

## CHAPTER 46

### GENERAL BANKING POWERS

46.044 Charters issued, conditions.  
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#### 46.044 CHARTERS ISSUED, CONDITIONS.

Subdivision 1. **Charters issued, conditions.** If (1) the applicants are of good moral character and financial integrity, (2) there is a reasonable public demand for this bank in this location, (3) the organization expenses being paid by the bank do not exceed those allowed by section 46.043, (4) the probable volume of business in this location is sufficient to insure and maintain the solvency of the new bank and the solvency of the then existing bank or banks in the locality without endangering the safety of any bank in the locality as a place of deposit of public and private money, (5) the commissioner of commerce is satisfied that the proposed bank will be properly and safely managed, (6) the commissioner is satisfied that the capital funds required pursuant to section 48.02 are available and the commissioner may accept any reasonable demonstration including subscription agreements supported by current financial statements, and (7) the applicant, if it is an interstate bank holding company, as defined in section 48.92, has provided developmental loans as required by section 48.991, and has complied with the net new funds reporting requirements of section 48.93, the application must be granted; otherwise it must be denied. In case of the denial of the application, the commissioner of commerce shall specify the grounds for the denial. A person aggrieved, may obtain judicial review of the determination in accordance with chapter 14.

Subd. 2. **Expiration and extension of order.** If a bank charter 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 bank charter and any extensions shall begin when all appeals or rights of appeal from the commissioner's order have concluded or expired.

**History:** 1993 c 257 s 2

#### 46.045 MANDATORY INSURANCE OF ACCOUNTS.

*[For text of subds 1 to 3, see M.S.1992]*

Subd. 4. **Deposit insurance.** In any case where Minnesota Statutes require, either generally or by reference to a specific program, that deposits in any financial institution be insured, the requirement shall be deemed satisfied if the deposits are insured in the requisite amount by an agency of the federal government insuring deposits.

**History:** 1993 c 257 s 3

#### 46.048 NOTICE OF PROPOSED ACQUISITION.

Subdivision 1. **Requirement.** Whenever a change in the outstanding voting stock of a banking institution will result in control or in a change in the control of the banking institution, the person acquiring control of the banking institution shall file notice of the proposed acquisition of control with the commissioner of commerce at least 60 days before the actual effective date of the change. As used in this section, the term "control" means the power to directly or indirectly direct or cause the direction of the manage-

ment or policies of the banking institution. A change in ownership of capital stock that would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of less than 25 percent of the outstanding capital stock is not considered a change of control. If there is any doubt as to whether a change in the outstanding voting stock is sufficient to result in control or to effect a change in the control, the doubt shall be resolved in favor of reporting the facts to the commissioner. The commissioner shall use the criteria established by the Financial Institution Regulatory and Interest Rate Control Act of 1978, United States Code, title 12, section 1817(j), and the regulations adopted under it, when reviewing the acquisition and determining if the acquisition should or should not be disapproved.

Subd. 2. [Repealed, 1993 c 257 s 49]

*[For text of subd 3, see M.S.1992]*

**History:** 1993 c 257 s 4

#### **46.09 DEPARTMENT OF COMMERCE EXAMINERS OR EMPLOYEES NOT TO MAINTAIN INTEREST IN SUPERVISED INSTITUTIONS.**

**Subdivision 1. Prohibition.** No person who is an examiner of financial institutions or other officer of the department of commerce directly responsible for the supervision of financial institutions shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in a bank, savings bank, trust company, financial institution, or corporation holding the stock of any such corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. The provisions of this subdivision do not apply to the commissioner of commerce.

**Subd. 2. Exceptions.** Officers and examiners of the department of commerce referred to in subdivision 1 may:

- (1) maintain a demand or trust account in any financial institution;
- (2) maintain a savings, time or share account in any financial institution;
- (3) transact business with any national bank, federally chartered savings and loan association or federally chartered credit union;
- (4) transact business with any financial institution or licensee subject to the examination by the commissioner of commerce to the extent the transaction is on the same terms, conditions and to the same extent available to all other customers of the financial institution or licensee.

**Subd. 3. Loans and credit advances.** The exceptions created in subdivision 2 do not include a loan or advance of credit from a financial institution or licensee subject to examination by the commissioner of commerce. A transaction not specifically exempt by subdivision 2, clauses (1) to (3), is subject to disclosure to the commissioner of commerce upon request to determine if a conflict of interest exists or interest contemplated by subdivision 1.

**Subd. 4. Application.** This section applies to those employees, examiners, and officers of the department of commerce who are directly responsible for the examination and supervision of financial institutions or licensees.

**History:** 1993 c 257 s 5