

CHAPTER 47

FINANCIAL CORPORATIONS

47.0156	Closing effecting a permanent cessation of business.	47.52	Authorization.
47.016	Disposition of credit insurance income.	47.54	Notices and approval procedures.
47.096	Time deposits; notice of automatic renewal.	47.55	Existing banking facilities or branches of savings associations.
47.20	Use of federal acts; definitions; interest rates; required provisions; interest on escrow accounts.	47.56	Transfer of location.
		47.58	Reverse mortgage loans.
		47.78	Contracts to accept and receive deposits-honor and pay withdrawals.

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 90 days' written notice is given to the commissioner.

History: 1993 c 257 s 6

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, accident and health insurance, and credit involuntary unemployment 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.

[For text of subds 2 and 3, see M.S.1992]

History: 1993 c 343 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. In lieu of complying with the provisions of this section, a financial corporation may comply with the requirements of the Federal Truth in Savings Act and regulations, notwithstanding whether or not that act or those regulations apply to the deposit.

History: 1993 c 257 s 7

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

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

Subd. 4a. **Maximum interest rate.** (a) 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 in an amount equal to the Federal National Mortgage Association posted yields on 30-year mortgage commitments for delivery within 60 days on standard conventional fixed-rate mortgages published in the Wall Street Journal for the last business day of the second preceding month plus four percentage points.

(b) 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.

(c) The maximum interest rate that can be charged on a conventional loan or a contract for deed, with a duration of ten years or less, for the purchase of real estate described in section 83.20, subdivision 13, is three percentage points above the rate permitted under paragraph (a) or 15.75 percent per year, whichever is less. This paragraph is effective August 1, 1992.

(d) 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: (1) an existing conventional or cooperative apartment loan, (2) 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 (3) 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 paragraph (b) 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.

(e) 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.

[For text of subds 4b to 14, see M.S.1992]

History: 1993 c 257 s 8

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, 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, or for municipalities located in the seven-county metropolitan area from the metropolitan council, 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 paragraph 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 paragraph (b) and section 47.53.

History: 1993 c 257 s 9

47.54 NOTICES AND APPROVAL PROCEDURES.

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

Subd. 4. Hearing. In any case in which the commissioner grants a request for a hearing, the commissioner shall fix a time for a hearing conducted pursuant to chapter 14 to decide whether or not the application will be granted. A notice of the hearing must be published by the applicant in the form prescribed by the commissioner in a qualified newspaper published in the municipality in which the proposed detached facility is to be located, and if there is no such newspaper, then in a qualified newspaper likely to give notice in the municipality in which the proposed detached facility is to be located. The notice must be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicants and witnesses that appear in favor of or against the granting of the application of the proposed detached facility. If an application is contested and a hearing is granted, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the commissioner of commerce to be deposited in the general fund, must be paid by the applicant and 50 percent equally by the intervening parties.

[For text of subds 5 and 6, see M.S.1992]

History: 1993 c 257 s 10

47.55 EXISTING BANKING FACILITIES OR BRANCHES OF SAVINGS ASSOCIATIONS.

Subdivision 1. Banking facilities in operation prior to May 1, 1971. 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 sec-

tion 47.52. A bank having such a retained detached facility shall be limited to operating five additional detached facilities.

[For text of subd 2, see M.S.1992]

History: 1993 c 257 s 11

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, except that the relocation of a detached facility within a municipality of 10,000 or less population shall not require consent of other banks required in section 47.52.

History: 1993 c 257 s 12

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, credit union subject to chapter 52, 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 or federally chartered credit union supervised by the National Credit Union Administration, 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 mortgage loan 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.

[For text of subs 2 to 8, see M.S.1992]

History: 1993 c 257 s 13

47.78 CONTRACTS TO ACCEPT AND RECEIVE DEPOSITS-HONOR AND PAY WITHDRAWALS.

- (a) Notwithstanding any other law to the contrary, a financial institution, the "customer institution," may contract with another financial institution, the "service institution," to grant the service institution the authority to render services to the customer institution's depositors, borrowers or other customers, provided notice of the proposed contract is given to the commissioner and the commissioner does not object to the contract within 30 days of the notice.
- (b) For purposes of this section: "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 or credit union established and operating under the laws of this state; and "services" means accepting and receiving deposits, honoring and paying withdrawals, issuing money orders, cashiers' checks, and travelers' checks or similar instruments, cashing checks or drafts, receiving loan payments, receiving or delivering cash and instruments and securities, disbursing loan proceeds by machine, and any other transactions authorized by section 47.63.
- (c) A contract entered into pursuant to this section may include authority to conduct transactions at or through any principal office, branch, or detached facility of either financial institution which is a party to the contract, and the service institution is not considered a branch of the customer institution for purposes of section 48.34.

History: 1993 c 52 s 1