an electronic financial terminal or the agent shall be liable, or (2) due to the loss or theft of the customer machine readable card in which case the customer shall be liable, subject to a maximum liability of $50, for those unauthorized withdrawals made prior to the time the financial institution is notified of the loss or theft. The limitation on liability contained in clause (2) is effective only if the issuer is notified of unauthorized charges contained in a bill within 60 days of receipt of the bill by the person in whose name the card is issued. For purposes of this subdivision, "unauthorized withdrawal" means a withdrawal by a person other than the customer who does not have actual, implied, or apparent authority for such withdrawal, and from which withdrawal the customer or a member of the customer's family or household receives no benefit.

[For text of subds 4 to 6, see M.S.1986]

History: *1987 c 349 art 1 s 10*

47.76 REQUIRED SAVINGS ACCOUNT.

A federal or state chartered financial institution, including, but not limited to, a bank, savings and loan association, savings bank, or credit union, shall offer to a Minnesota resident a savings account to promote thrift that has no service charge or fee, if such an account has an average monthly balance of more than $50.

History: *1987 c 161 s 2*

47.77 TRANSFER OF ACCOUNTS PROHIBITED; NOTICE ON CLOSING.

(a) No financial institution shall initiate a transfer of a deposit account to another deposit account bearing different identification information without sending at least 30 days prior notice to at least one of the deposit account holders at the last known address on file with the financial institution. If the new account is subject to different terms, the financial institution must obtain the written consent of at least one of the deposit account holders before the new terms become effective.

(b) No financial institution shall initiate a closure of a deposit account without first sending at least one of the deposit account holders a notice of intent to close the deposit account. The notice must be sent to the deposit account holder's last known address on file with the financial institution at least 30 days before the financial institution closes the deposit account; except that, if the financial institution has reasonable suspicion to believe that account is being used in connection with a check-related fraud or other crime or that funds will not be available to pay items drawn on the account, the notice may be sent the same day as the account is closed.

(c) As used in this section, the following terms have the meanings given them. "Deposit account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit share account, and other like arrangement. "Financial institution" means any organization authorized to do business under state or federal laws relating to financial

institutions, including, without limitation, banks and trust companies, savings banks, savings and loan associations, industrial loan and thrift companies, and credit unions.

History: *1987 c 349 art 1 s 11*