

## CHAPTER 48

## BANKS, TRUST COMPANIES

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**48.04 INCREASE AND REDUCTION OF CAPITAL.**

No increase or reduction of the capital of any banking institution shall be valid until the entire new capital has been paid in cash, and certified to the commissioner under oath of the president, vice-president, or cashier. The commissioner shall thereupon issue a certificate of that fact and of approval thereof. No reduction of the surplus of any banking institution shall be valid until such reduction has been approved by the commissioner of commerce. No reduction shall affect the liability of any stockholder for any indebtedness incurred prior thereto.

**History:** 1993 c 257 s 14

**48.05 CAPITAL NOT TO BE WITHDRAWN; DIVIDENDS.**

No portion of the capital or surplus of any banking institution shall ever be withdrawn by any person or in any way, either in dividends or otherwise, except upon reduction as provided by law. No dividend on common stock shall be made except as provided in section 48.09.

**History:** 1993 c 257 s 15

**48.09 DIVIDENDS; SURPLUS.**

At the end of each dividend period, after deducting all necessary expenses, losses, amounts receivable more than one year overdue and not well secured, interest, and taxes due or levied, all of the remaining net profits for the period shall be set aside as a surplus fund, if the surplus fund of the banking institution is not then equal to one-fifth of the capital stock. If the surplus fund is more than one-fifth of the capital stock, ten percent of the remaining net profits for the period shall be set aside as a surplus fund until it equals 50 percent of the capital stock. The directors may then declare a dividend of so much of the remainder as they may think expedient, subject to the commissioner's approval. When in any way impaired the surplus fund shall be raised to this percentage in like manner.

**History:** 1993 c 257 s 16

**48.185 OPEN END LOAN ACCOUNT ARRANGEMENTS.**

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

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

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

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

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

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

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

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

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

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

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

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

*[For text of subds 5 to 7, see M.S.1992]*

**History:** 1993 c 343 s 2

#### **48.194 INSTALLMENT SALES CONTRACTS; LOANS.**

A person may enter into a credit sale or service contract for sale to a state or national bank doing business in this state, and a bank may purchase and enforce the contract under the terms and conditions set forth in section 51A.385, subdivisions 2 and 5 to 13. A state bank or national bank may extend credit pursuant to the terms and conditions set forth in section 51A.385.

**History:** 1993 c 257 s 17

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

Subdivision 1. The total liabilities to any such bank, as principal, guarantor or endorser of any individual, including the liabilities of any corporation or limited liability company which the individual owns or controls a majority interest, any partnership, unincorporated association, limited liability company, or corporation, including the liabilities of the several members of an unincorporated association and including the liabilities of the general partners but not the limited partners of a partnership, and in case of a corporation or limited liability company of all subsidiaries thereof in which such corporation or limited liability company owns or controls a majority interest, shall never exceed 20 percent of its capital actually paid in cash and of its actual surplus fund, except that obligations not to exceed 25 percent of said capital and surplus to any one borrower shall not be included as liabilities for the purposes of this section, but shall be liabilities of the borrowers, provided they are secured by not less than a like amount of any one of the various types of obligations of the United States or which are fully guaranteed as to principal and interest by the United States, and providing that such bonds or obligations have a market value of at least ten percent in excess of the amount loaned thereon at the time each loan is made.

For the purpose of this section the members of a family living together in one household, if borrowed funds are to be used in the conduct of a common enterprise, shall be regarded as one person and the total liabilities of the members of the family shall be limited as herein provided. The endorser or guarantor of any obligation which is exempt from loaning limits according to the provisions of this section shall also be exempt from such loaning limits to the extent of the amount of liability on such obligations for the purposes of this section but shall be liable thereon. Individual extensions of credit which result in liabilities of individuals, corporations, or limited liability com-

panies exceeding the limitations set forth in this section shall be construed to conform to the provisions of this subdivision upon reduction in an amount sufficient to reduce the total liability to not more than the legal amount, but until paid in full shall not exempt the officer or employee of the bank from being personally liable to the bank for the amount of the original excess portion of the loan as set forth in subdivision 8.

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

Subd. 4. [Repealed, 1993 c 257 s 49]

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

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

*[For text of subd 7a, see M.S.1992]*

Subd. 8. When a bank shall allow any individual, partnership, limited liability company, unincorporated association, or corporation, or any officer or director of the bank, to become indebted to it, directly or indirectly, in excess of the amount, exclusive of interest permitted by the laws of this state, the officer or employee of the bank willfully permitting or approving the loan shall be guilty of a gross misdemeanor and, in addition thereto, shall be personally liable to the bank for the amount of the loan in excess of the statutory limit.

**History:** 1993 c 137 s 1-3; 1993 c 257 s 18-20

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

*[For text of subd 1, see M.S.1992]*

Subd. 2. Any such bank or trust company may invest not to exceed five percent of its capital and surplus in shares of stock in small business investment companies organized under the provisions of the small business investment act of 1958.

Subd. 3. The bank or trust company may invest not to exceed ten percent of its capital and surplus in shares of stock in any banks or bank holding companies wherein the stock of the banks or bank holding companies is (1) owned exclusively by bank holding companies or banks, and (2) at least 51 percent of the voting stock is owned or controlled by bank holding companies or banks authorized to do business in the state of Minnesota.

Subd. 4. Any such bank or trust company may make equity or debt investments in limited partnerships, limited liability companies, corporations, or projects designed primarily to promote community welfare, such as the rehabilitation or development of economically depressed residential, commercial, or industrial areas. A bank or trust company investment in any one limited partnership, limited liability company, corporation, or project shall not exceed five percent of its capital and surplus and its aggregate investment in all such limited partnerships, limited liability companies, corporations, or projects shall not exceed ten percent of its capital and surplus.

*[For text of subds 5 to 8, see M.S.1992]*

**History:** 1993 c 257 s 21-23

**48.64 DEPOSITS OF TRUST FUNDS.**

Any person, firm, or corporation appointed by a court of competent jurisdiction as representative of the estate of a deceased person, or as guardian, or any trustee of a firefighters' relief association, or any referee, receiver, or trustee appointed by a court of record in this state, may deposit funds for safekeeping and disbursing, unless otherwise directed by the court, in any bank, credit union, if the beneficial owner is a member, or trust company, however organized, the deposits of which are insured, in whole or in part, by an agency of the federal government insuring deposits, to the extent that the funds so deposited are fully insured.

**History:** 1993 c 257 s 24

**48.86 TRUST FUNDS; INVESTMENT OF ACCUMULATIONS.**

Any amount not less than \$500 received by any trust company as executor, administrator, guardian, or other trustee, or by order of court, not required for the purposes of such trust, or not to be accounted for within one year, it shall invest as soon as practicable in authorized securities either then held by it or specially procured by it; and the income, less its proper charges, shall become part of the trust estate, and the net accumulations thereon shall be likewise invested, accounted for, and allowed in the settlement of such trust.

Except as may be otherwise provided in the governing will, trust agreement, court order or other instrument, any amount in a trust account may be invested in certificates of deposit, share certificates, or savings accounts in any bank or banks, or credit union, if the beneficial owner is a member, provided that such certificates of deposit, share certificates, or savings accounts are fully insured by an agency of the federal government insuring deposits and receive the prevailing rate of interest on such certificates or savings accounts.

**History:** 1993 c 257 s 25