

CHAPTER 333—S. F. No. 1102

An act relating to the sale or offer for sale of securities; the registration of securities, and the licensing of persons selling or offering securities for sale; amending Minnesota Statutes 1961, Sections 80.01, Subdivisions 7, 11, and 12; 80.05, Subdivision 9, as amended; 80.06, as amended; 80.09, Subdivision 2; 80.13; and 80.20, as amended; and repealing Minnesota Statutes 1961, Section 80.01, Subdivision 5.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1961, Section 80.01, Subdivision 7, is amended to read:

Subd. 7. **Securities; regulation; agent.** “Agent” means and includes every person, other than a ~~broker, or dealer broker-dealer,~~ employed, appointed, or authorized by an issuer, ~~dealer, broker broker-dealer,~~ or owner to sell securities. The term “agent” shall not include the partners of a partnership or officers of a corporation or an association licensed as a ~~broker, or a dealer broker-dealer,~~ or for whom securities are registered. The term “officers,” as used in this subdivision, shall not include the directors of a corporation.

Sec. 2. Minnesota Statutes 1961, Section 80.01, Subdivision 11, is amended to read:

Subd. 11. **Broker-dealer.** ~~“Dealer”~~ *“Broker-dealer”* means and includes every person who engages or professes to engage in selling, *either for all or part of his time,* directly or through an agent in the course of continued and successive sales any securities of which he is not the issuer for another, *on an agency basis,* or who purchases and acquires for himself or another any securities of which he is not the issuer for the purpose of reselling the same to others, and of buying, selling, or otherwise dealing or trading in such securities for himself or for another.

Sec. 3. Minnesota Statutes 1961, Section 80.01, Subdivision 12, is amended to read:

Subd. 12. **Investment adviser.** “Investment adviser” means and includes any person other than a ~~licensed broker or licensed dealer licensed broker-dealer,~~ who, for compensation, engages in the business of advising others, except persons to whom sales are exempted by section 80.06, ~~clause (7) subdivision 8,~~ either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities. This term shall not be construed to include a bank, trust company, or licensed practicing attorney whose performance of such

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services is solely incidental to the practice of his profession, or such other persons, not within the intent of this subdivision, as the commission may designate by rules and regulations or order.

Sec. 4. Minnesota Statutes 1961, Section 80.05, Subdivision 9, as amended by Laws 1963, Chapter 73, Section 2, and Laws 1963, Chapter 538, Section 1, is amended to read:

Subd. 9. Any security issued by a *savings*, building and loan association organized under the laws of this state.

Sec. 5. Minnesota Statutes 1961, Section 80.06, as amended by Laws 1963, Chapter 73, Section 3, is amended to read:

80.06 Sales exempted from operation of law. *Subdivision 1.* The provisions of sections 80.05 to 80.27, except as herein expressly provided, shall not apply to sales of the ~~following~~ character: *set forth in this section.*

(1) *Subd. 2.* Any isolated sales of any securities by the issuer or owner thereof, or by a representative for the account of such issuer or owner, such sales not being made in the course of repeated and successive sales of securities of the same issue by such issuer or owner or by such representative for the account of such issuer or owner. This exception shall not be deemed to exempt a ~~broker broker-dealer~~ or a ~~broker's broker-dealer's~~ agent from the requirement of obtaining a license as herein provided. In any complaint, information, or indictment charging a sale in violation of sections 80.05 to 80.27, it shall not be necessary to specifically name or identify persons, other than the complainant, to whom like sales have been made but it shall be sufficient to sustain the same upon the demurrer or motion for dismissal before trial if it alleges that such sale was made in the course of repeated and successive sales of the same issue.

(2) *Subd. 3.* Any sale of notes or bonds secured by a mortgage lien when the entire lien together with all notes or bonds secured thereby are sold to a single purchaser at a single sale.

(3) *Subd. 4.* Any judicial sale, exchange, or issuance of securities made pursuant to an order of a court of competent jurisdiction in this state.

(4) *Subd. 5.* The distribution by a corporation of its or other securities to its own security holders as a stock dividend or as a dividend from earnings or surplus or as a liquidating distribution.

(5) *Subd. 6.* Any subscription for securities when no cash or other consideration is paid by, or agreed to be paid by, the pur-

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chaser prior to the registration of the securities; provided, that all such subscriptions are expressly conditioned upon the registration of such securities within one year from the date of such subscription and otherwise to be null and void; *provided, further, that the commissioner of securities has been furnished with a general description of the transaction and with such other information as he may prescribe by rules and regulations.*

(6) *Subd. 7.* The sale, by a pledge holder or mortgagee selling in the ordinary course of business at public or private sale, of a security pledged with him in good faith as a security for a bona fide debt.

(7) *Subd. 8.* The sale to any licensed broker or licensed dealer *licensed broker-dealer* or to any bank or financial institution under the supervision of an instrumentality or officer of the United States or of the commissioner of banks or of the commissioner of insurance of this state.

(8) *Subd. 9.* The exchange of securities by the issuer thereof with its own security holders without any other consideration from such security holders and where no commission or other remuneration is to be paid to any one for effecting such exchanges; provided that the offer of exchange is filed with the commission at least ten days prior to the making thereof with the fee of \$10 required by section 80.20, clause (6) (5).

(9) *Subd. 10.* The solicitation or execution of any orders by a licensed dealer or a licensed broker *licensed broker-dealer* for the purchase or sale of any security; provided, that such dealer or broker *broker-dealer* acts as agent for the purchaser or seller, and has no direct material interest in the sale or distribution of such security, receives no commission, profit, or other compensation from any source other than the purchaser or seller and delivers to the purchaser or seller written confirmation of the transaction which clearly itemizes his commission, or other compensation.

(10) *Subd. 11.* The solicitation and sale by any corporation of its securities to its security holders where a pro rata offering is made only to its security holders pursuant to a specific plan adopted by the corporation, or where such offer is required pursuant to preemptive rights of such security holders either by operation of law in the state in which such corporation is organized or pursuant to the charter or articles of such corporation, provided that no commission is paid for the sale of such securities, and provided that no such solicitations shall be made unless:

(a) Such issuer, prior to any such solicitation, shall file with the commission detailed information concerning such solicitation and

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sale and such further information, statements, copies of papers and instruments as the commission may require in order to determine whether or not the proposed sale of securities may be unfair, inequitable or fraudulent, or whether or not registration of such securities under section 80.08 or 80.09 is necessary or appropriate in the public interest or for the protection of investors, and

(b) The commission shall have advised such issuer in writing that the proposed solicitation and sale constitute exempt transactions under this ~~subsection~~ *subdivision*.

~~(11)~~ *Subd. 12.* The issue and delivery of any security of the same issuer pursuant to a right of conversion entitling the holder of the security surrendered in exchange to make such conversion; provided, that the security so surrendered has been registered under the law or was, when sold, exempt from the provisions of the law.

~~(12)~~ *Subd. 13.* The sale of any cooperative association of its own securities to its patrons when all or substantially all of the consideration is comprised of patronage refunds accruing to the purchaser on business transacted with the issuer.

~~(13)~~ *Subd. 14.* The sale by a licensed ~~dealer or broker~~ *broker-dealer*, acting either as principal or agent, of securities theretofore sold and distributed to the public, provided that:

(a) Such securities are sold at prices reasonably related to the current market price thereof at the time of sale and if such ~~dealer or broker~~ *broker-dealer* is acting as agent, that the commission collected by such ~~dealer or broker~~ *broker-dealer* on account of the sale thereof is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics; and

(b) Such securities do not constitute an unsold allotment to or subscription by such ~~dealer~~ *broker-dealer* as a participant in the distribution of such securities by the issuer or by or through an underwriter; and

(c) Either Moody's, Fitch's, or Standard and Poor's securities manuals, or other recognized securities manuals approved by the commissioner of securities contain the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than 18 months prior to the date of such sale, and a profit and loss statement of issuer for the fiscal year preceding the date of such balance sheet; and

(d) Such securities would qualify for registration by notification pursuant to the provisions of section 80.09; and

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(e) Such securities are limited to issuers organized under the laws of any state or territory or insular possession of the United States.

~~(14)~~ *Subd. 15.* The issuance and delivery of any securities of one corporation to the security holders of another corporation in exchange for all or substantially all of the assets of such other corporation, or in connection with a consolidation or merger of such corporation, *provided, that the commissioner of securities has been furnished with a general description of the transaction and with such other information as he may prescribe by rules and regulations.*

Subd. 16. The commissioner may, by written order or regulation, suspend or wholly revoke the exempt status of any sales or class of sales exempted by this section or may require, prior to the making of any such sales or class of sales, such information with respect thereto or the security to be sold thereunder, or such reports after the making of such sale, as the commissioner may deem necessary to enable him to determine whether or not he should suspend or revoke the exempt status of such sales or class of sales.

Sec. 6. Minnesota Statutes 1961, Section 80.09, Subdivision 2, is amended to read:

Subd. 2. **Kinds of securities.** The securities which may be registered by notification are as follows.

(1) **Securities secured by first mortgage on real estate.** Any notes or bonds secured by a first mortgage or deed of trust upon real estate or leaseholds on real estate (not including oil, gas or mining property) situated in any state or territory of the United States or in the District of Columbia or in the Dominion of Canada.

(a) When the mortgage is upon agricultural lands used and valuable principally for agricultural purposes and the aggregate face value of the notes or bonds covered by such notification together with all notes or bonds already outstanding and equally secured by such mortgage does not exceed 70 percent of the then fair market value of said lands, including any improvements appurtenant thereto.

(b) When the mortgage is upon city or village real estate or leaseholds and the aggregate face value of the notes or bonds covered by such notification together with all notes or bonds outstanding and equally secured by such mortgage does not exceed 70 percent of the then fair market value of the real estate or leaseholds, including any improvements appurtenant thereto, and when the mortgaged property is used principally to produce through rental a net annual income, after deducting operating expenses and taxes, or has

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a fair rental value after deducting operating expenses and taxes, at least equal to the annual interest on such aggregate face value of notes or bonds plus not less than three percent of the principal of the mortgage indebtedness.

(c) When the mortgage is upon city or village real estate or leaseholds upon which real estate or leaseholds a building or buildings is or are about in good faith forthwith to be erected according to the expressed terms of the mortgage and when reasonable adequate provision has been made for financing the full completion of the building free and clear of any lien superior to the mortgage, and the aggregate face value of the notes or bonds covered by such notification together with all notes or bonds outstanding and equally secured by such mortgage does not exceed 70 percent of the fair market value of such mortgaged property, including the building or buildings to be erected thereon, as aforesaid, and when the mortgaged property is to be used principally to produce through rental a net annual income, after deducting operating expenses and taxes, or will have a fair rental value after deducting operating expenses and taxes, at least equal to the annual interest on such aggregate face value of notes or bonds plus not less than three percent of the principal of the mortgage indebtedness.

(2) **Securities of business having certain qualifications.** Securities issued by any person who, at the time of the notification, owns a property, business, or industry which has been in continuous operation, either under a single ownership or under several ownerships for not less than five years next preceding the filing of the notification, and which property, business, or industry has shown, during a period of not less than three years or more than ten years next prior to the close of its fiscal year next preceding such notification, average annual net earnings, *after income taxes*, determined in accordance with accepted accounting practices, after deducting all ~~prior~~ charges, excepting the charges and fixed dividends upon any securities to be retired out of the proceeds of such sale, and assets (not including patents, copyrights, secret processes, formulas, good will, trade-marks, trade brands, franchises, and other like intangible property), as of the close of its fiscal year next preceding such notification, together with the proceeds of the sale of such securities accruing to the issuer, as follows:

(a) In the case of interest-bearing securities, not less than one and one-half times the annual interest charge thereon and upon all other outstanding interest-bearing obligations of equal rank, and assets at least equal to 125 percent of the face value of such interest-bearing securities, and all other obligations of equal or prior

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rank outstanding and not to be retired out of the proceeds of the sale of such securities.

(b) In the case of preferred stock, not less than one and one-half times the annual dividend on such preferred stock and on all other outstanding stock of equal rank, and assets at least equal to 125 percent of the par value of the aggregate amount of such preferred stock and all other outstanding preferred stock of equal rank, after the deduction from such assets of all indebtedness, which will be existing and all stock of senior rank which will be outstanding after the application of the proceeds of the preferred stock offered for sale.

(c) In the case of common stock, not less than four percent upon all outstanding common stock of equal rank together with the amount of common stock then offered for sale, all reckoned upon the price at which the stock is then offered for sale or sold.

For the purpose of registering under this subsection securities of any issuer owning more than 50 percent of the outstanding voting stock of a subsidiary company, such issuer shall be deemed to be the owner of the business of the subsidiary company, and the earnings of the subsidiary company applicable to the payment of dividends upon all stock of the subsidiary company owned by such issuer shall be considered as earnings of such issuer.

(3) **Certain seasoned securities.** (a) Securities which have been outstanding more than five years, which have a fixed interest or dividend rate, as to which no default exists or has existed for five years, and the issuer of which, as of the close of its fiscal year next preceding such notification, has, in the case of interest-bearing securities, assets (not including patents, copyrights, secret processes, formulas, good will, trade-marks, trade brands, franchises, and other like intangible property), at least equal to 125 percent of the face value of such securities and all other securities of the issuer of equal or prior rank thereto, and, in the case of dividend bearing securities, assets, as above defined, after deducting therefrom all indebtedness of the issuer, at least equal to 125 percent of the par or liquidating value, whichever is greater, of such securities and all other capital shares of the issuer of equal or prior rank thereto.

(b) Capital shares which have been outstanding more than five years, which have no fixed dividend charge, and the issuer of which has had, during a period of five years next prior to the close of its last fiscal year next preceding such notification, average annual net earnings available for dividends thereon, determined according to sound accounting practice, at least equal to four percent upon all of

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the outstanding issue of which the shares are a part, reckoned upon the price at which the shares are proposed to be sold. The provisions of clause (2) with respect to the ownership by an issuer of stock of a subsidiary company shall be applicable to this clause (3).

The commission shall have the same powers and duties with respect to a notification under any of the subdivisions of this section as it has with respect to an application. If no action is taken by the commission with respect to a notification within 48 hours after the filing thereof, the securities covered thereby shall become registered, subject to the terms of the notification, provided that the commission may, within that period, extend the same for such reasonable time as it deems necessary or may, within such 48-hour period, or any extension thereof, require the registration to be made by application notwithstanding that it would otherwise be registerable by notification, and in such event all provisions with respect to registration by application shall apply. Notice of any such extension of time or of such requirement of registration by application shall be deemed to have been given when deposited in the post office in and for the city of St. Paul addressed to the person giving such notification, first-class postage prepaid thereon, or when filed with a telegraph company in that city addressed to such person and sent collect or prepaid. In the event that the commission shall so require registration to be made by application, the applicant may withdraw such notification, and in such event the entire fee paid by the applicant, except the sum of \$10, shall be returned to the applicant.

Sec. 7. Minnesota Statutes 1961, Section 80.13, is amended to read:

80.13 **Agents, licenses.** No agent shall offer for sale or sell any securities unless or until he shall have been licensed as hereinafter required; provided that this section shall not apply to an agent of an issuer selling securities exempted under section 80.05, or selling securities in a manner exempted under section 80.06. No agent, except one appointed or employed by a ~~licensed broker or licensed dealer~~ *licensed broker-dealer*, shall be issued a license under sections 80.05 to 80.27 until he shall have resided in this state for one year immediately prior to making his application. Before any license shall be issued to an agent ~~other than an agent of a licensed broker~~, he shall file a surety bond of such an amount as may be approved by the commission for the benefit of the public, or any issuer, owner, or licensed ~~dealer~~ *broker-dealer* may file a blanket surety bond covering all of its licensed agents, or may deposit in and with a depository acceptable to and approved by the commissioner of securities, securities, cash or other collateral of such kind and in such amount and in such a manner as may be prescribed and approved by

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the commissioner of securities. The filing of such blanket bond or the deposit of securities as aforesaid, shall operate in lieu of a bond as otherwise required for the individual agents. The commissioner of securities shall have power to require an additional or new bond to be filed when, in the opinion of the commissioner of securities, the bond theretofore filed is insufficient due to the number of agents licensed for and on behalf of that issuer, owner, or licensed ~~dealer~~ *broker-dealer*, or that the amount of the bond has become impaired by reason of liability contingent or accrued thereunder.

Agents' licenses shall be issued only to agents of issuers or owners for whom securities are registered or to agents of ~~licensed brokers or licensed dealers~~ *licensed broker-dealers*.

To secure such a license application shall be made to the commission on forms prescribed by the commissioner, which application shall be signed and sworn to by the person desiring such license, contain the applicant's address, and such other information as the commissioner may require, and be accompanied by a statement signed by the issuer, owner, ~~licensed broker or licensed dealer~~ *or licensed broker-dealer* for whom such applicant is agent stating that such issuer, owner, ~~licensed broker, or licensed dealer~~ *or licensed broker-dealer* has appointed the person therein named as his agent. The commission or commissioner shall have power to require the applicant, or his principal, to furnish such additional information regarding the agent as may seem necessary. The application shall either be granted and license issued, or denied. The commission shall have power to deny an agent's application, if the applicant is not of good business repute or has violated any of the provisions of sections 80.05 to 80.27, or any registration, license, or lawful order of the commission, or has engaged in any fraudulent transaction, or if it appears to the commission that the sale of securities by such applicant would work a fraud on purchasers thereof, or for good cause appearing to the commission. Denial shall be by written order. Agents' licenses shall be good for one year from date of issuance, unless sooner cancelled, suspended or revoked, and authorize the licensee therein named to do anything his principal is authorized to do.

The commission shall have power, in connection with an agent's license outstanding, to require the agent, or the issuer, owner, ~~licensed broker, or licensed dealer~~ *or licensed broker-dealer* for whom such agent was licensed, to furnish to the commission in such form as it may designate, any information deemed necessary to assist the commission in determining whether such license should remain in force. When the commission or commissioner is in possession of information indicating that any licensed agent is not of good business

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repute, has violated, or is about to violate, any of the provisions of sections 80.05 to 80.27 or any regulation, license, or ~~unlawful~~ *lawful* order of the commission, or has engaged, or is about to engage, in any fraudulent transaction, or that the sale of securities by such licensee would work a fraud on purchasers thereof, or for good cause appearing to the commission, it may issue its order requiring such licensee to show cause why his license should not be revoked. In any such order the commission shall fix the time and place for hearing thereon, at which time a hearing shall be had.

Any agent's license may be suspended pending the final determination of any order to show cause, during which suspension it shall be unlawful for such licensee to act as such agent. After the hearing the commission shall enter its order vacating such order to show cause and suspension, or permanently revoking the license, or making such other disposition of the matter as the facts require.

On any matter pertaining to an agent's license, the issuer, owner, ~~licensed broker, or licensed dealer~~ or *licensed broker-dealer* for whom such agent was appointed shall be deemed an interested party. Failure to secure an agent's license shall be deemed a violation of sections 80.05 to 80.27 by both the issuer, owner, ~~licensed broker, or licensed dealer~~ or *licensed broker-dealer* and the agent.

An agent's license may be cancelled by the commission at any time at the request of the issuer, owner, ~~broker, or dealer~~ or *broker-dealer* for whom such agent was licensed, or the agent.

Sec. 8. Minnesota Statutes 1961, Section 80.20, as amended by Laws 1963, Chapter 73, Section 8, is amended to read:

80.20 **Fees.** The following fees shall be paid to the commission:

(1) On application for registration, an examination fee of \$10, and a fee of \$1 per \$1,000 on the total proposed sale price of the securities covered by such application, of which last stated amount \$25 shall be considered a filing fee and the remainder a registration fee; provided, that the minimum fee shall be \$35 and the maximum fee \$500, which maximum fee shall include the \$10 examination fee. *An unlimited registration shall require the maximum fee.*

(2) On notification of intention to sell, an examination fee of \$5, and a fee of 50 cents per \$1,000 on the total proposed sale price of the securities covered by such notification, of which last stated amount \$10 shall be considered a filing fee and the remainder a registration fee; provided, that the minimum fee shall be \$15 and the maximum fee \$200 except that the maximum fee shall be \$100 on securities outstanding for more than one year, which maximum

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fees shall include the \$5 examination fee. *An unlimited notification shall require the maximum fee.*

- ~~(3)~~ ~~On application for brokers' licenses, \$75.~~
- ~~(4)~~ (3) On application for agents' licenses, \$7.50.
- ~~(5)~~ (4) On application for ~~dealers' broker-dealers'~~ licenses, \$100.
- ~~(6)~~ (5) On filing an offer under section 80.06, ~~clause~~ ~~(8)~~ *subdivision 9*, \$10.
- ~~(7)~~ (6) On application for an amendment to a registration increasing the maximum selling price thereunder, \$10, plus an additional fee calculated in accordance with ~~subparagraph clause~~ *clause* (1) or (2) of this section, as the case may be, less the amount of all fees theretofore paid pursuant to ~~subparagraph clause~~ *clause* (1) or (2) of this section in connection with the registration the amendment of which is requested; and on any other application for an amendment, \$10.
- ~~(8)~~ (7) On annual reports of any investment company as now defined by section 3 of the "Investment Company Act of 1940" (Title I of Public Law No. 768—76th Congress, 3rd Session), \$100.
- ~~(9)~~ (8) On annual reports other than those covered by the preceding clause ~~(8)~~ (7), \$10.
- ~~(10)~~ (9) On applications for investment advisor's licenses, \$75.
- ~~(11)~~ (10) For acceptance of service and mailing of process served upon the commissioner under any of the provisions of sections 80.05 to 80.27, \$2 for each person so served.
- ~~(12)~~ (11) The commission in the case of an application for registration, and the commissioner of securities in the case of notification of intention to sell, at any time prior to the registration of securities, may order the return of registration fees provided for in ~~subdivisions clauses~~ *clauses* (1) and (2) when securities applications and notifications of intention to sell are permitted to be withdrawn. When such a withdrawal is made, the commissioner of securities shall certify to the state auditor the portion of the fee to be refunded to the applicant, and the auditor shall issue his warrant in payment thereof out of the fund to which such fee was credited in the manner provided by law. There is hereby appropriated to the persons entitled to such refunds from the fund in the state treasury to which such fees were credited an amount to make such refunds and payments.

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No application, notification, request for amendment of a registration, service of process, annual report, or filing of offer shall be deemed to be filed or given any effect until the proper fee is paid. All fees and charges collected by the commission shall be covered into the state treasury.

Sec. 9. *In preparing the next edition of Minnesota Statutes, the revisor of statutes shall substitute for the words "broker" or "dealer" or the words "broker or dealer" or "dealer or broker" the words "broker-dealer", or for the words "licensed broker" or "licensed dealer" the words "licensed broker-dealer", or for the words "brokers' or dealers' licenses" the words "broker-dealers' licenses" wherever they appear in Minnesota Statutes, Chapters 45 and 80.*

Sec. 10. *Minnesota Statutes 1961, Section 80.01, Subdivision 5, is repealed.*

Sec. 11. *This act shall become effective on July 1, 1965.*

Approved May 6, 1965.

CHAPTER 334—S. F. No. 1338

[Not Coded]

An act relating to Carlton county, and to planning and zoning activities therein.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Carlton county; planning and zoning.** Notwithstanding the time limit provisions of Minnesota Statutes, Section 394.34, or any other provision of law to the contrary, in Carlton county any interim zoning map or interim zoning ordinance or interim resolution relating to zoning heretofore adopted by the board of county commissioners shall be effective until July 1, 1967.

Sec. 2. This act shall become effective upon its approval by the board of county commissioners of Carlton county and upon compliance with the provisions of Minnesota Statutes, Section 645.021.

Approved May 6, 1965.

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