

## CHAPTER 48

## BANKS, TRUST COMPANIES

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**48.055 ISSUANCE OF PREFERRED STOCK, CONDITIONS.**

*[For text of subs 1 to 4, see M.S.1986]*

Subd. 5. Any preferred stock issued by a state bank shall be part of its capital stock structure, and the terms "capital stock" or "capital" in any laws of this state pertaining to state banks shall be deemed to also include and apply to preferred stock.

*[For text of subd 6, see M.S.1986]*

**History:** 1987 c 349 art 1 s 12

**48.13 CONDITIONS OF BONDS.**

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

Subd. 2. **Securities in lieu of bond.** With the prior written approval of the commissioner and in lieu of the corporate surety or five individual sureties, there may be posted a deposit in securities of a form and amount acceptable to the commissioner. These funds are under the control of the commissioner for the purposes of section 48.12. All deposits must remain in the custody of the commissioner of finance and pursuant to section 7.19 may be released only upon order from the commissioner. These control and custody requirements must not prevent any interest or dividend earnings accruing on the funds posted to be paid over to pledgor.

**History:** 1987 c 384 art 2 s 10

**48.15 SPECIAL POWERS.**

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

Subd. 2. The commissioner of commerce may authorize banks organized under the laws of this state to engage in any banking activity in which banks subject to the jurisdiction of the federal government may hereafter be authorized to engage by federal legislation, ruling, or regulation. The commission may not authorize state banks as defined by section 48.01, to engage in any banking activity prohibited by the laws of this state.

*[For text of subs 3 and 4, see M.S.1986]*

**History:** 1987 c 349 art 1 s 13

**48.185 OPEN END LOAN ACCOUNT ARRANGEMENTS.**

*[For text of subs 1 to 3a, see M.S.1986]*

Subd. 4. No charges other than those provided for in subdivision 3 shall be made directly or indirectly for any credit extended under the authority of this section, except that there may be charged to the debtor:

(a) annual charges, not to exceed \$50 per annum, payable in advance, for the privilege of using a bank credit card;

(b) charges for premiums on credit life and credit accident and health insurance if:

(1) the insurance is not required by the financial institution and this fact is clearly disclosed in writing to the debtor; and

(2) the debtor is notified in writing of the cost of the insurance and affirmatively elects, in writing, to purchase the insurance;

(c) charges for the use of an automated teller machine when cash advances are obtained pursuant to this section through the use of an automated teller machine;

(d) in the case of a financial institution referred to in subdivision 1 that does not charge an annual fee, delinquency and collection charges as follows:

(1) on each payment in arrears for a period not less than ten days, in an amount not in excess of the delinquency and collection charge permitted in section 168.71;

(2) for any monthly or other periodic payment period where the debtor has exceeded or thereby exceeds the maximum approved credit limit under the open-end loan account arrangement, in an amount not in excess of the service charge limitations in section 332.50; and

(3) for any returned check or returned automatic payment withdrawal request, in an amount not in excess of the service charge limitation in section 332.50; and

(e) to the extent not otherwise prohibited by law, charges for other goods or services offered by or through a financial institution referred to in subdivision 1 which the debtor elects to purchase, including, but not limited to, charges for check and draft copies and for the replacement of lost or stolen cards.

*[For text of subs 5 to 7, see M.S.1986]*

**History:** 1987 c 341 s 1

#### **48.21 REAL ESTATE; RESTRICTIONS ON HOLDING.**

Subdivision 1. A bank may purchase, carry as an asset, and convey real estate only:

(1) As provided for in section 47.10;

(2) If acquired through foreclosure of a mortgage given to it in good faith as security for loans made by or money due to it;

(3) If conveyed to it in satisfaction of debts previously contracted in good faith in the course of its dealings;

(4) If acquired by sale on execution or judgment of a court in its favor; or

(5) If reasonably necessary to mitigate or avoid loss on a loan or investment theretofore made.

Real estate acquired under clauses (2) to (5) shall be carried as an asset only in accordance with rules the commissioner prescribes.

Subd. 2. Real estate owned by a bank as a result of actions authorized in clauses (2) to (5) of subdivision 1 and subsequently sold to any buyer on a contract for deed may not be considered creating a liability to a bank for purposes of section 48.24.

Subd. 3. Notwithstanding any rules of the commissioner to the contrary, if real estate owned by a bank pursuant to clauses (2) to (5) of subdivision 1 is not sold or otherwise disposed of within the maximum period established by rule by the commissioner, the bank may write off any remaining balance at a rate not less than one-fifth of that balance each subsequent calendar year.

**History:** 1987 c 349 art 1 s 14

#### **48.24 RESTRICTIONS UPON TOTAL LIABILITIES TO A BANK.**

*[For text of subs 1 to 6, see M.S.1986]*

Subd. 7. Obligations of any person, copartnership, association or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering feeder livestock which is free from all other encumbrances, when the market value of the livestock securing the obligation at the time of the making of the loan is not less than 115 percentum of the face amount of the notes covered by such documents, shall be subject under this subdivision to a limitation of 20 percent of capital and surplus in addition to 20 percent of capital and surplus as included in provisions of subdivision 1. Feeder livestock loans as referred to in this subdivision is defined to include only obligations secured by liens or giving title to cattle, sheep, goats, hogs or poultry being fattened for market, but excluding dairy cattle, milk goats, poultry used for production of eggs, or barnyard or work animals.

*[For text of subds 7a and 8, see M.S.1986]*

**History:** 1987 c 349 art 1 s 15

#### 48.26 APPLICATION.

The provisions of section 48.88, subdivision 2, shall not apply to any existing contract or to mutual savings banks.

**History:** 1987 c 384 art 2 s 11

#### 48.51 DEMAND DEPOSITS DEFINED.

For the purpose of this section and section 48.50, all deposits are payable on demand except:

(1) Those deposits which are evidenced by a negotiable or nonnegotiable instrument which provides on its face that the amount of the deposit is payable:

(a) on a certain date, specified in the instrument, not less than 14 days after the date of the deposit; or (b) at the expiration of a specified period not less than 14 days after the date of the instrument; or (c) upon written notice to be given not less than 14 days before the date of repayment.

(2) Those deposits which may not be withdrawn within 14 days of the making thereof.

(3) Those deposits which may not be withdrawn within 14 days of the giving of notice of an intended withdrawal.

(4) Those deposits in which the above 14-day minimums are in conflict with federal law or regulations.

**History:** 1987 c 349 art 1 s 16

48.60 [Repealed, 1987 c 349 art 1 s 40]

#### 48.61 AUTHORIZED INVESTMENTS FOR STATE BANKS AND TRUST COMPANIES.

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

Subd. 3. The bank or trust company may invest not to exceed ten percent of its capital and surplus in shares of stock in any banks or bank holding companies wherein the ownership of stock in the banks or bank holding companies is restricted to bank holding companies or banks authorized to do business in the state of Minnesota.

*[For text of subd 4, see M.S.1986]*

Subd. 5. In the absence of an express provision to the contrary, whenever any statute, rule, charter, trust indenture, authorizing resolution, or other instrument governing the investment of funds of a banking institution, as defined in section 48.01, subdivision 2, directs, requires, authorizes, or permits direct investment in certain obligations, investment in these obligations may be made either directly or in the form

of securities of, or other interests in, an investment company registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933.

Shares of investment companies whose portfolios contain investments which are subject to limits under other state law or rule as direct investments may only be held in an amount not in excess of 20 percent of the banks' capital stock and paid in surplus in each such investment company. These obligations shall be carried at the lower of cost or market on the banks' books and adjusted to market on a quarterly basis.

**History:** 1987 c 349 art 1 s 17,18

#### 48.92 DEFINITIONS.

*[For text of subs 1 to 9, see M.S.1986]*

Subd. 10. **Equity capital.** "Equity capital" means the sum of common stock, preferred stock, paid in surplus, reserves for loss loans and undivided profits.

**History:** 1987 c 349 art 1 s 19

#### 48.97 REPORTS.

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

Subd. 2. **Investment; reporting requirements.** Each financial institution located in this state owned by an interstate bank holding company shall fully and accurately disclose in an annual report to the commissioner of commerce for each calendar year the dollar value and volume of loans by zip code or census tract beginning with the year ending December 31, 1987, approved in the previous year in nonreal estate commercial and farm lending categories established by the commissioner. Lending categories must be delineated in sufficient detail to evaluate the lender's loan performance. Loan categories may include: demand or accrual notes, installment loans, equipment loans, inventory or accounts receivable loans, small business administration loans, and FmHA guaranteed loans. Housing loans must be disclosed statewide in the same manner and form as required by the Federal Home Mortgage Disclosure Act. The annual report must also disclose by zip code or census tract the dollar value and volume of deposits received during the previous year. The annual report must also disclose information by the categories required in section 48.991 demonstrating that developmental loans of a sufficient quantity are being made. The report must be accompanied by a copy of the most recent disclosures required under the Federal Community Reinvestment Act and the most recent Quarterly Statement of Income and Conditions.

*[For text of subs 3 and 4, see M.S.1986]*

**History:** 1987 c 349 art 1 s 20

#### 48.98 PUBLIC PARTICIPATION.

Subdivision 1. **Public information.** Notwithstanding the Minnesota government data practices act, chapter 13, and consistent with federal law, the commissioner shall make available to the public at reasonable cost copies of all applications, including supporting documents and any other information required to be submitted to the commissioner.

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

**History:** 1987 c 349 art 1 s 21

#### 48.99 SPECIAL ACQUISITIONS AUTHORIZED.

Subdivision 1. **Application criteria for approval.** Pursuant to the present requirement of the United States Code, title 12, section 1842(d) and notwithstanding any other provision of state law, a reciprocating state bank holding company, or any subsidiary

of a bank holding company, may acquire a bank located in this state where the commissioner has determined that a merger, consolidation, or purchase of assets and assumption of liabilities is necessary and in the public interest to prevent the probable failure of a bank or 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 and does not increase the number of banks in the community affected. The acquisition is subject to the prior written approval of the commissioner of an application submitted under this section and after the following considerations:

- (1) the financial and managerial resources of the applicant;
- (2) the future prospects of the applicant and the state bank or its subsidiary whose assets, interest in, or shares it will acquire;
- (3) the financial history of the applicant;
- (4) whether the acquisition or holding may result in undue concentration of resources or substantial lessening of competition in this state;
- (5) the convenience and needs of the public of this state; and
- (6) whether the acquisition or holding will strengthen the financial condition of the state bank.

*[For text of subds 2 to 4, see M.S.1986]*

**History:** 1987 c 349 art 1 s 22