CHAPTER 47

FINANCIAL CORPORATIONS

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

47.01 DEFINITIONS.

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings ascribed to them.

Subd. 2. **Bank.** A bank is a corporation under public control, having a place of business where credits are opened by the deposit or collection of money and currency, subject to be paid or remitted upon draft, check, or order, and where money is advanced, loaned on stocks, bonds, bullion, bills of exchange, and promissory notes, and where the same are received for discount or sale; and all persons and copartnerships, respectively, so operating, are bankers.

Subd. 3. **Savings bank.** A savings bank is an institution under like control,

managed by disinterested trustees solely, authorized to receive and safely invest the savings of small depositors.

Subd. 4. **Trust company.** A trust company is a corporation under like control authorized, within prescribed limitations, to act as a safe deposit company, trustee or representative for or under any court, public or private corporation, or individual, and as surety or guarantor.

Subd. 5. **Building and loan association.** A building and loan association is a corporation under like control authorized to accumulate funds to be loaned to persons to assist them in acquiring homes and which is organized pursuant to the provisions of chapter 51A and includes building and loan, savings and loan, and savings associations of both mutual and stock organization.

History: *(7635) RL s 2967; 1982 c 473 s 4*

47.015 CLOSING ON CERTAIN DAYS.

Subdivision 1. **Financial institutions.** As used in this section the term "financial institution" shall include banks, trust companies, banks and trust companies, mutual savings banks, industrial loan and thrift companies having outstanding certificates of indebtedness for investment other than those pledged as security for a loan made contemporaneous therewith, savings and loan associations, building and loan associations, national banking associations, federal reserve banks and federal savings and loan associations doing business in this state, and includes any branch or detached facility of any of them.

Subd. 2. **Saturday; Monday following holiday.** Any financial institution in the state may remain closed on any Saturday and on any Monday next following a Sunday on which falls a holiday designated by any law of this state. Any Saturday or any Monday on which any financial institution remains closed is a holiday and not a business day with respect to that institution. Any act which by law or contract may be performed on any such Saturday or Monday, at, by, or with respect to any such financial institution remaining closed on such day may be performed on the next succeeding regular business day. No liability or loss of rights on the part of any person or financial institution shall result from such closing.

Subd. 3. **May remain open on Mondays or holidays.** Any financial institution in the state may remain open for the transaction of business on any such Monday or on any holiday designated by any law of this state, and on any such day any financial institution in this state may accept, certify or pay checks, drafts or other instruments, may charge the same against the accounts of customers, and may receive payment of notes, drafts and other instruments, all to the same extent and with the same legal effect as if such day were a regular business day, but nothing herein contained shall affect the due date of any time instrument.

History: *1949 c 38 s 1; 1951 c 128 s 1; 1953 c 61 s 1; 1953 c 445 s 1; 1955 c 9 s 1; 1955 c 202 s 1; 1955 c 229 s 1; 1955 c 631 s 1; 1955 c 787 s 1; 1981 c 220 s 5; 1Sp1985 c 13 s 178*

47.0151 EMERGENCY SUSPENSION OF BUSINESS, DEFINITIONS.

Subdivision 1. For the purposes of sections 47.0151 to 47.0155, the terms defined in this section have the meanings given them, unless the context requires otherwise.

Subd. 2. "Commissioner" means the commissioner of commerce.

Subd. 3. "Financial institution" includes a bank, a savings bank, a trust company, any branch or agency of a foreign banking organization, a person or association of persons lawfully carrying on the business of banking, a savings and loan association, and, so far as the provisions of sections 47.0151 to 47.0155 are consistent with federal law, national banks and federal savings and loan associations, and includes any branch or detached facility of any of them.

Subd. 4. "Officer" means the person designated by the board of directors, board of trustees, or other governing body of a financial institution, to act for the financial

institution in carrying out the provisions of sections 47.0151 to 47.0155 or, in the absence of a designation or of the officer or officers designated, the president or any other officer currently in charge of the operations of the financial institution or of the office or offices in question.

Subd. 5. "Office" means any place at which a financial institution transacts its business or conducts operations related to its business.

Subd. 6. "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business operations at one or more or all of the offices of a financial institution and which poses an imminent or existing threat to the safety or security of persons or property, or both. An emergency includes but is not limited to fire; flood; earthquake; hurricane; wind, rain, or snow storms; labor disputes and strikes; power failures; transportation failures; interruption of communication facilities; shortages of fuel, housing, food, transportation or labor; robbery or attempted robbery; actual or threatened enemy attack; epidemics or other catastrophes, riots; civil commotions; and other acts of lawlessness or violence.

History: *1971 c 318 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1Sp1985 c 13 s 179*

47.0152 POWER OF COMMISSIONER.

Whenever the commissioner is of the opinion that an emergency exists, or is impending, in the state or in a part of it, the commissioner may, by proclamation, authorize financial institutions located in the affected area to close any or all of their offices. In addition, if the commissioner is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular financial institution or a particular office of it, but not financial institutions located in the area generally, the commissioner may authorize the particular financial institution or office affected, to close or to temporarily relocate. The office closed shall remain closed until the commissioner proclaims that the emergency has ended, or until an earlier time when the officers of the financial institution determine that an office, closed because of the emergency, should reopen, and, in either event, for the further time reasonably necessary to reopen. The provisions of section 47.101 shall be waived for a temporary location established due to an emergency.

History: *1971 c 318 s 2; 1Sp1985 c 13 s 180; 1986 c 444*

47.0153 POWERS OF OFFICERS.

Subdivision 1. When the officers of a financial institution are of the opinion that an emergency exists, or is impending, which affects, or may affect, a financial institution's offices, they shall have the authority, in the reasonable exercise of their discretion, to determine not to open any of its offices on any business day or, if having opened, to close an office during the continuation of the emergency, even if the commissioner does not issue a proclamation of emergency. The office closed shall remain closed until the time that the officers determine the emergency has ended, and for the further time reasonably necessary to reopen. No financial institution office shall remain closed for more then 48 consecutive hours, excluding other legal holidays, without the prior approval of the commissioner, or in the case of a national bank, the comptroller of the currency.

Subd. 2. The officers of a financial institution may close the financial institution or one or more of the financial institution's offices on a day designated, by the President of the United States or the governor as a day of national mourning, rejoicing, or other special observance.

History: *1971 c 318 s 3*

47.0154 NOTICE TO COMMISSIONER.

A financial institution closing an office or offices pursuant to the authority granted under section 47.0153, subdivision 1, shall give as prompt notice of its action, as

conditions will permit and by any means available, to the commissioner, and in the case of a national bank, to the comptroller of the currency and in case of federal savings and loans, to the federal home loan bank board.

History: *1971 c 318 s 4*

47.0155 EFFECT OF CLOSING.

Any day on which a financial institution, or any of its offices, is closed during all or part of its normal business hours pursuant to sections 47.0151 to 47.0155 shall be, with respect to the financial institution or, if not all of its offices are closed, then with respect to the office which is closed, a legal holiday for all purposes with respect to any financial institution business of any character. No liability, or loss of rights of any kind, on the part of any financial institution, or director, officer, or employee thereof, shall accrue or result by virtue of any closing authorized by sections 47.0151 to 47.0155.

The provisions of sections 47.0151 to 47.0155 shall be construed and applied as being in addition to, and not in substitution for or limitation of, any other law of this state or of the United States, authorizing the closing of a financial institution or excusing the delay by a financial institution in the performance of its duties and obligations because of emergencies or conditions beyond the financial institution's control, or otherwise.

History: *1971 c 318 s 5*

47.0156 CLOSING EFFECTING A PERMANENT CESSATION OF BUSINESS.

The permanent closing of a financial institution as defined in section 47.015 or 47.0151 for purposes, or with a result, other than authorized in sections 47.015 to 47.0155 is unlawful unless at least 60 days' written notice is given to the commissioner.

History: *1Sp1985 c 13 s 181*

47.016 DISPOSITION OF CREDIT INSURANCE INCOME.

Subdivision 1. **Definitions.** (a) For the purpose of this section, the following terms have the meanings given them.

(b) "Credit insurance" means credit life and accident and health insurance as defined in section 62B.02.

(c) "Officer," "director," "employee," and "shareholder" include the spouse and minor children of the officer, director, employee, or shareholder.

(d) "Interest" includes ownership through a spouse or minor children; ownership through a broker, nominee, or agent; and ownership through a corporation, partnership, association, joint venture, or proprietorship.

(e) "Financial institution" means any person who lends money and sells credit insurance to the borrower.

Subd. 2. **Scope and purpose.** This section applies to sales of credit insurance by employees, officers, directors, and shareholders of a financial institution and by corporations, partnerships, associations, and other entities in which these persons have an interest. The purposes of this section are (1) to prohibit employees, officers, directors, members, and shareholders of financial institutions from benefiting personally on the sale of credit insurance to loan customers and (2) to encourage marketing of credit insurance through the use of financial facilities only under arrangements which assure that employees, officers, directors, and shareholders do not receive benefits not shared with all stockholders or members of the financial institution.

Subd. 3. **Distribution of credit insurance income.** No employee, officer, director, or shareholder of a financial institution, nor a corporation, partnership, association, or other entity in which these persons have an interest, may retain commissions or other income from the sale of credit insurance in connection with a loan made by the financial institution. All such income received by these persons or by a corporation, partnership, association, or other entity in which these persons have an interest, must be turned over

to the financial institution. Nothing in this section prohibits a financial institution from receiving the income directly in the form of commissions or as compensation for use of its premises, personnel, and good will.

History: *1983 c 250 s 8*

47.02 "BANK" AND "SAVINGS BANK."

A "bank" is a corporation having a place of business in this state, where credits are opened by the deposit of money or currency, or the collection of the same, subject to be paid or remitted on draft, check, or order; and where money is loaned or advanced on stocks, bonds, bullion, bills of exchange, or promissory notes, and where the same are received for discount or sale. A "savings bank" is a corporation managed by disinterested trustees, solely authorized to receive and safely invest the savings of small depositors. Every "bank" or "savings bank" in this state shall at all times be under the supervision and subject to the control of the commissioner of commerce, and when so conducted the business shall be known as "banking."

History: *(7636) 1907 c 111 s 1; 1909 c 103 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92*

47.03 USE OF CERTAIN WORDS PERMITTED.

Subdivision 1. No individual, partnership, unincorporated association, or corporation, except as specifically authorized by the laws of this state, who does not hold an effective certificate of authority, issued by the commissioner of commerce, to engage in the business of banking and is not subject to and complying with all the provisions of law relating to banks shall engage in such business, or make use of the words "bank," "banker," or "banking," or any derivative or compound of any such words, or any word or words in a foreign language having the same or a similar meaning, in its business name or in any sign, symbol, token, letterhead, circular, advertisement, or any other written or printed matter, in such manner as might indicate to any person that such individual, partnership, unincorporated association, or corporation is authorized to engage in the business of banking. This subdivision shall not apply to any holding company affiliate or affiliate as defined in the Act of Congress, known as the Banking Act of 1933, nor to any insurance company authorized to engage in the insurance business in the state of Minnesota.

Subd. 2. Every individual, partnership, unincorporated association, or corporation which shall violate any of the provisions of this section shall forfeit to the state the sum of not to exceed $100 for each day the violation shall continue, as determined by the court, to be recovered in a civil action to be brought by the attorney general in the name of the state at the request of the commissioner of commerce, and may be enjoined from any further violation in an action brought in the name of the state for that purpose.

History: *(7637) 1907 c 111 s 2; 1945 c 133 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92*

47.04 [Repealed, 1945 c 133 s 3]

47.05 [Repealed, 1945 c 133 s 3]

47.07 COMPANIES SUBJECT TO PROVISIONS.

All companies, associations, and corporations organized under any law of this state, other than those relating to the organization of banks and trust companies, which assume or exercise any of the functions, powers, or privileges conferred upon banks or trust companies under any law of this state, shall be subject to all the limitations, penalties, and requirements incident or pertaining to these functions, powers, or privileges; and the stockholders or persons forming the same shall be liable in the same manner and to the same extent as if these companies, associations, and corporations were organized as banks or trust companies under this chapter.

History: *(7655) RL s 2982*

47.08 ARTICLES OF INCORPORATION FILED WITH COMMISSIONER.

All persons proposing to incorporate and organize any financial institution, whether defined or described as such by the laws of the state, shall, before doing any business in the state as a corporation, and before filing their articles of incorporation with the secretary of state or with any other officer with whom the law requires such articles to be filed or recorded, file a copy of such articles with the commissioner of commerce.

History: *(7656) 1911 c 323 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92*

47.09 ADVERTISEMENTS.

No such financial institution shall, directly, indirectly, or by inference of any kind, display, represent, hold out or otherwise advertise as its capital, resources, assets or financial strength or ability or availability therefor, any capital, resources, or assets of any other financial institution or institutions, whether or not such other financial institution or institutions are in any way connected with such financial institution through or by way of a holding company or other corporation or similar structure; nor shall any such financial institution, the capital stock of which is, in whole or in part, controlled or owned by any such holding company, other corporation or similar structure, display, represent, hold out or otherwise advertise that it is affiliated with or has any other connection with such company, corporation or similar structure other than that which truly and actually exists; and no such financial institution shall advertise as its capital any amount other or greater than the amount of actual paid-in capital, which it shall have at the time of the appearance of such advertisement, and no such financial institution shall advertise in any way the aggregate or individual responsibility or financial worth of its stockholders, or in any manner seek to convey the impression that the financial resources of its stockholders above the limit provided by law are available for the purpose of meeting its liabilities.

History: *(7657) 1911 c 323 s 2; 1925 c 169; 1931 c 380*

47.095 INTEREST RATES PAID ON DEPOSITS; DISPLAY.

Any bank, savings bank, building and loan association, savings and loan association, or similar institutions, subject to the laws of the state of Minnesota, which, in its normal course of business, accepts deposits of money from any individual, shall conspicuously display signs, placards, decals, or other devices which shall contain a statement of the annual rate or rates of interest paid on such deposits and a statement showing the duration that moneys must be on deposit to be eligible for each such interest rate.

History: *1971 c 776 s 1*

47.096 TIME DEPOSITS; NOTICE OF AUTOMATIC RENEWAL.

If a deposit for a term of one year or more, including a savings certificate and a certificate of deposit, is automatically renewable by its own terms if not redeemed at a specified redemption date, the financial corporation receiving the deposit shall give mailed written notice to the owner or holder of the deposit not less than 30 days prior to the redemption date. The written notice shall be sent to the last known address of the owner or holder as filed with the financial corporation, shall state the date of the automatic renewal and shall state any penalty diminution of interest or other consequences to the owner or holder arising out of the failure to redeem prior to automatic renewal.

History: *1976 c 187 s 1*

47.10 REAL ESTATE; ACQUISITION, HOLDING.

Subdivision 1. **Authority, approval, limitations.** Except as otherwise specially provided, the net book value of land and buildings for the transaction of the business of the corporation, including parking lots and premises leased to others, shall not be more than as follows:

(1) for a bank, trust company or stock savings association, if investment is for acquisition and improvements to establish a new bank, or is for improvements to existing property or acquisition and improvements to adjacent property, approval by the commissioner of commerce is not required if the total investment does not exceed 50 percent of its existing capital stock and paid-in surplus. Upon written prior approval of the commissioner of commerce, a bank, trust company or stock savings association may invest in the property and improvements in clause (1) or for acquisition of nonadjacent property for expansion or future use, if the aggregate of all such investments does not exceed 75 percent of its existing capital stock and paid-in surplus;

(2) for a savings bank, 50 percent of its net surplus;

(3) for a mutual building and loan association, five percent of its net assets.

Subd. 2. **Books and records.** With the exception of annual amortization charges which are made in accordance with generally accepted accounting principles, no state bank, trust company, savings bank, or building and loan association shall decrease the actual cost of the investment as shown on its books by a charge to any of its capital accounts unless approved by the commissioner.

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: *(7648) RL s 2976; 1941 c 37 s 1; 1955 c 104 s 1; 1957 c 601 s 4; 1982 c 473 s 5; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1987 c 349 art 1 s 5,6*

47.101 PLACE OF BUSINESS; RELOCATION, DISPOSAL.

Subdivision 1. **Approval.** A bank, trust company, savings bank, or building and loan association may change its location, dispose of its place of business, and acquire another upon the written approval of the commissioner of commerce or otherwise as provided for in this section.

Subd. 2. **Banking institutions; certain relocations, applications, notice, approval.** A banking institution defined in section 48.01, subdivision 2, desiring to relocate its main office within a radius of three miles measured in a straight line shall submit an application in a form prescribed by the commissioner of commerce, an investigation fee of $500 and additional fees as prescribed in section 46.041 if subsequently processed under subdivision 3. After the application is deemed to be complete and accepted by the commissioner of commerce, the applicant shall publish once in a form prescribed by the commissioner a notice of the filing of the application in a newspaper published in the municipalities where the banking institution is located and relocating if different. If there is no such paper, then notice of the filing shall be published at the appropriate county seats of the existing and proposed sites if different. The applicant shall cause the notice to be publicly displayed in its lobby and sent by certified mail to all banking institutions within three miles of the proposed location measured in a straight line. Upon expiration of a period of 21 days for comment, the commissioner, after considering the applicable conditions for issuance of the bank charter defined in section 46.044, shall within 60 days approve or disapprove the application.

Subd. 3. **Applications to department of commerce.** An application by a banking institution to relocate its main office outside a radius of three miles measured in a

straight line, or referred from the commissioner of commerce pursuant to subdivision 2, shall be approved or disapproved by the commissioner of commerce as provided for in sections 46.041 and 46.044.

History: *1982 c 473 s 6; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1985 c 248 s 13,14*

47.11 SELECTION OF NAME.

Before execution of the certificate of incorporation of any such corporation, its proposed name shall be submitted to the commissioner of commerce, who shall compare it with those of corporations operating in the state, and if it is likely to be mistaken for any of them, or to confuse the public as to the character of its business, or is otherwise objectionable, additional names shall be submitted until a satisfactory one is selected, whereupon the commissioner shall issue a certificate of approval thereof.

History: *(7644) RL s 2972; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444*

47.12 FINANCIAL CORPORATIONS.

Corporations may be formed for any one of the following purposes:

(1) Carrying on the business of banking, by receiving deposits, buying, selling, and discounting notes, bills, and other evidences of debt legal for investment, domestic or foreign, dealing in gold and silver bullion and foreign coins, issuing circulating notes, and loaning money upon real estate or personal security;

(2) Establishing and conducting clearing houses, for effecting, in one place, the speedy and systematic daily exchange and adjustment of balances between banks and bankers in any municipality, town, or county, establishing and enforcing uniform methods of conducting the banking business in such locality, and adjusting disputes or misunderstandings between members of such clearing house engaged in the banking business;

(3) Creating and conducting savings banks for the reception, on deposit, of money offered for that purpose, the investment thereof, and the declaring, crediting, and paying of dividends thereon, as authorized and provided by law;

(4) Transacting business as a trust company in conformity with the laws relating thereto; and

(5) Carrying on, in accordance with law, the business of building, loan, and savings associations.

History: *(7441) RL s 2847; 1965 c 171 s 3*

47.14 CERTIFICATE, HOW ACCOMPANIED.

The certificate of incorporation, when presented to the commissioner of commerce, shall be accompanied, in the case of a bank, with the certificate of a solvent bank in this state of the deposit therein, in cash, to the credit of the proposed bank, and payable upon its order when countersigned by the commissioner of commerce, of an amount equal to its capital stock, surplus and undivided profits. In the case of a reorganization of a former national bank, it shall also be accompanied with the written consent of the holders of a majority of its former capital stock. In the case of a savings bank, it shall be accompanied with proof of four weeks' published notice of the intention of the incorporators to organize the same, specifying its proposed name and location, and the names of the proposed incorporators, and that a majority thereof reside in the county of its proposed location, and a sworn declaration by each proposed trustee that the trustee will perform the duties as such to the best of that person's ability, according to law, with proof of the record of such declaration with the county recorder; and if there is a savings bank organized and doing business in such county, a copy of such notice shall be served by mail on such bank at least 15 days before the filing of such certificate.

History: *(7645) RL s 2973; 1965 c 171 s 4; 1976 c 181 s 2; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444*

47.15 BYLAWS, WHERE FILED.

Within 90 days after the adoption of bylaws or any amendment thereof, a certified copy of the same shall be filed with the commissioner of commerce.

History: *(7647) RL s 2975; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92*

47.16 CERTIFICATION BY COMMISSIONER.

Subdivision 1. If the commissioner of commerce is satisfied that the corporation has been organized for legitimate purposes, and under such conditions as to merit and have public confidence, and that all provisions of law applicable to every branch of business in which, by the terms of its certificate, it is authorized to engage, have been complied with, the commissioner shall so certify. When the original certificate, with proof of publication thereof, and the certificate of incorporation from the secretary of state is filed with the commissioner of commerce, the commissioner shall, within 60 days thereafter, execute and deliver to it a certificate of authority.

Subd. 2. [Repealed, 1982 c 473 s 30]

History: *(7646) RL s 2974; 1955 c 820 s 11; 1980 c 541 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444*

47.17 [Repealed, 1981 c 220 s 18]

47.18 "CORPORATION"; "AGENCY."

For the purpose of this section and section 47.19, the term "corporation" shall be construed to mean any bank, savings bank, trust company, insurance company, or building and loan association organized under the laws of this state; and the term "agency" shall be construed to mean the federal home loan bank of the district of which this state is a part, or of an adjoining district if convenience shall so require, or other financial corporation, association or agency created by any act of Congress.

History: *(7658-1) 1933 c 101 s 1*

47.19 CORPORATION MAY BE MEMBER OR STOCKHOLDER OF FEDERAL AGENCY.

Any corporation is hereby empowered and authorized to become a member of, or stockholder in, any such agency, and to that end to purchase stock in, or securities of, or deposit money with, such agency and/or to comply with any other conditions of membership or credit; to borrow money from such agency upon such rates of interest, not exceeding the contract rate of interest in this state, and upon such terms and conditions as may be agreed upon by such corporation and such agency, for the purpose of making loans, paying withdrawals, paying maturities, paying debts, and for any other purpose not inconsistent with the objects of the corporation; provided, that the aggregate amount of the indebtedness, so incurred by such corporation, which shall be outstanding at any time shall not exceed 25 percent of the then total assets of the corporation; to assign, pledge and hypothecate its bonds, mortgages or other assets; and, in case of building and loan associations, to repledge with such agency the shares of stock in such association which any owner thereof may have pledged as collateral security, without obtaining the consent thereunto of such owner, as security for the repayment of the indebtedness so created by such corporation and as evidenced by its note or other evidence of indebtedness given for such borrowed money; and to do any and all things which shall or may be necessary or convenient in order to comply with and to obtain the benefits of the provisions of any act of Congress creating such agency, or any amendments thereto.

History: *(7658-2) 1933 c 101 s 2*

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

Subdivision 1. Pursuant to rules the commissioner of commerce finds to be

necessary and proper, if any, banks, savings banks, mutual savings banks, building and loan associations, and savings and loan associations organized under the laws of this state or the United States, trust companies, trust companies acting as fiduciaries, and other banking institutions subject to the supervision of the commissioner of commerce, and mortgagees or lenders approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association, are authorized:

(1) To make loans and advances of credit and purchases of obligations representing loans and advances of credit which are insured or guaranteed by the secretary of housing and urban development pursuant to the national housing act, as amended, or the administrator of veterans affairs pursuant to the servicemen's readjustment act of 1944, as amended, or the administrator of the farmers home administration pursuant to the consolidated farm and rural development act, Public Law Number 87-128, as amended, and to obtain the insurance or guarantees;

(2) To make loans secured by mortgages on real property and loans secured by a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation which the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration has insured or guaranteed or made a commitment to insure or guarantee, and to obtain the insurance or guarantees;

(3) To make, purchase, or participate in such loans and advances of credit as would be eligible for purchase, in whole or in part, by the federal national mortgage association or the federal home loan mortgage corporation, but without regard to any limitation placed upon the maximum principal amount of an eligible loan;

(4) To make, purchase or participate in such loans and advances of credit secured by mortgages on real property which are authorized by the federal home loan bank board or the office of the comptroller of the currency.

Subd. 2. **Definitions.** For the purposes of this section the terms defined in this subdivision have the meanings given them:

(1) "Actual closing costs" mean reasonable charges for or sums paid for the following, whether or not retained by the mortgagee or lender:

(a) Any insurance premiums including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance, but excluding any charges or sums retained by the mortgagee or lender as self-insured retention.

(b) Abstracting, title examination and search, and examination of public records.

(c) The preparation and recording of any or all documents required by law or custom for closing a conventional or cooperative apartment loan.

(d) Appraisal and survey of real property securing a conventional loan or real property owned by a cooperative apartment corporation of which a share or shares of stock or a membership certificate or certificates are to secure a cooperative apartment loan.

(e) A single service charge, which includes any consideration, not otherwise specified herein as an "actual closing cost" paid by the borrower and received and retained by the lender for or related to the acquisition, making, refinancing or modification of a conventional or cooperative apartment loan, and also includes any consideration received by the lender for making a borrower's interest rate commitment or for making a borrower's loan commitment, whether or not an actual loan follows the commitment. The term service charge does not include forward commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the conventional or cooperative apartment loan, except that in the case of a construction loan, the service charge shall not exceed two percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construc-

tion loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for which the charge is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real or personal property securing a conventional or cooperative apartment loan or the closing of a conventional or cooperative apartment loan paid by the borrower and received by any party other than the lender.

(2) "Contract for deed" means an executory contract for the conveyance of real estate, the original principal amount of which is less than $100,000. A commitment for a contract for deed shall include an executed purchase agreement or earnest money contract wherein the seller agrees to finance any part or all of the purchase price by a contract for deed.

(3) "Conventional loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than $100,000, secured by a mortgage upon real property containing one or more residential units or upon which at the time the loan is made it is intended that one or more residential units are to be constructed, and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration, and which is not made pursuant to the authority granted in subdivision 1, clause (3) or (4). The term mortgage does not include contracts for deed or installment land contracts.

(4) "Cooperative apartment loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than $100,000, secured by a security interest on a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation, which may be accompanied by an assignment by way of security of the borrower's interest in the proprietary lease or occupancy agreement in property issued by the cooperative apartment corporation and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration.

(5) "Cooperative apartment corporation" means a corporation or association organized under sections 308.05 to 308.18 or chapter 317, the shareholders or members of which are entitled, solely by reason of their ownership of stock or membership certificates in the corporation or association, to occupy one or more residential units in a building owned or leased by the corporation or association.

(6) "Forward commitment fee" means a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of residential units, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of apartments as defined in section 515.02 to be created out of existing structures pursuant to the Minnesota condominium act, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make cooperative apartment loans to two or more credit worthy purchasers, including future purchasers, of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation; provided, that the forward commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(7) "Borrower's interest rate commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees that, if a conventional or cooperative apartment loan is made following issuance of and pursuant to the commitment,

the conventional or cooperative apartment loan shall be made at a rate of interest not in excess of the rate of interest agreed to in the commitment, provided that the rate of interest agreed to in the commitment is not in excess of the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower.

(8) "Borrower's loan commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees to make a conventional or cooperative apartment loan pursuant to the provisions, including the interest rate, of the commitment, provided that the commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the commitment is issued and the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional or cooperative apartment loan within a specified time period in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower; provided that a lender who issues a borrower's loan commitment pursuant to the provisions of a forward commitment is authorized to issue the borrower's loan commitment at a rate of interest not to exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(9) "Finance charge" means the total cost of a conventional or cooperative apartment loan including extensions or grant of credit regardless of the characterization of the same and includes interest, finders fees, and other charges levied by a lender directly or indirectly against the person obtaining the conventional or cooperative apartment loan or against a seller of real property securing a conventional loan or a seller of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation securing a cooperative apartment loan, or any other party to the transaction except any actual closing costs and any forward commitment fee. The finance charges plus the actual closing costs and any forward commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional or cooperative apartment loan. The finance charge, with respect to wraparound mortgages, shall be computed based upon the face amount of the wraparound mortgage note, which face amount shall consist of the aggregate of those funds actually advanced by the wraparound lender and the total outstanding principal balances of the prior note or notes which have been made a part of the wraparound mortgage note.

(10) "Lender" means any person making a conventional or cooperative apartment loan, or any person arranging financing for a conventional or cooperative apartment loan. The term also includes the holder or assignee at any time of a conventional or cooperative apartment loan.

(11) "Loan yield" means the annual rate of return obtained by a lender over the term of a conventional or cooperative apartment loan and shall be computed as the annual percentage rate as computed in accordance with sections 226.5 (b), (c) and (d) of Regulation Z, Code of Federal Regulations, title 12, section 226, but using the definition of finance charge provided for in this subdivision. For purposes of this section, with respect to wraparound mortgages, the rate of interest or loan yield shall be based upon the principal balance set forth in the wraparound note and mortgage and shall not include any interest differential or yield differential between the stated interest rate on the wraparound mortgage and the stated interest rate on the one or more prior mortgages included in the stated loan amount on a wraparound note and mortgage.

(12) "Monthly index of the federal home loan mortgage corporation auction yields" means the net weighted average yield of accepted offers in the eight month forward commitment program of the federal home loan mortgage corporation in a month.

(13) "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

(14) "Residential unit" means any structure used principally for residential purposes or any portion thereof, and includes a unit in a townhouse or planned unit

development, a condominium apartment, a nonowner occupied residence, and any other type of residence regardless of whether the unit is used as a principal residence, secondary residence, vacation residence or residence of some other denomination.

(15) "Vendor" means any person or persons who agree to sell real estate and finance any part or all of the purchase price by a contract for deed. The term also includes the holder or assignee at any time of the vendor's interest in a contract for deed.

Subd. 3. Notwithstanding the provisions of section 334.01, lenders are authorized to make conventional or cooperative apartment loans and purchases of obligations representing conventional or cooperative apartment loans pursuant to rules the commissioner of commerce finds to be necessary and proper, if any, at an interest rate not in excess of the maximum lawful interest rate prescribed in subdivision 4a. Contract for deed vendors are authorized to charge interest on contracts for deed at an interest rate not in excess of the maximum lawful interest rate prescribed in subdivision 4a.

Subd. 4. [Repealed, 1981 c 351 s 14]

Subd. 4a. **Maximum interest rate.** No conventional or cooperative apartment loan or contract for deed shall be made at a rate of interest or loan yield in excess of a maximum lawful interest rate which shall be based upon the monthly index of the federal home loan mortgage corporation auction yields as compiled by the federal home loan mortgage corporation. The maximum lawful interest rate shall be computed as follows:

(1) The maximum lawful rate of interest for a conventional or cooperative apartment loan or contract for deed made or contracted for during any calendar month is equal to the monthly index of the federal home loan mortgage corporation auction yields for the first preceding calendar month plus an additional three-eighths of one percent per annum rounded off to the next highest quarter of one percent per annum.

(2) On or before the last day of each month the commissioner of commerce shall determine, based on available statistics, the monthly index of the federal home loan mortgage corporation auction yields for that calendar month and shall determine the maximum lawful rate of interest for conventional or cooperative apartment loans or contracts for deed for the next succeeding month as defined in clause (1) and shall cause the maximum lawful rate of interest to be published in a legal newspaper in Ramsey county on or before the first day of each month or as soon thereafter as practicable and in the state register on or before the last day of each month; the maximum lawful rate of interest to be effective on the first day of that month. If a federal home loan mortgage corporation eight month forward commitment purchase program is not held in any month, the maximum lawful rate of interest determined by the commissioner of commerce pursuant to the last auction is the maximum lawful rate of interest through the last day of the month in which the next auction is held.

(3) The maximum lawful interest rate applicable to a cooperative apartment loan or contract for deed at the time the loan or contract is made is the maximum lawful interest rate for the term of the cooperative apartment loan or contract for deed. Notwithstanding the provisions of section 334.01, a cooperative apartment loan or contract for deed may provide, at the time the loan or contract is made, for the application of specified different consecutive periodic interest rates to the unpaid principal balance, if no interest rate exceeds the maximum lawful interest rate applicable to the loan or contract at the time the loan or contract is made.

(4) Contracts for deed executed pursuant to a commitment for a contract for deed, or conventional or cooperative apartment loans made pursuant to a borrower's interest rate commitment or made pursuant to a borrower's loan commitment, or made pursuant to a commitment for conventional or cooperative apartment loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment, which commitment provides for consummation within some future time following the issuance of the commitment may be consummated pursuant to the provisions, including the interest rate, of the commitment notwithstanding the fact that the maximum lawful rate of interest at the time the

contract for deed or conventional or cooperative apartment loan is actually executed or made is less than the commitment rate of interest, provided the commitment rate of interest does not exceed the maximum lawful interest rate in effect on the date the commitment was issued. The refinancing of (a) an existing conventional or cooperative apartment loan, (b) a loan insured or guaranteed by the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration, or (c) a contract for deed by making a conventional or cooperative apartment loan is deemed to be a new conventional or cooperative apartment loan for purposes of determining the maximum lawful rate of interest under this subdivision. The renegotiation of a conventional or cooperative apartment loan or a contract for deed is deemed to be a new loan or contract for deed for purposes of clause (3) and for purposes of determining the maximum lawful rate of interest under this subdivision. A borrower's interest rate commitment or a borrower's loan commitment is deemed to be issued on the date the commitment is hand delivered by the lender to, or mailed to the borrower. A forward commitment is deemed to be issued on the date the forward commitment is hand delivered by the lender to, or mailed to the person paying the forward commitment fee to the lender, or to any one of them if there should be more than one. A commitment for a contract for deed is deemed to be issued on the date the commitment is initially executed by the contract for deed vendor or the vendor's authorized agent.

(5) A contract for deed executed pursuant to a commitment for a contract for deed, or a loan made pursuant to a borrower's interest rate commitment, or made pursuant to a borrower's loan commitment, or made pursuant to a forward commitment for conventional or cooperative apartment loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment at a rate of interest not in excess of the rate of interest authorized by this subdivision at the time the commitment was made continues to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

Subd. 4b. Notwithstanding any other provision of this chapter, including section 47.203, with respect to any conventional loan pursuant to which the mortgagee or lender shall receive any share of future appreciation of the mortgaged property, the following limitations shall apply:

(1) The share of future appreciation of the mortgaged property which the lender or mortgagee may receive shall be limited to the proportionate amount produced by dividing the lesser of the acquisition cost or fair market value of the mortgaged property at the time the conventional loan is made into the original principal amount of the conventional loan; provided that in no event shall the annual rate of return obtained by the lender or mortgagee over the term of the conventional loan exceed the maximum lawful interest rate prescribed in subdivision 4a.

(2) The lender or mortgagee shall not receive any share of future appreciation of the mortgaged property except (a) upon sale or transfer of the mortgaged property or any interest therein, whether by lease, deed, contract for deed or otherwise, whether for consideration or by gift or in the event of death, or otherwise, and whether voluntarily, involuntarily, or by operation of law, provided that if the mortgagor or mortgagors own the mortgaged property as cotenants, the transfer of the mortgaged property or any interest therein from one of such cotenants to another cotenant, whether by reason of death or otherwise, shall not be considered a sale or transfer, and a taking by eminent domain shall not be considered a sale or transfer unless it is a total taking for which payment is made for the full value of the mortgaged property, and a casualty loss shall not be considered a sale or transfer unless the proceeds of any insurance claim made in connection with such casualty loss are applied to prepay the principal of the conventional loan; or (b) upon the stated maturity of the loan, if the loan is made pursuant to or in connection with a specific housing program undertaken by a city, housing and rehabilitation authority, port authority, or other political subdivision or agency of the state.

(3) Before the loan is made, the lender shall disclose to the mortgagor or mortga-

gors the terms and conditions upon which the lender or mortgagee shall receive any share of future appreciation of the mortgaged property.

Minnesota Statutes, subdivision 6a, shall not be construed to prohibit the lender or mortgagee from declaring the entire debt of a conventional loan subject to this subdivision due and payable upon a sale or transfer of the mortgaged property or any interest therein, as provided in clause (2).

The commissioner may from time to time make, amend and rescind rules, forms and orders necessary to carry out the provisions of this subdivision. The provisions of this subdivision shall not apply to loans made pursuant to the program authorized by Laws 1981, chapter 97.

Subd. 5. No conventional loan or loan authorized in subdivision 1 made on or after the effective date of Laws 1977, chapter 350 shall contain a provision requiring or permitting the imposition of a penalty in the event the loan or advance of credit is prepaid.

Subd. 6. If the purpose of a conventional loan is to enable a borrower to purchase a one to four family dwelling for the borrower's primary residence, the lender 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 lender 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 conventional loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the real estate used as collateral, and (2) executes an agreement in writing with the lender 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 lender may charge a fee not in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan or advance of credit is assumed by the transferee and the existing borrower continues after the transfer to be obligated for repayment of the entire assumed indebtedness. A lender 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. This subdivision applies to all conventional loans made on or after June 1, 1979, and before May 9, 1981.

Subd. 6a. **Loan assumptions.** If the purpose of a conventional loan, or loan made pursuant to the authority granted in subdivision 1, clause (3) or (4), is to enable a borrower to purchase a one to four family dwelling for the borrower's primary residence, the lender shall consent to the subsequent transfer of the real estate and 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 conventional loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the real estate used as collateral, (2) executes an agreement in writing with the lender whereby the transferee assumes the obligations of the existing borrower under the loan instruments, and (3) executes an agreement in writing to pay interest on the remaining obligation at a new interest rate not to exceed the lender's current market rate of interest on similar loans at the time of the transfer, the most recently published monthly index of the federal home loan mortgage corporation auction yields or the existing interest rate provided for by the terms of the note, whichever is greater. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument.

Subd. 6b. Charges or fees for late payments on conventional loans shall be governed by chapter 51A for all lenders.

Subd. 6c. **Extension of certain loan assumptions.** Conventional loans made on or after June 1, 1979, and before May 9, 1981, continue to be assumable under the provisions of Minnesota Statutes 1984, section 47.20, subdivision 6, until October 1, 1990.

Subd. 7. (1) No conventional loan made on or after the effective date of Laws

1977, chapter 350 and prior to May 31, 1979 shall contain a provision requiring or permitting the imposition, directly or indirectly, of any discount points, whether or not actually denominated as discount points, on any person. Conventional or cooperative apartment loans made on or after May 31, 1979 may contain provisions permitting discount points, if the loan does not provide a loan yield in excess of that permitted by subdivision 4a. The loan yield is computed using the amount resulting when the discount points are included in the finance charge.

(2) Forward commitment fees are not discount points within the meaning of this subdivision.

(3) No charges, fees, or sums permitted by this section which are paid to and received by a lender may be increased for purposes of evading compliance with this subdivision.

Subd. 8. A lender making a conventional loan shall comply with the following:

(1) The promissory note and mortgage evidencing a conventional loan shall be printed in not less than the equivalent of 8-point type, .075 inch computer type, or elite-size typewritten numerals, or shall be legibly handwritten.

(2) The mortgage evidencing a conventional loan shall contain a provision whereby the lender agrees to furnish the borrower with a conformed copy of the promissory note and mortgage at the time they are executed or within a reasonable time after recordation of the mortgage.

(3) The mortgage evidencing a conventional loan shall contain a provision whereby the lender, if it intends to foreclose, agrees to give the borrower written notice of any default under the terms or conditions of the promissory note or mortgage, by sending the notice by certified mail to the address of the mortgaged property or such other address as the borrower may have designated in writing to the lender. The lender need not give the borrower the notice required by this paragraph if the default consists of the borrower selling the mortgaged property without the required consent of the lender. The mortgage shall further provide that the notice shall contain the following provisions:

(a) the nature of the default by the borrower,

(b) the action required to cure the default,

(c) a date, not less than 30 days from the date the notice is mailed by which the default must be cured,

(d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the mortgage and sale of the mortgaged premises, and

(e) that the borrower has the right to reinstate the mortgage after acceleration, and

(f) that the borrower has the right to bring a court action to assert the nonexistence of a default or any other defense of the borrower to acceleration and sale.

Subd. 9. (1) For purposes of this subdivision the term "mortgagee" shall mean all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions or assignees of the above. Each mortgagee requiring funds of a mortgagor to be paid into an escrow, agency or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one-to-four family, owner occupied residence located in this state, unless the account is required by federal law or regulation or maintained in connection with a conventional loan in an original principal amount in excess of 80 percent of the lender's appraised value of the residential unit at the time the loan is made or maintained in connection with loans insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration, shall calculate interest on such funds at a rate of not less than five percent per annum. Such interest shall be computed on the average monthly balance in such account on the first of each month for the immediately preceding 12 months of the calendar year or such other fiscal year as may be uniformly adopted by the mortgagee

for such purposes and shall be annually credited to the remaining principal balance on the mortgage, or at the election of the mortgagee, paid to the mortgagor or credited to the mortgagor's account. If the interest exceeds the remaining balance, the excess shall be paid to the mortgagor or vendee. The requirement to pay interest shall apply to such accounts created prior to June 1, 1976, as well as to accounts created after June 1, 1976.

(2) A mortgagee offering the following option (c) to a mortgagor but not requiring maintenance of escrow accounts as described in clause (1), whether or not the accounts were required by the mortgagee or were optional with the mortgagor, shall offer to each of such mortgagors the following options:

(a) the mortgagor may personally manage the payment of insurance and taxes;

(b) the mortgagor may open with the mortgagee a passbook savings account carrying the current rate of interest being paid on such accounts by the mortgagee in which the mortgagor can deposit the funds previously paid into the escrow account; or

(c) the mortgagor may elect to maintain a noninterest bearing escrow account as described in clause (1) to be serviced by the mortgagee at no charge to the mortgagor.

A mortgagee that is not a depository institution offering passbook savings accounts shall instead of offering option (b) above notify its mortgagors (1) that they may open such accounts at a depository institution and (2) of the current maximum legal interest rate on such accounts.

A mortgagee offering option (c) above to a mortgagor but not requiring the maintenance of escrow accounts shall notify its mortgagor of the options under (a), (b) and (c). The notice shall state the option and state that an escrow account is not required by the mortgagee, that the mortgagor is legally responsible for the payment of taxes and insurance, and that the notice is being given pursuant to this subdivision.

Notice shall be given within 30 days after the effective date of the provisions of Laws 1977, chapter 350 amending the subdivision, as to mortgagees offering option (c) above to mortgagors but not requiring escrow accounts as of the effective date, or within 30 days after a mortgagee's decision to discontinue requiring escrow accounts if the mortgagee continues to offer option (c) above to mortgagors. If no reply is received within 30 days, option (c) shall be selected for the mortgagor but the mortgagor may, at any time, select another option.

A mortgagee making a new mortgage and offering option (c) above to a prospective mortgagor shall, at the time of loan application, notify the prospective mortgagor of options (a), (b) and (c) above which must be extended to the prospective mortgagor. The mortgagor shall select one of the options at the time the loan is made.

Any notice required by this clause shall be on forms approved by the commissioner of commerce and shall provide that at any time a mortgagor may select a different option. The form shall contain a blank where the current passbook rate of interest shall be entered by the mortgagee. Any option selected by the mortgagor shall be binding on the mortgagee.

This clause does not apply to escrow accounts which are excepted from the interest paying requirements of clause (1).

(3) A mortgagee shall be prohibited from charging a direct fee for the administration of the escrow account.

Subd. 10. Notwithstanding any other law, the provisions of this section may not be waived by any oral or written agreement executed by any person.

Subd. 11. [Repealed, 1Sp1985 c 13 s 376]

Subd. 12. [Repealed, 1Sp1985 c 13 s 376]

Subd. 13. Any conventional loan having an interest rate or loan yield in excess of the maximum lawful interest rate provided for in subdivision 4a shall be usurious and subject to the same penalties as a loan made in violation of section 334.01. Any lender intentionally violating any other provision of this section shall be fined not more than $100 for each offense.

Subd. 13a. Any contract for deed or cooperative apartment loan having an

interest rate in excess of the maximum lawful interest rate provided for in subdivision 4a is usurious. No contract for deed or cooperative apartment loan is unenforceable solely because the interest rate thereon is usurious. Persons who have paid usurious interest may recover an amount not to exceed five times the usurious portion of the interest paid under the contract for deed or cooperative apartment loan plus attorneys' fees from the person to whom the interest has been paid. The penalty provisions of chapter 334, do not apply to usurious contracts for deed or cooperative apartment loans.

Subd. 14. (a) A lender requiring or offering private mortgage insurance shall make available to the borrower or other person paying the insurance premium the same premium payment plans as are available to the lender in paying the private mortgage insurance premium.

(b) Any refund or rebate for unearned private mortgage insurance premiums shall be paid to the borrower or other person actually providing the funds for payment of the premium.

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 in which 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.

History: *(7658-3) 1935 c 49 s 1; 1937 c 88 s 1; 1969 c 579 s 1; 1976 c 196 s 1; 1976 c 300 s 2; 1977 c 350 s 1; 1978 c 529 s 2-4; 1979 c 48 s 1,3; 1979 c 279 s 1-8; 1980 c 373 s 1-5; 1981 c 137 s 1,2,4-8; 1981 c 351 s 1-9; 1982 c 424 s 7; 1982 c 632 s 1; 1983 c 215 s 1; 1983 c 288 s 1-3; 1983 c 289 s 114 subd 1; 1984 c 474 s 1; 1984 c 655 art 1 s 92; 1985 c 203 s 1; 1985 c 306 s 1; 1Sp1985 c 16 art 2 s 43; 1Sp1985 c 18 s 1; 1986 c 358 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 6*

NOTE: Subdivision 6 was also amended by Laws 1979, Chapter 48, Section 2 to read as follows:

"Subd. 6. If the purpose of a conventional loan is to enable a borrower to purchase a one to four family dwelling for his or her primary residence, the lender 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 lender 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 conventional loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the real estate used as collateral, and (2) executes an agreement in writing with the lender 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 lender may charge a fee not in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan or advance of credit is assumed by the transferee and the existing borrower continues after the transfer to be obligated for repayment of the entire assumed indebtedness. A lender 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. This subdivision shall apply to conventional loans made on or after August 1, 1979."

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, 1987.

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.

47.201 GRADUATED PAYMENT MORTGAGES AND COOPERATIVE APARTMENT LOANS.

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

(1) "Financial institution" means a state bank or trust company, a national banking association, a state or federally chartered savings and loan association, a mortgage bank or mutual savings bank.

(2) "Graduated payment home loan" means a conventional or cooperative apartment loan made pursuant to section 47.20 and subject to the provisions therein, whereunder initial periodic repayments are lower than those under the standard conventional or cooperative apartment loan having equal periodic repayments, and gradually rise to a predetermined point after which they remain constant.

Subd. 2. **Authorization.** Notwithstanding the provisions of sections 334.01, subdivision 1, and 51A.37, subdivision 3, clause (d), any financial institution is authorized to make graduated payment home loans and purchases representing graduated payment home loans pursuant to such rules as the commissioner of commerce finds to be necessary and proper, if any, at an interest rate not in excess of the maximum lawful interest rate prescribed in section 47.20, subdivision 4a. Notwithstanding the provisions of section 334.01, subdivision 1, where initial repayments of a graduated payment home loan are less than the total accrued outstanding interest, the excess accrued and unpaid interest may be added to the outstanding loan balance on which interest accrues at the contracted rate.

Subd. 3. **Graduated payments.** A graduated payment home loan may provide that periodic repayments of principal and interest on graduated payment home loans may increase in amounts not exceeding the following:

(a) 7.5 percent annually during a period of five years or less;

(b) 6.5 percent annually during a period of six years;

(c) 5.5 percent annually during a period of seven years;

(d) 4.5 percent annually during a period of eight years;

(e) 3.5 percent annually during a period of nine years; and

(f) 3 percent annually during a period of ten years.

No graduated payment home loan may provide for principal and interest increases after its first ten years. The increases in payments of principal and interest provided in clauses (a) to (f) are independent and one graduation period may not be used in conjunction with another period.

Subd. 4. **Changes restricted.** Payments of principal and interest may not be changed more than once a year. The first change may not occur until one year after the date of the first payment under the graduated payment home loan.

Subd. 5. **Conversion rights.** Borrowers taking a graduated payment home loan shall have the right to convert, at a time chosen by the borrower, to a standard nongraduated payment conventional loan or cooperative apartment loan. No assessment or penalties shall be made if the borrower chooses to convert at the interest rate and outstanding principal of the graduated payment home loan.

Subd. 6. **Disclosure.** Each prospective borrower shall receive materials explaining in reasonably simple terms the graduated payment home loan offered and a comparable standard conventional loan or cooperative apartment loan instrument with a fixed interest rate and level payments. The material shall include:

(a) A comparison of the terms of the graduated payment home loan and a standard conventional loan or cooperative apartment loan;

(b) Payment schedules for both types of instruments and the total payment in dollars over the full term of the loan;

(c) A description of the conversion option; and

(d) A prominent statement that borrowers have the option to elect a standard conventional loan or cooperative apartment loan instrument.

Subd. 7. **Savings and loan associations; first lien.** Capitalization of interest resulting from any negative amortization of a graduated payment home loan made by a savings and loan association shall not change the status of the mortgage as a first lien against the property securing the loan pursuant to section 51A.38, subdivision 5. The capitalization of interest in a negative amortization shall not be considered as a loan or debt separate from the graduated payment mortgage contracted for at the time of loan origination.

History: *1979 c 239 s 1; 1981 c 351 s 10; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92*

47.202 COMMISSIONER'S REPORT ON FEDERAL PREEMPTION.

The commissioner of commerce shall, in the next annual report to the legislature, as required by section 47.20, subdivision 12, include an analysis of the effect of the provisions of Public Law Number 96-211, title V, part A on real estate lending in Minnesota.

History: *1980 c 599 s 3; 1980 c 604 s 3; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444*

47.203 FEDERAL PREEMPTION OVERRIDE.

The provisions of Public Law Number 96-221, title V, part A, section 501(a)(1), do not apply with respect to a loan, mortgage, credit sale or advance made in this state after June 2, 1981, nor with respect to a loan, mortgage, credit sale or advance secured by real property located in this state and made after June 2, 1981.

History: *1980 c 599 s 4; 1980 c 604 s 4; 1981 c 351 s 11; 1Sp1981 c 4 art 1 s 47*

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.

Subd. 2. **Enforceable throughout term.** If the rate or amount of interest, discount points, finance charges, or other charges are permitted by this section at the time the loan, mortgage, credit sale or advance is made, the rate or amount of interest, discount points, finance charges or other charges are permitted throughout the original term of the agreement and any extension agreed upon by the borrower and the lender or their respective successors in interest.

History: *1981 c 351 s 12; 1984 c 576 s 4; 1987 c 349 art 1 s 7*

47.205 ASSIGNMENT OF MORTGAGE; DUTIES; PENALTIES.

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

(a) "Lender" means all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions making a loan, or any 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). A "selling lender" is a lender who sells, assigns, or transfers the servicing of a loan, to a "purchasing lender or a servicing agent."

(b) "Loan" means all 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 loan as defined under section 47.20, subdivision 2, clause (4).

(c) "Escrow account" means escrow, agency, or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one-to-four family, owner occupied residence located in this state.

(d) "Person" means an individual, corporation, business trust, partnership or association, or any other legal entity.

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.

Subd. 3. **Administration of escrow accounts.** Each lender requiring funds of a mortgagor to be paid into an escrow account for payment of taxes or insurance premiums with respect to a mortgaged one-to-four family owner occupied residence located in this state shall make payments for the taxes or insurance from the escrow account in a timely manner as these obligations become due provided that funds paid into the account by the mortgagor are sufficient for the payment. If there is a shortage of funds, the lender shall promptly notify the mortgagor of the shortage. If the lender fails to make timely payments, the lender is liable to the mortgagor for actual damages caused by the failure to pay the amounts when due and is subject to penalties provided in subdivision 4, except that the lender may present any legal defense in any subsequent hearing. The lender is permitted to make a payment on behalf of the mortgagor even though there are not sufficient funds in a particular account to cover the payment.

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 mortgagor for $500 per occurrence if the violation of subdivision 2 or 3 was due to the lender's failure to exercise reasonable care.

History: *1986 c 358 s 1; 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*

47.21 LAWS PRESCRIBING TYPE OF SECURITY NOT TO APPLY.

No other law in this state prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit or purchases made pursuant to section 47.20, subdivisions 1, 3 and 4a.

(1) Such institutions may invest in notes or bonds secured by mortgage or trust deed insured pursuant to section 47.20, subdivision 1, clause (2), and in securities issued by national mortgage associations;

(2) The notes, bonds and other securities herein made eligible for investment may be used wherever, by statute, collateral is required as security for the deposit of public or other funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated securities.

History: *(7658-4) 1935 c 49 s 2; 1937 c 88 s 2; 1976 c 300 s 3; 1981 c 351 s 13*

47.23 SAVINGS DEPARTMENTS.

Subdivision 1. Except as specifically authorized by other laws of this state, no individual, partnership, unincorporated association, or corporation, other than a savings bank, safe deposit company, or trust company, holding an effective certificate of authority or license issued by the commissioner of commerce and subject to and complying with all of the provisions of law relating to such savings banks, safe deposit companies, and trust companies, respectively, shall in any manner display or make use of any sign, symbol, token, letterhead, card, circular, or advertisement stating, representing, or indicating authorization to transact the business which a savings bank, safe deposit company, or trust company usually does, or under these provisions is authorized to do; nor shall any such individual, partnership, unincorporated association, or corporation use the words "savings" or "trust" or "safe deposit" alone or in combination in title or name or otherwise, or in any manner solicit business or make loans or solicit or receive deposits or transact business as a savings bank, safe deposit company, or trust company; except that a state bank, or trust company, regularly incorporated and authorized to do business under the laws of this state, may establish and maintain a savings department under the supervision of the commissioner of commerce, and may solicit and receive deposits in this savings department and advertise the same as

such, and every such trust company having a savings department shall use in its name or title, in addition to the word "trust", the word "savings". Savings deposits received by such a trust company shall be invested only in authorized securities, as defined by law, and the trust company shall keep on hand, at all times, such securities in an amount at least equal to the amount of the deposits, and these securities shall be the representative of, and the fund for, applicable first and exclusively to the payments of, the savings deposits. Deposits received by the trust company subject to its right to require notice of withdrawal evidenced by passbooks or by written receipt or agreement shall be deemed savings deposits.

Subd. 2. Any old line life insurance company which does not in any manner display or make use of any sign, symbol, token, letterhead, card, circular, or advertisement representing or indicating that it is authorized to transact any business which a savings bank, safe deposit company, or trust company usually does and which does not attempt to do any such business; and which uses the word "trust" in its name in combination with other words in such a manner that it is apparent that the company is not either a savings bank, safe deposit company, or trust company, and does not attempt to do any of the business which a savings bank, safe deposit company, or trust company usually does, shall not be prohibited from so using such word "trust" in its name.

Subd. 3. Every individual, partnership, unincorporated association, or corporation which shall violate any of the provisions of this section shall forfeit to the state the sum of not to exceed $100 for each day the violation shall continue, to be recovered in a civil action to be brought by the attorney general in the name of the state at the request of the commissioner of commerce, and may be enjoined from any further violation in an action brought in the name of the state for that purpose.

History: *(7651) RL s 2978; 1909 c 178 s 1; 1915 c 236 s 1; 1929 c 77 s 1; 1945 c 133 s 2; 1961 c 298 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444*

47.24 FAILURE TO REPORT; FORFEITURES.

Every corporation which shall fail to make and transmit to the commissioner of commerce, within ten days after the time prescribed by law therefor, any report required by the provisions of this chapter, or by other lawful authority, or shall fail to include therein any matter required by the commissioner of commerce, shall forfeit to the state the sum of $100 for every day that the report is withheld or delayed or that it shall fail to report any such omitted matter.

History: *(7652) RL s 2979; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92*

47.25 NOTICE OF MEETINGS.

At least 30 days prior to any annual, and at least ten days prior to any special, meeting of its stockholders, mailed notice shall be given to each stockholder, specifying the time, place, and purpose thereof; also a notice of any resolution or proposition on which action is proposed to be taken.

History: *(7653) RL s 2980*

47.26 VIOLATIONS.

Every officer, agent, or employee of any corporation or copartnership, and every other individual, who shall knowingly and willfully do or omit anything, the doing or omission of which on the part of any corporation, copartnership, or individual is in violation of any of the provisions of this chapter and who continues or repeats such act or omission for or during more than ten successive days, shall be guilty of a felony.

History: *(7654) RL s 2981*

47.27 DEFINITIONS.

Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in subdivisions 2, 3 and

4, shall, for the purposes of sections 47.27 to 47.32, be given the meanings subjoined to them.

Subd. 2. "Savings bank" shall have the meaning set forth in sections 47.01 and 47.02 and shall also mean a mutual savings bank.

Subd. 3. "Savings, building and loan association" shall have the meaning set forth in section 51.01, subdivision 2.

Subd. 4. "Federal association" means a savings association, savings and loan association or savings bank organized under that certain act of Congress known as The Home Owners Loan Act of 1933, and acts amendatory thereof.

History: *1949 c 337 s 1; 1984 c 592 s 1*

47.28 SAVINGS BANKS MAY CONVERT INTO SAVINGS, BUILDING AND LOAN ASSOCIATIONS.

Subdivision 1. Any savings bank organized and existing under and by virtue of the law of this state may amend its articles of incorporation so as to convert itself into a savings, building and loan association, by complying with the following requirements and procedure:

The savings bank by a two-thirds vote of the entire board of trustees, at any regular or special meeting of said board duly called for that purpose, shall (a) pass a resolution declaring their intention to convert the savings bank into a savings, building and loan association, and (b) cause an application in writing to be executed, by such persons as the trustees may direct, in the form prescribed by the department of commerce, requesting a certificate of authorization (charter) as a savings, building and loan association to transact business at the place and in the name stated in the application. The amendments proposed to the articles of incorporation and bylaws shall be included as part of the application.

The application shall be submitted to, considered and acted upon by the department of commerce in the same manner and by the same standards as applications are submitted, considered and acted upon under section 51.08.

Subd. 2. If the certificate of authorization (charter) be issued, the articles of incorporation may then be amended so as to convert the savings bank into a savings, building and loan association by following the procedure prescribed for amending articles of incorporation of savings banks; provided, that before any such conversion shall take place the secretary of the savings bank shall cause 30 days written notice of such intended conversion (which notice, before mailing, shall be submitted to and approved by the commissioner of commerce) to be mailed prepaid to each depositor, at the depositor's last known address according to the records of the bank, and after such notice each depositor may, prior to the time the conversion becomes final and complete, on demand and without prior notice, withdraw the full amount of deposit or such part thereof as the depositor may request, and upon such withdrawal the depositor shall receive interest to the date of withdrawal at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaw, or rule to the contrary.

Subd. 3. At any time after the expiration of the 30 day period specified in subdivision 2, (which fact shall be evidenced by the secretary of the savings bank filing an affidavit to that effect with the commissioner of commerce and the secretary of state,) upon receipt of the fees required for filing and recording amended articles of incorporation of savings banks, the secretary of state shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings bank into a savings, building and loan association shall become final and complete and thereafter said corporation shall have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings, building and loan associations.

Subd. 4. When the conversion of any savings bank into a savings, building and loan association becomes final and complete, the surplus fund of the bank shall become

the contingent or reserve fund of the association and every person who was a depositor of the savings bank at the time of the conversion shall cease to be a depositor and shall thereafter be a shareholder of the savings, building and loan association and be credited with payments on that person's share account equal to the full amount on deposit with the savings bank at the time of conversion, plus interest to the date of conversion at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaw, or rule to the contrary.

Subd. 5. The resulting association shall as soon as practicable and within such time not extending beyond three years from the date the conversion becomes final and complete and by such methods as the department of commerce shall direct, cause its organization, its securities and investments, the character of its business, and the methods of transacting the same to conform to the laws applicable to savings, building and loan associations.

History: *1949 c 337 s 2; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1985 c 248 s 70; 1986 c 444*

47.29 SAVINGS BANKS MAY CONVERT INTO FEDERAL ASSOCIATIONS.

Subdivision 1. Any savings bank organized and existing under and by virtue of the laws of this state, is hereby authorized and empowered, by a two-thirds vote of the entire board of trustees, at any regular or special meeting of said board duly called for that purpose to convert itself into a federal association whenever said conversion is authorized by any act of the Congress of the United States: Provided, that before any such conversion shall become final and complete, (a) the secretary of the savings bank shall cause 30 days' written notice of such intended conversion (which notice, before mailing, shall be submitted to and approved by the commissioner of commerce) to be mailed prepaid to each depositor, at their last known address, according to the records of the bank, and after such notice each depositor may, prior to the time the conversion becomes final and complete, on demand and without prior notice, withdraw the full amount of the deposit or such part thereof as the depositor may request, and upon such withdrawal the depositor shall receive interest to the date of withdrawal at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaws, or rule to the contrary, and (b) that such conversion be approved in writing by the commissioner of commerce.

Subd. 2. At any time after the expiration of the 30 day period specified in subdivision 1, clause (a), (which fact shall be evidenced by the secretary of the savings bank filing an affidavit to that effect with the commissioner of commerce and the secretary of state of this state), upon filing a copy of the federal charter, certified by the issuing federal agency with the secretary of state of this state, the secretary of state shall record said charter and certify that fact thereon, whereupon the conversion shall be final and complete and the savings bank shall at that time cease to be a savings bank supervised by this state, and shall thereafter be a federal association.

History: *1949 c 337 s 3; 1984 c 592 s 2; 1985 c 248 s 15,70; 1986 c 444*

47.30 SAVINGS, BUILDING AND LOAN ASSOCIATION MAY CONVERT INTO SAVINGS BANK.

Subdivision 1. Any savings, building and loan association organized and existing under and by virtue of the laws of this state may amend its articles of incorporation so as to convert itself into a savings bank, by complying with the following requirements and procedure:

A meeting of the shareholders shall be held upon not less than 15 days written notice to each shareholder, served either personally or by mail prepaid, directed to the shareholder's last known post office address according to the records of the association, stating the time, place and purpose of such meeting.

At such meeting, the shareholders may by two-thirds vote (according to the book value of said shares) of those present in person or by proxy pass a resolution declaring

their intention to convert such association into a savings bank and setting forth the names of the proposed first board of trustees. A copy of the minutes of such meeting verified by the affidavit of the chair and the secretary of the meeting, shall be filed in the office of the department of commerce and with the secretary of state within ten days after the meeting. Such copy, when so filed, shall be evidence of the holding of such meeting and of the action taken.

Subd. 2. An application for a certificate authorizing a savings bank to transact business, in the form required by sections 46.041 and 46.046, shall be submitted to, considered and acted upon by the department of commerce in the same manner and by the same standards as applications are submitted, considered and acted upon under sections 46.041, 46.044, 46.046, 50.01 and 50.02. The fees required by section 46.041 shall be paid and the amendments proposed to the articles of incorporation and bylaws shall be included as part of the application.

Subd. 3. If the department of commerce grants the application, the certificate of authorization (charter) shall be issued as provided by section 46.041, and the articles of incorporation may then be amended so as to convert the savings, building and loan association into a savings bank by following the procedure prescribed for amending articles of incorporation of savings, building and loan associations: Provided, that the proposed amended articles shall contain the names of, and be signed by, the proposed first board of trustees.

Subd. 4. Before any such conversion shall take place, a period of 30 days shall elapse from the date of the adoption by the shareholders of the resolution amending the articles of incorporation during which period of time each shareholder of the association may, on demand and without prior notice, tender unpledged shares for repurchase by the association and thereupon be entitled to receive the full withdrawal value of the shareholder's share account, or such part thereof as the shareholder may request, plus dividends to date of payment at the same rate last paid or credited by the association, notwithstanding the provisions of any law, bylaw, or rule to the contrary.

Subd. 5. At any time after the expiration of the 30 day period specified in subdivision 4, (which fact shall be evidenced by the secretary of the association filing an affidavit to that effect with the commissioner of commerce and the secretary of state), upon receipt of the fees required for filing and recording amended articles of incorporation of savings, building and loan associations, the secretary of state shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings, building and loan association into a savings bank shall become final and complete and thereafter the signers of said amended articles and their successors shall be a corporation, and have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings banks.

Subd. 6. When the conversion of any savings, building and loan association becomes final and complete the contingent or reserve fund of the association shall become the surplus fund of the bank and every person who was a shareholder of the association at the time of the conversion shall cease to be a shareholder and shall thereafter be a depositor of the bank and be credited with deposits in that person's account equal to the full withdrawal value of that person's share account plus dividends to the date of conversion at the same rate last paid or credited by the association, notwithstanding the provisions of any law, bylaw, or rule to the contrary.

Subd. 7. The resulting savings bank shall as soon as practicable and within such time not extending beyond three years from the date the conversion becomes final and complete and by such methods as the commissioner of commerce shall direct, cause its organization, its securities and investments, the character of its business, and the methods of transacting the same to conform to the laws applicable to savings banks.

History: *1949 c 337 s 4; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1985 c 248 s 16,17,70; 1986 c 444*

47.31 FEDERAL ASSOCIATION MAY CONVERT INTO SAVINGS BANK.

When authorized by act of the Congress of the United States, any federal association with its principal place of business in this state may convert itself into a savings bank pursuant to the laws of this state: Provided, (a) that the association complies with all requirements imposed for such conversion under the laws of the United States; (b) that the association complies with the requirements and procedure set forth in section 47.30, except that the procedure for obtaining original articles of incorporation of a savings bank shall be followed in lieu of the procedure for amending articles of incorporation and the 30 day period specified in section 47.30, subdivisions 4 and 5, shall begin on the day the organization meeting is held pursuant to section 300.025; and (c) that the commissioner of commerce approves such conversion in writing.

History: *1949 c 337 s 5; 1984 c 592 s 3*

47.32 CONVERTING INSTITUTION DEEMED CONTINUANCE; TRANSFER OF PROPERTY AND RIGHTS.

Upon the conversion of any savings bank into a savings, building and loan association or into a federal association, and of a savings, building and loan association or federal association into a savings bank, the corporate existence of the converting savings bank or association shall not terminate, and the resulting association or savings bank shall be a continuance of the converting savings bank or association; and all the property of the converting savings bank or association (including its rights) shall by operation of law vest in the resulting association or savings bank as of the time when the conversion becomes final and complete, and all of the obligations of the converting savings bank or association become those of the resulting association or savings bank. Actions and other judicial proceedings to which the converting savings bank or association is a party may be prosecuted and defended as if the conversion had not been made.

History: *1949 c 337 s 6; 1984 c 592 s 4*

47.41 NEGOTIABLE INSTRUMENTS, FACSIMILE SIGNATURES, DISBURSEMENT OF PUBLIC FUNDS.

Any public officer or other person who is authorized singly or in conjunction with another or others, to sign checks, drafts, warrants, warrant-checks, vouchers or other orders on public funds on deposit in a depository bank may authorize the bank to honor any such instrument bearing a facsimile of that person's signature and to charge the same to the account upon which drawn, as fully as though it bore a manually written signature. Instruments so honored shall be wholly operative and binding in favor of the bank although such facsimile signature shall have been affixed without authority of such officer or other person. Any one or more or all of the signatures upon any such instrument may be facsimile as herein provided. As here used "public funds" means funds of the state or of any county, city, town, school district, any political subdivision of the state, or of any commission, board, department or agency of any thereof.

History: *1955 c 96 s 1; 1973 c 123 art 5 s 7; 1986 c 444*

47.42 FACSIMILE SIGNATURES, OFFICER NOT LIABLE.

If the governing body of the depositor political subdivision, or of any commission, board, department or agency thereof, by resolution approves the action of the public officer or other person in the use of such facsimile, and shall have insured the depositor with an insurance company authorized to do business in this state, in such amount and form as the governing body approves, against loss of any public funds withdrawn upon unauthorized use of such facsimile signature, such public officer or other person shall not be personally liable for loss, if any, resulting from the use of any such facsimile signature unless the loss occurs by reason of that person's own wrongful act.

History: *1955 c 96 s 2; 1986 c 444*

47.51 DETACHED BANKING FACILITIES; DEFINITIONS.

As used in sections 47.51 to 47.57:

"Extension of the main banking house" means any structure or stationary mechanical device serving as a drive-in or walk-up facility, or both, which is located within 150 feet of the main banking house, the distance to be measured in a straight line from the closest points of the closest structures involved and which performs one or more of the functions described in section 47.53.

"Detached facility" means any permanent structure, office accommodation located within the premises of any existing commercial or business establishment, stationary automated remote controlled teller facility, stationary unstaffed cash dispensing or receiving device, located separate and apart from the main banking house which is not an "extension of the main banking house" as above defined, that serves as a drive-in or walk-up facility, or both, with one or more tellers windows, or as a remote controlled teller facility or a cash dispensing or receiving device, and which performs one or more of those functions described in section 47.53.

"Bank" means a bank as defined in section 46.046 and any banking office established prior to the effective date of Laws 1923, chapter 170, section 1.

"Commissioner" means the commissioner of commerce.

"Municipality" means the geographical area encompassing the boundaries of any home rule charter or statutory city located in this state, and any detached area, pursuant to section 473.625, operated as a major airport by the metropolitan airports commission pursuant to sections 473.601 to 473.679. When a bank is located in a township, the term municipality is expanded to mean the geographical area encompassing the boundaries of the township.

History: *1971 c 855 s 1; 1977 c 378 s 1; 1979 c 220 s 1; 1981 c 220 s 6; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1985 c 248 s 18; 1986 c 444*

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: *1971 c 855 s 2; 1974 c 221 s 1; 1977 c 378 s 2; 1980 c 444 s 1; 1981 c 220 s 7; 1987 c 161 s 1*

47.521 CLOSED BANK LOCATION; AUTHORIZATION.

Where the commissioner has determined that an existing state bank or national banking association is about to fail or has failed and it is in the public interest to prevent the loss of banking services in the community affected, the limitations on location and number of detached facilities in section 47.52 do not apply to an application to establish a detached facility in the same locality. In the event the commissioner has determined that it is necessary and in the public interest to act immediately on the application, the commissioner may waive the requirements of section 47.54.

History: *1983 c 242 s 2*

47.53 FUNCTIONS OF A FACILITY.

A detached facility may provide any service or perform any function that may be offered or performed at the bank's main banking house.

History: *1971 c 855 s 3; 1977 c 378 s 3; 1980 c 468 s 1*

47.54 NOTICES AND APPROVAL PROCEDURES.

Subdivision 1. **Application.** Any bank desiring to establish a detached facility shall execute and acknowledge a written application in the form prescribed by the commissioner and shall file the application in the commissioner's office with a fee of $500. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the commissioner in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, shall be paid by the applicant and 50 percent equally by the intervening parties. 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 detached facility is to be located, and if there is no such newspaper, then at the county seat of the county in which the facility is proposed to be located. In addition to the publication, the applicant must mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the detached facility, measured in the manner provided in section 47.52.

Subd. 2. **Approval order.** If no objection is received by the commissioner within 21 days after the publication and mailing of the notices, the commissioner shall issue an order approving the application without a hearing if it is found that (a) the applicant bank meets current industry standards of capital adequacy, management quality, and asset condition, (b) the establishment of the proposed detached facility will improve the quality or increase the availability of banking services in the community to be served, and (c) the establishment of the proposed detached facility will not have an undue adverse effect upon the solvency of existing financial institutions in the community to be served. Otherwise, the commissioner shall deny the application. Any proceedings for judicial review of an order of the commissioner issued under this subdivision without a contested case hearing shall be conducted pursuant to the provisions of the administrative procedure act relating to judicial review of agency decisions, sections 14.63 to 14.69, and the scope of judicial review in such proceedings shall be as provided therein. Nothing herein shall be construed as requiring the commissioner to conduct a contested case hearing if no written objection is timely received by the commissioner from a bank within three miles of the proposed location of the detached facility.

Subd. 3. **Objections; hearing.** If any bank within three miles of the proposed location of the detached facility objects in writing within 21 days, the commissioner shall fix a time, within 60 days after filing of the objection, for a hearing, and the record of the hearing shall be considered by the commissioner in deciding whether or not the application shall be granted. A notice of the hearing shall be published in the form prescribed by the commissioner in a newspaper as described in subdivision 1, at the expense of the applicant, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicant and any

witnesses who may appear in favor of or against the granting of the application. The hearing shall be conducted by the commissioner in accordance with the provisions of the administrative procedures act, sections 14.01 to 14.69, governing contested cases, including the provisions of the act relating to judicial review of agency decisions.

Subd. 4. **Decision after hearing.** If upon the hearing, it appears to the commissioner that the requirements for approval contained in subdivision 2 have been met, the commissioner shall, not later than 90 days after the hearing, issue an order approving the application. If the commissioner shall decide that the application should not be granted, the commissioner shall issue an order to that effect and forthwith give notice by certified mail to the applicant.

Subd. 5. **Expiration and extension of order.** If a facility is not activated within 18 months from the date of the order, the approval order automatically expires. Upon request of the applicant prior to the automatic expiration date of the order, the commissioner may grant reasonable extensions of time to the applicant to activate the facility as the commissioner deems necessary. The extensions of time shall not exceed a total of an additional 12 months. If the commissioner's order is the subject of an appeal in accordance with chapter 14, the time period referred to in this section for activation of the facility and any extensions shall begin when all appeals or rights of appeal from the commissioner's order have concluded or expired.

History: *1971 c 855 s 4; 1977 c 378 s 4; 1979 c 64 s 1; 1981 c 220 s 8; 1982 c 424 s 130; 1983 c 247 s 25; 1983 c 250 s 3; 1984 c 576 s 7; 1986 c 444; 1987 c 384 art 2 s 1*

47.55 EXISTING FACILITY.

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

History: *1971 c 855 s 5; 1977 c 378 s 5*

47.56 TRANSFER OF LOCATION.

The location of a detached facility may be transferred to another location, subject to the same procedures and approval as required hereunder for establishing a new detached facility.

History: *1971 c 855 s 6*

47.561 IDENTIFICATION OF DETACHED FACILITY.

A detached facility must be properly identified at its location in a manner which includes the name of the parent bank. A detached facility in existence on March 19, 1982 must comply with this section by December 31, 1982.

History: *1982 c 473 s 7*

47.57 VIOLATION; PENALTIES.

A violation of sections 47.51 to 47.57 shall be subject to penalties applicable to violations of laws affecting banks. In addition, a violation of sections 47.51 to 47.57 may be enjoined by a civil action for injunction by any aggrieved bank.

History: *1971 c 855 s 7*

47.58 REVERSE MORTGAGE LOANS.

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

(a) "Reverse mortgage loan" means a loan:

(1) Made to a borrower wherein the committed principal amount is paid to the borrower in equal or unequal installments over a period of months or years, interest is assessed, and authorized closing costs are incurred as specified in the loan agreement;

(2) Which is secured by a mortgage on residential property owned solely by the borrower; and

(3) Which is due when the committed principal amount has been fully paid to the borrower, or upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the property as principal residence so as to disqualify the property from the homestead credit given in chapter 290A.

(b) "Lender" means any bank subject to chapter 48, savings bank organized and operated pursuant to chapter 50, savings and loan association subject to chapter 51A, or any insurance company as defined in section 60A.02, subdivision 4. "Lender" also includes any federally chartered bank supervised by the comptroller of the currency or federally chartered savings and loan association supervised by the federal home loan bank board, to the extent permitted by federal law.

(c) "Borrower" includes any natural person holding an interest in severalty or as joint tenant or tenant-in-common in the property securing a reverse mortgage loan.

(d) "Outstanding loan balance" means the current net amount of money owed by the borrower to the lender whether or not that sum is suspended pursuant to the terms of the reverse mortgage loan agreement or is immediately due and payable. The outstanding loan balance is calculated by adding the current totals of the items described in clauses (1) to (5) and subtracting the current totals of the item described in clause (6):

(1) The sum of all payments made by the lender which are necessary to clear the property securing the loan of any outstanding mortgage encumbrance or mechanics or material supplier's lien.

(2) The total disbursements made by the lender to date pursuant to the loan agreement as formulated in accordance with subdivision 3.

(3) All taxes, assessments, insurance premiums and other similar charges paid to date by the lender pursuant to subdivision 6, which charges were not reimbursed by the borrower within 60 days.

(4) All actual closing costs which the borrower has deferred, if a deferral provision is contained in the loan agreement as authorized by subdivision 7.

(5) The total accrued interest to date, as authorized by subdivision 5.

(6) All payments made by the borrower pursuant to subdivision 4.

(e) "Actual closing costs" mean reasonable charges or sums ordinarily paid at the time of closing for the following, whether or not retained by the lender:

(1) Any insurance premiums on policies covering the mortgaged property including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance.

(2) Abstracting, title examination and search, and examination of public records related to the mortgaged property.

(3) The preparation and recording of any or all documents required by law or custom for closing a reverse mortgage loan agreement.

(4) Appraisal and survey of real property securing a reverse mortgage loan.

(5) A single service charge, which service charge shall include any consideration, not otherwise specified in this section as an "actual closing cost," paid by the borrower to the lender for or in relation to the acquisition, making, refinancing or modification of a reverse mortgage loan, and shall also include any consideration received by the lender for making a commitment for a reverse mortgage loan, whether or not an actual loan follows the commitment. The service charge shall not exceed one percent of the bona fide committed principal amount of the reverse mortgage loan.

(6) Charges and fees necessary for or related to the transfer of real property securing a reverse mortgage loan or the closing of a reverse mortgage loan agreement paid by the borrower and received by any party other than the lender.

Subd. 2. **Authorization.** Pursuant to rules which the commissioner of commerce

or commissioner of insurance may find to be necessary and proper, if any, and subject to federal laws and regulations, lenders may make investments in reverse mortgage loans and purchases of obligations representing reverse mortgage loans, provided the aggregate total of committed principal of the investment in reverse mortgage loans by any bank, savings bank, or savings and loan association, does not exceed five percent of that lender's total deposits and savings accounts. This limitation shall be determined at each June 30 and December 31 for the following six-month period. Any decline in the total of deposits and savings accounts subsequent to a determination may be disregarded. Security for loans made under this section shall be a first lien on residential property (a) which the borrower occupies as principal residence and which qualifies for homestead classification pursuant to section 273.13, and (b) to which the borrower alone has title.

Subd. 3. **Payment; repayment; amount.** The committed principal amount of a reverse mortgage loan shall be paid to the borrower over the period of months or years as specified in the loan agreement. The borrower and lender may, by written agreement, amend the loan agreement from time to time. Pursuant to the terms of the contract the borrower shall make repayment to the lender:

(a) upon payment to the borrower of the final installment unless, by written agreement between the borrower and lender whereunder the borrower agrees to periodically pay the lender interest accruing on the outstanding loan balance, repayment of the outstanding loan balance is postponed until default in payment of interest or until the occurrence of any of the events specified in clauses (b) to (e);

(b) upon sale of the property securing the loan;

(c) upon the death of the last surviving borrower;

(d) upon the borrower terminating use of the property as principal residence so as to disqualify the property from homestead classification under section 273.13; or

(e) upon renegotiation of the terms of the reverse mortgage loan agreement, unless the parties agree in writing to postpone repayment.

Except as otherwise provided in this subdivision, the outstanding loan balance as projected by the lender to the anticipated time of payment to the borrower of the final installment of committed principal shall not exceed 80 percent of the appraised value of the property at inception of the loan. If upon reappraisal of the property made at any time during the term of the loan, the projected outstanding loan balance does not exceed 70 percent of the reappraised value of the property, the schedule of the lender's installment payments may be extended and the amount of the committed principal amount increased, provided the revised outstanding loan balance at payment of the lender's final installment of committed principal does not exceed 80 percent of the reappraised value of the property.

Subd. 4. **Extension; early repayment.** The installments may be extended by written agreement of the parties and repayment or partial repayment of the outstanding loan balance may be made at any time without penalty, except that partial repayment may be made not more often than once per year and in no amount less than $1,000. The borrower may cancel the reverse mortgage loan at any time without penalty by payment of the outstanding loan balance.

Subd. 5. **Interest.** Notwithstanding the provisions of section 334.01, subdivision 1, lenders may make reverse mortgage loans and purchases of obligations representing reverse mortgage loans, at an interest rate or loan yield not in excess of the maximum lawful interest rate prescribed for conventional loans by section 47.20, subdivision 4a. If section 47.20, subdivision 4a expires, the interest rate last published pursuant to the provisions of section 47.20, subdivision 4a shall be the maximum lawful interest rate for reverse mortgage loans. A contract rate within the maximum lawful interest rate applicable to a reverse mortgage loan at the time the loan is made shall be the maximum lawful interest rate for the term of the reverse mortgage loan.

Notwithstanding the provisions of section 334.01, subdivision 1, a reverse mortgage loan agreement may provide that interest will be added to the outstanding loan

balance monthly as it accrues, with interest accruing on the outstanding loan balance at a rate not to exceed the rate of interest permitted under this subdivision at the time of the signing of the original loan agreement or any subsequent extension agreement.

Subd. 6. **Taxes; insurance.** The borrower shall pay real estate taxes, assessments and insurance premiums on the property securing the loan, and the lender may require the borrower to provide evidence of payment. If the borrower does not make timely payment the lender may pay taxes, assessments, insurance premiums and other similar charges for the protection of the property securing its loan and may add these payments to the outstanding loan balance if not repaid by the borrower within 60 days after the borrower receives notice that the lender has made the payment.

Subd. 7. **Loan closing.** The lender may require the borrower to pay no more than actual closing costs incurred in connection with the making, closing, disbursing or extending of a reverse mortgage loan. A reverse mortgage loan agreement or extension agreement may provide for deferral of payment of any portion of actual closing costs. Deferred closing costs shall be added to the outstanding loan balance as provided in subdivision 1, clause (e). Unless the agreement provides for deferral, actual closing costs shall be paid by the borrower at the time of signing the agreement.

Upon signing a reverse mortgage loan agreement or extension agreement the lender shall furnish to the borrower:

(a) A schedule showing the projected pattern of the outstanding loan balance over the period of the agreement;

(b) A statement indicating in detail the charges and fees the borrower has paid or is obligated to pay to the lender or to any other person in connection with the loan; and

(c) Any other information required by state or federal law.

History: *1979 c 265 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1Sp1985 c 14 art 4 s 5,6; 1986 c 444; 1Sp1986 c 3 art 1 s 7*

ELECTRONIC FUNDS TRANSFER FACILITIES

47.61 ELECTRONIC FUNDS TRANSFER FACILITIES; DEFINITIONS.

Subdivision 1. For the purposes of sections 47.61 to 47.74, unless the context requires otherwise, the following terms shall have the meanings given them.

Subd. 2. "Commissioner" means the commissioner of commerce.

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.

Subd. 4. "Financial institution" means a national banking association, federal savings and loan association, or federal credit union having its main office in this state, or a bank, savings bank, savings and loan association, credit union, industrial loan and thrift company, or regulated lender under chapter 56 established and operating under the laws of this state.

Subd. 5. [Repealed, 1983 c 102 s 3]

Subd. 6. "Retailer" means a person primarily engaged in the business of selling goods or services to consumers or a person who owns or operates a mall area.

Subd. 7. "Transmission facility" means the electronic system which is used to forward from one financial institution, its affiliate, or agent, to one or more financial institutions, their affiliates, or agents, financial transaction data originating from an electronic financial terminal and its attendant support system.

History: *1978 c 469 s 1; 1983 c 252 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1987 c 41 s 1*

47.62 AUTHORIZATION.

Subdivision 1. Any person may establish and maintain one or more electronic financial terminals. Any financial institution may provide for its customers the use of an electronic financial terminal by entering into an agreement with any person who has established and maintains one or more electronic financial terminals if that person authorizes use of the electronic financial terminal to all financial institutions on a nondiscriminatory basis pursuant to section 47.64.

Subd. 2. No electronic financial terminal shall be established by a person other than a federal savings and loan association, federal credit union, or national banking association unless the commissioner has approved the establishment of the terminal.

Subd. 3. Application for authorization shall be made in the manner prescribed by rule. The commissioner shall grant authorization for the establishment of an electronic financial terminal if the commissioner finds that:

(a) There is reason to believe that the terminal will be properly and safely managed;

(b) The applicant is financially sound;

(c) The proposed charges for making the services of the terminal available to financial institutions are fair, equitable, and nondiscriminatory;

(d) The applicant has furnished all of the information required by rule;

(e) The terminal applicant will not gain an unfair competitive advantage because the terminal is not operationally available to other financial institutions or their data processors within a reasonable period of time; and

(f) The location and placement of the electronic financial terminal is not designed to give or promote an unfair competitive advantage to any financial institution.

If the commissioner has not denied the application within 45 days of its submission, the authorization shall be deemed to be granted.

Subd. 4. When more than one electronic financial terminal is established and maintained at a single place of business by the same person, a single application and fee shall be sufficient. For each application, a $100 fee shall be paid to the commissioner, and for each application for a change in pricing structure, a $10 fee shall be paid to the commissioner. If the $100 fee or the $10 fee is less than the costs incurred by the commissioner in approving or disapproving the application, the fee shall be equal to those costs.

History: *1978 c 469 s 2; 1983 c 102 s 1; 1986 c 444*

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: *1978 c 469 s 3; 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.

Subd. 2. If a person establishing and maintaining an electronic financial terminal makes it available for use by one or more federal savings and loan associations or one or more federal credit unions and their customers, the federal savings and loan association or federal credit union shall agree to grant to any financial institution use of all similar devices owned, maintained, or used by it. A state chartered financial institution or a national bank may participate upon contractual agreement in the use of a device which is capable of performing the functions of an electronic financial terminal and is owned or operated by one or more federal savings and loan associations or federal credit unions.

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.

Subd. 5. To insure payment to any person who suffers loss due to negligence or intentional misconduct in the operation of an electronic financial terminal any person seeking to establish an electronic financial terminal shall, at the option of the commissioner, file with the commissioner's office either a financial statement in an acceptable form, or a bond, rider to an existing bond, or other collateral security acceptable to and in an amount set by the commissioner. The commissioner shall permit the filing of a financial statement in lieu of a bond or other security only if the financial statement demonstrates that the person seeking to establish the electronic financial terminal has the financial ability to insure payment to any person who suffers loss due to negligence or intentional misconduct in the operation of the electronic financial terminal. If the filing of a financial statement is permitted, additional periodic financial information shall be filed as required by the commissioner.

Subd. 6. A customer of a bank, savings bank, savings and loan association, or credit union located outside Minnesota may, with the consent of the person establishing an electronic financial terminal, use the terminal for the withdrawal of funds and for the inquiry as to the balance in that customer's accounts maintained with that institution. Nothing in sections 47.61 to 47.74 shall be construed to authorize any person, other than a financial institution, to engage in business which is only legally authorized to be engaged in by financial institutions.

History: *1978 c 469 s 4; 1983 c 102 s 2; 1983 c 250 s 4; 1983 c 252 s 2; 1986 c 444; 1987 c 41 s 3-5*

47.65 TRANSMISSION FACILITY.

Subdivision 1. Any person may establish a transmission facility in this state upon approval by the commissioner pursuant to the provisions of this section. A transmission facility which is used by, or made available to, any financial institution must be made available to all other financial institutions upon request of such financial institution and agreement by the financial institution to pay fees on a fair, equitable and nondiscriminatory basis approved by the commissioner. A person requesting use of a transmission facility shall be permitted its use only if the person conforms to reasonable technical operating standards which have been established by the transmission facility provider as approved by the commissioner. The charges required to be paid to any person establishing a transmission facility shall be related to an equitable proportion of the direct costs of establishing, operating and maintaining such facility plus a reasonable return on those costs to the owner of the facility. The charges may provide for amortization of development costs and capital expenditures over a reasonable period of time.

Subd. 2. Before installation and operation, a transmission facility application shall be submitted to the commissioner on a form provided by the commissioner which states:

(a) The location where the transmission facility will be operated;

(b) The ownership of the transmission facility;

(c) If applicable, the bonding or insurance company which has provided the bond for the transmission facility;

(d) Such other information as the commissioner requires.

If the commissioner finds that (a) the facility will be properly and safely managed, (b) the applicant is financially sound, (c) there is a reasonable probability of success for the facility, (d) the proposed charges for making the services of the facility available to financial institutions are fair, equitable and nondiscriminatory, and (e) all information has been furnished by the applicant, the commissioner shall approve the application within 90 days. If the commissioner has not denied the application within 90 days of the submission of the application, the authorization shall be deemed granted. For each application, a $500 fee shall be paid to the commissioner. For each application for change in pricing structure, a $50 fee shall be paid to the commissioner. If the $500 fee or the $50 fee is less than the costs incurred by the commissioner in approving or disapproving the application, the application fee shall be equal to those costs.

Subd. 3. To insure payment to any person who suffers loss due to negligence or intentional misconduct in the operation of a transmission facility any person seeking to establish a transmission facility shall, at the option of the commissioner, file in the commissioner's office either a financial statement in an acceptable form, or a bond, rider to an existing bond, or other collateral security acceptable to and in an amount set by the commissioner. The commissioner shall permit the filing of a financial statement in lieu of a bond or other security only if the financial statement demonstrates that the person seeking to establish the transmission facility has the financial ability to insure payment to any person who suffers loss due to negligence or intentional misconduct in the operation of the transmission facility. If the filing of a financial statement is permitted, additional periodic financial information shall be filed as required by the commissioner.

History: *1978 c 469 s 5; 1986 c 444*

47.66 EXAMINATION.

An electronic financial terminal or a transmission facility may be examined by the commissioner to the extent permitted by law as to any financial transaction by, with, or involving a financial institution solely for the purpose of reconciling accounts and verifying the security and accuracy of such electronic financial terminals or transmission facilities, including any supporting equipment, structures, or systems. All facts and information obtained in the course of such examination shall not be disclosed except as otherwise provided by law. The person examined shall pay examination fees as determined by the commissioner.

History: *1978 c 469 s 6*

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: *1978 c 469 s 7; 1987 c 41 s 6*

47.68 ELECTRONIC FINANCIAL TERMINAL SECURITY.

Every person establishing and maintaining an electronic financial terminal and every financial institution using an electronic financial terminal shall adopt and maintain safeguards to insure the safety of funds, items, and other information, which safeguards shall include security devices consistent with the appropriate requirements specified under the federal bank protection act of 1968, Public Law Number 90-389, or such alternative security precautions as are approved by the commissioner.

History: *1978 c 469 s 8*

47.69 CONSUMER PRIVACY.

Subdivision 1. To protect the privacy of customers using electronic financial terminals, including any supporting equipment, structures or systems, information received by or processed through such terminals, supporting equipment, structures or systems shall be treated and used only in accordance with applicable law relating to the dissemination and disclosure of such information. The person establishing and maintaining an electronic financial terminal, including any supporting equipment, structures or systems, shall take such steps as are reasonably necessary to restrict disclosure of information to that necessary to complete the transaction and to safeguard any information received or obtained about a customer or that customer's account from misuse by any person staffing an electronic financial terminal, including any supporting equipment, structures or systems.

Subd. 2. The commissioner shall have the authority by rule to require each person operating pursuant to sections 47.61 to 47.74 to supply information to customers using electronic financial terminals of the person's consumer protection policies including the rights and liabilities of the consumer and protection against wrongful and unnecessary or accidental disclosure of confidential information.

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.

Subd. 4. No person's social security number shall be used as the personal identification number or as any code to activate any electronic financial terminal.

Subd. 5. Any customer of a financial institution may bring a civil action against any person violating any subdivision of this section in the district court in the county of the alleged violator's residence or principal place of business or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages, or $500, whichever is greater, punitive damages when applicable, together with the court costs and reasonable attorneys' fees incurred by the plaintiff. The court may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations.

Subd. 6. Every financial institution using an electronic financial terminal shall provide its customers a receipt or record of each transaction initiated at the terminal, and shall provide its customers a transaction statement at least quarterly specifying types, dates, and amounts of all electronic financial terminal transactions for the previous statement period.

History: *1978 c 469 s 9; 1986 c 444; 1987 c 349 art 1 s 10*

47.70 ANTITRUST.

No person engaged in electronic financial terminal or transmission facility activities shall contract, combine, or conspire to restrain trade in the market for electronic financial terminals, or engage in any anticompetitive practices to the detriment of the public interest. Notwithstanding section 325D.55, subdivision 2, the provisions of sections 325D.49 to 325D.66 shall apply to persons engaged in electronic financial terminal or transmission facility activities.

Nothing in sections 47.61 to 47.74 shall operate or be construed to create an exception to the antitrust laws of the United States for any contract or combination required or authorized by sections 47.61 to 47.74.

History: *1978 c 469 s 10*

47.71 RULES.

Subdivision 1. The commissioner may promulgate such rules as are reasonably necessary to carry out and make effective the provisions and purposes of sections 47.61 to 47.74.

Subd. 2. The commissioner may adopt emergency rules pursuant to sections 14.28 to 14.35, to implement the provisions of sections 47.61 to 47.74.

History: *1978 c 469 s 11; 1980 c 486 s 1; 1982 c 424 s 130; 1984 c 640 s 32*

47.72 CEASE AND DESIST ORDER; INJUNCTION; PENALTIES.

Subdivision 1. If the commissioner determines that a person, other than a national bank, federal savings and loan association, or federal credit union, is violating or about to violate sections 47.61 to 47.74 or any rule promulgated thereunder or is engaged or about to engage in an unsafe, unsound, unfair, or discriminatory practice, the commissioner may:

(a) issue and serve on such person a cease and desist order which shall become effective at the time specified therein, and remain effective and enforceable as provided therein, except to the extent that it is stayed, modified, terminated, or set aside by action of the commissioner or review in court;

(b) serve notice on such person who has established and maintains a transmission facility or an electronic financial terminal of intent to revoke or suspend its approval to establish and maintain the transmission facility or electronic financial terminal.

When acting pursuant to this subdivision, the commissioner shall furnish the person against whom the action is being taken with a statement of alleged violations or practices.

Subd. 2. If the violation or the unsound, unsafe, unfair or discriminatory practice continues 15 days after service of a notice of intention to revoke or suspend a person's approval to establish and maintain a transmission facility or electronic financial terminal, the commissioner may revoke or suspend such approval.

Subd. 3. The commissioner may bring an action in district court to enjoin violations of sections 47.61 to 47.74 or any rule promulgated thereunder, or to enforce compliance with the provisions of sections 47.61 to 47.74 or any rule promulgated thereunder, and may refer the matter to the attorney general. The court may also impose a penalty not exceeding $5,000 per violation.

History: *1978 c 469 s 12; 1985 c 248 s 70; 1986 c 444*

47.73 HEARING.

Any person aggrieved with a cease and desist order, revocation, suspension, or denial of an application to establish an electronic financial terminal or transmission facility may request a hearing. Within seven days after receipt of a written request with respect to a cease and desist order, revocation, or suspension, or 45 days with respect to a denial of an application, the commissioner shall hold a formal hearing which shall be conducted pursuant to chapter 14. No revocation or suspension shall be effective

until after a hearing if a hearing is requested. Notwithstanding section 14.53, all costs of the hearing shall be paid by the aggrieved party.

History: *1978 c 469 s 13; 1982 c 424 s 130*

47.74 FEDERAL INSTITUTIONS; APPLICATION.

The provisions of sections 47.61 to 47.74 shall apply to national banks, federal savings and loan associations, and federal credit unions to the extent permitted by federal law.

History: *1978 c 469 s 14*

47.75 LIMITED TRUSTEESHIP.

Subdivision 1. **Retirement accounts.** A commercial bank, savings bank, savings, building and loan association, credit union, or industrial loan and thrift company may act as trustee or custodian under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended, and also under the Federal Employee Retirement Income Security Act of 1974, as amended. The trustee or custodian may accept the trust funds if the funds are invested only in savings accounts or time deposits in the commercial bank, savings bank, savings, building and loan association, credit union, or industrial loan and thrift company. All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

Subd. 2. [Repealed, 1984 c 576 s 27]

History: *1982 c 473 s 8; 1984 c 473 s 1*

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*