

CHAPTER 2675
DEPARTMENT OF COMMERCE
LOANS, INVESTMENTS, AND PROCEDURES

NOTE: Pursuant to Laws of Minnesota 1983, chapter 289, section 114, this chapter of Minnesota Rules is to be administered by the commissioner of commerce.

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BANK LOANS

2675.0200 FINANCIAL STATEMENTS.

All unsecured loans of \$500 or more in banks of less than \$1,000,000 in deposits and unsecured loans of \$1,000 or more in banks of \$1,000,000 or more of deposits shall be supported by signed financial statements of the borrowers, endorsers, or guarantors. Such current financial information is also required on loans which the commissioner or his examiner considers inadequately secured or those which are secured by a chattel mortgage on farm livestock and/or machinery. Such financial statements shall be renewed at least annually as long as such loans remain unpaid at such amounts.

Statutory Authority: *MS s 46.01*

2675.0300 DELINQUENT LOANS.

Subpart 1. When delinquent. Any note, including a real estate mortgage note, in the absence of a properly executed extension, will be considered past due the next day after maturity, unless subsequent interest has been received, in which case the date to which interest has been paid becomes the maturity date. If that date has gone by, the entire note becomes "B" paper, except that after six months it becomes "A" paper.

Subp. 2. Installment loans. All notes due on a monthly installment basis are allowed 30 days grace and neither the principal nor payment is considered as past due, if any payment is less than 30 days overdue. However, in the event that a payment runs over 30 days delinquent, the whole principal balance becomes past due and subject to "B" classification, except that if such delinquency runs six months or more, it becomes subject to "A" classification. Interest payments will have no effect to change classification described above.

Subp. 3. Demand notes. Demand notes are considered current if no longer than six months have elapsed since the date to which interest was previously paid. Such notes are considered to mature exactly six months from such a date and become past due one day thereafter, unless subsequent interest is received.

Statutory Authority: *MS s 46.01*

2675.0400 PARTICIPATION LOANS.

Where a participation in a loan is sold to another bank the agreement may provide that repayment may first be applied to the share sold. Since one of the purposes of such a sale may be to reduce the bank's retention of loans which may exceed its lending limit, the agreement should, as a matter of prudent banking practice, also provide that in the event of default or a comparable event defined in the agreement, the participants shall share in all subsequent repayments and collections in proportion to the percentage of participation at the time of the happening of the event.

When a bank or trust company purchases a participation in a loan originated elsewhere, it must obtain copies of all essential papers necessary to determine the credit quality thereof.

Statutory Authority: *MS s 46.01*

2675.0500 SPECIAL FEEDER LOANS.

Special feeder loans as referred to in Minnesota Statutes, section 48.24, subdivision 7, must be made for the exclusive purpose of purchasing feeder livestock and each note shall bear the notation "special feeder loan" on its face.

Each such note on file shall be supplied with a paid invoice, bill of sale, or other evidence to show the date of purchase, weight of each feeder animal or the total weight if they are all of the same class, and the total cost or value. Such loans need not be made at the time of actual purchase providing that these documents are held and made available for inspection.

Statutory Authority: *MS s 46.01*

2675.0600 LOANS TO CORPORATIONS AND PARTNERSHIPS.

Subpart 1. **Corporations.** All loans to corporations shall be supported by a certified copy of a resolution of the board of directors, board of trustees, or other governing bodies of such corporations authorizing the borrowing by the officer or officers signing on behalf of the corporation and such resolution shall indicate the authority of such officer.

Subp. 2. **Partnerships.** Loans made directly to partnerships, unless all partners sign the note, must be supported by a declaration by the partners showing the composition of the partnership and the proportionate part owned by each partner, and authority of the partner executing the note to bind the partnership therefore.

Statutory Authority: *MS s 46.01*

2675.0700 PERMANENT ENDORSEMENTS.

"Without recourse" or other endorsements on conditional sales contracts or other instruments must be in permanent form and not subject to alteration or change.

Statutory Authority: *MS s 46.01*

2675.0800 LEASE FINANCING.

No state bank shall engage in lease financing by directly purchasing or stocking personal property merchandise in anticipation of subsequent lease agreement lending.

Statutory Authority: *MS s 48.152*

REAL ESTATE LOANS

2675.0900 MORTGAGE RECORDING.

All real estate mortgages shall be properly recorded and shall show evidence of such recording.

Statutory Authority: *MS s 47.20 subd 1; 46.01*

2675.0910 TITLE, JUDGMENT, AND TAX SEARCH.

Real estate mortgages shall be accompanied by abstracts of title or certificates of title which have been continued to show the bank's lien. There shall also be evidence of the usual judgment search and tax search.

Statutory Authority: *MS s 47.20 subd 1*

2675.0920 TITLE INSURANCE OR OPINION.

All real estate loans of \$1,000 or over, and smaller loans, if required by the examiner, shall be accompanied by a title opinion or title insurance to show that the lien currently held is free and clear of all encumbrances, with the exceptions of such loans as may be exempted under provisions of Minnesota Statutes, section 48.19.

Statutory Authority: *MS s 47.20 subd 1*

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2675.0930 INSURANCE COVERAGE.

Evidence of adequate insurance coverage with loss payable clause payable to the bank shall be required for mortgages on improved property.

Statutory Authority: *MS s 47.20 subd 1*

2675.0940 REAL ESTATE APPRAISAL COMMITTEE.

A real estate appraisal committee shall be appointed by the bank's board of directors in accordance with the provisions of Minnesota Statutes, section 48.19. Such a committee shall have at least two members. Real estate appraisal reports for each mortgage shall be signed by both members of the committee if it consists of two members, and by a majority of the committee if it consists of more than two members. If a professional appraisal is obtained, that fact will be shown in the committee's report and the professional appraisal be made a part of the mortgage file.

Statutory Authority: *MS s 47.20 subd 1*

2675.0950 SECOND MORTGAGES.

No bank shall extend additional credit to a borrower if such is based in whole or in part on junior liens on real estate security, unless the first mortgage is also held by the bank. See Minnesota Statutes, section 48.19.

Statutory Authority: *MS s 46.01*

INVESTMENTS

2675.1100 BOND INVESTMENT RECORDS.

During the period in which such investment is carried on a bank's books, it shall be required that original invoices of bond purchases and sales be retained as a part of the records of a bank; a record be maintained of all securities bought and sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where pledged or deposited for safekeeping; and all municipal and corporation bonds owned by a bank be supported by full credit information at the time of purchase.

Statutory Authority: *MS s 46.01*

2675.1110 ELIGIBLE SECURITIES.

An obligation of indebtedness which may be purchased for its own account by a state bank, in order to come within the classification of eligible securities within the meaning of this part, must be a marketable obligation. It must be salable under ordinary circumstances with reasonable promptness at a fair value; and with respect to the particular security, there must be present one or more of the following characteristics:

A. a public distribution of the securities must have been provided for or made in a manner to protect or insure the marketability of the issue; or,

B. other existing securities of the obligor must have such a public distribution as to protect or insure the marketability of the issue under consideration; or,

C. in the case of eligible securities for which a public distribution as set forth in item A or B cannot be so provided, or so made, and which are issued by established commercial or industrial businesses or enterprises, that can demonstrate the ability to service such securities, the debt evidenced thereby must mature not later than ten years after the date of issuance of the security and must be of such sound value or so secured as reasonably to assure its payments; and such securities must, by their terms, provide for the amortization of the debt evidenced thereby so that at least 75 percent of the principal will be extinguished by the maturity date by substantial periodic payments. Provided,

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that no amortization need be required for the period of the first year after the date of issuance of such securities.

Statutory Authority: *MS s 46.01*

2675.1120 SECURITIES UNDER TRUST AGREEMENT.

Where the security is issued under a trust agreement, the agreement must provide for a trustee independent of the obligor, and such trustee must be a bank or trust company.

Statutory Authority: *MS s 46.01*

2675.1130 INVESTMENT QUALITIES.

Securities, in order to be eligible for purchase by state banks, must be in the form of bonds, notes, and/or debentures, and must be of recognized investment quality. Eligible securities are those which are included among the four highest ratings of the rating services, and nonrated securities of equivalent value, the latter to be determined by the bond department of the Banking Division. With regard to the ratings, the following items shall apply:

A. A security rated by only one service will be designated as an eligible security if it is rated within the first four grades by that service.

B. A security rated by two services will be designated as an eligible security if it is rated within the first four grades by both services.

C. A security rated by three services will be designated as an eligible security if it is rated within the first four grades by two of those services.

Statutory Authority: *MS s 46.01*

2675.1140 HOLDING BONDS ON PAR OR FACE VALUE.

The statutory limitation on the amount of the eligible securities of any one obligor or maker which may be held by the bank, is to be determined on the basis of the par or face value of the securities, and not on their book value.

Statutory Authority: *MS s 46.01*

2675.1150 WHEN PURCHASE PRICE MAY EXCEED PAR.

Subpart 1. **Purchase.** Purchase of an eligible security at a price exceeding par is prohibited, unless the bank shall:

A. charge off the premium when the securities are placed on the books; or,

B. provide, for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or,

C. set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under item B.

Subp. 2. **Interest and commissions.** Accrued interest paid on securities must be charged to interest received. Bond commissions and all costs of sales or purchases must be charged to expense.

Statutory Authority: *MS s 46.01*

2675.1160 SECURITIES PURCHASED AT LESS THAN PAR.

Upon the purchase of an eligible security at a price less than par the bank shall place such security on its books at cost and may provide for the regular accretion of the discount, ratably over the period from purchase to maturity of the security.

Statutory Authority: *MS s 46.01*

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2675.1170 SECURITIES HAVING HOLDER OPTIONS.

Purchase of securities convertible into stock at the option of the holder or with stock purchase warrants attached is prohibited if the price paid for such security is in excess of the investment value of the security itself, considered independently of the stock purchase warrants or conversion feature. If it is apparent that the price paid for an otherwise eligible security fairly reflects the investment value of the security itself and does not include any speculative value based upon the presence of a stock purchase warrant or conversion option, the purchase of such a security is not prohibited.

Statutory Authority: *MS s 46.01*

2675.1180 FOREIGN BORROWERS SECURITIES.

Purchase of securities of foreign borrowers, whether private, corporate, or governmental, is prohibited with the exception of:

A. securities of borrowers, whether private, corporate, or governmental, residing in or which are part of the Dominion of Canada, provided, however, that such securities are payable in dollars of the United States;

B. bonds of the International Bank for Reconstruction and Development, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ten percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the International Bank for Reconstruction and Development only by banks, trust companies, and savings banks;

C. bonds of the Inter-American Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ten percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the Inter-American Development Bank only by banks, trust companies, and savings banks; and

D. bonds of the Asian Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ten percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the Asian Development Bank only by banks, trust companies, and savings banks.

Statutory Authority: *MS s 46.01*

2675.1190 REPURCHASE AGREEMENT SECURITIES.

As to purchase of securities under repurchase agreement subject to the limitations and restrictions set forth in the law and this part:

A. It is permissible for the bank to purchase eligible securities from another under an agreement whereby the bank has an option or a right to require the seller of the securities to repurchase them from the bank at a price stated or at a price subject to determination under the terms of the agreement, but in no case less than the value at the time of repurchase.

B. It is permissible for the bank to purchase eligible securities from another under an agreement whereby the seller or a third party guarantees the bank against loss on resale of the securities.

C. It is not permissible for the bank to purchase eligible securities from another under an agreement whereby the seller reserves the right or the option to repurchase said securities itself or through its nominee at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement, have the right or option to compel the seller to repurchase the securities at a price stated

or at a price subject to determination under the terms of the agreement.

Statutory Authority: *MS s 46.01*

2675.2000 BANKS SELLING WITH REPURCHASE AGREEMENT.

As to repurchase agreements accompanying sales of securities, it is permissible for the bank selling securities to another to agree that the bank shall have an option or right to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement, but in no case in excess of the market value at the time of repurchase.

It is not permissible for the bank selling securities to another to agree that the purchaser shall have the right or the option to require the bank to repurchase said securities at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement have the right or option to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement.

Statutory Authority: *MS s 46.01*

2675.2010 DEFAULT BONDS.

Bonds which are in default, either as to principal or interest, or both, must be charged down to market when such action is ordered by the commissioner of banks.

Statutory Authority: *MS s 46.01*

2675.2020 EACH SALE AND PURCHASE SEPARATE TRANSACTION.

Every sale and every purchase will be considered a separate transaction and trades, switches, and securities received under debt readjustment, as well as new purchases, must meet the requirements of these rules.

Statutory Authority: *MS s 46.01*

2675.2030 BANK PARTICIPATION IN MARKETING PROHIBITED.

Although the bank is permitted to purchase eligible securities for its own account for purposes of investment, the bank is not permitted otherwise to participate as a principal in the marketing of corporate securities.

Statutory Authority: *MS s 46.01*

2675.2040 PURCHASE OF ISSUER OPTION SECURITIES PROHIBITED.

Purchase of securities convertible into stock at the option of the issuer is prohibited.

Statutory Authority: *MS s 46.01*

2675.2050 PURCHASE OF NONELIGIBLE SECURITIES PROHIBITED.

The purchase of securities other than eligible securities as defined in part 2675.1110 is prohibited. Any such purchase will be considered a violation of this part and the commissioner of banks, in his discretion, will require that any such security so purchased be disposed of within a reasonable length of time. No bank shall be permitted to purchase securities of business or municipal corporations that shall have undergone debt readjustment until 12 months shall have elapsed since the effective date of the readjustment. Such securities, if purchased, must also be disposed of. However, the purchase of railroad equipment trust obligations which are not in default either as to principal or interest, or both, and which are considered to be of eligible quality shall not be prohibited.

Statutory Authority: *MS s 46.01*

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2675.2060 PROCEDURES FOR BANKS HOLDING PROHIBITED SECURITIES.

In view of the fact that some banks may have bought or sold securities under a form of agreement which is prohibited, the bank should either terminate or modify same so as to conform to these rules, where such action may lawfully be taken. Existing agreements of the prohibited type must not be renewed. The restrictions and limitations of these rules do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim, or to avert an apprehended loss in connection with a debt previously contracted.

Statutory Authority: *MS s 46.01*

2675.2070 SECURITIES CLASSIFICATIONS.

Subpart 1. Timing. Until further notice is issued by the commissioner of banks, it will be the practice of the Bond Department of the Division of Banking, on the occasion of each examination, to classify all securities held by state banks into four groups, the manner of appraisal of which will be carried on as hereinafter described. The four groups into which the securities will be classified are defined in subparts 2 to 5.

Subp. 2. Group I. Securities of this group are marketable obligations of recognized investment quality. This group includes bonds that are rated by the rating services and which are included among the four highest ratings by these rating services and nonrated bonds of equivalent value, the latter to be determined by the Bond Department of the Division of Banking.

Subp. 3. Group II. This group includes bonds of all classes below the four highest ratings and nonrated bonds of equivalent value, the latter to be determined by the Bond Department of the Division of Banking.

Subp. 4. Group III. Securities in this class are those which are in default either as to interest or principal, or both, with no regard being paid to any grace period which might be contained in the indenture covering the issue in question.

Subp. 5. Group IV. Securities in this group consist of stocks. Such securities as are included in group IV can only have been acquired legally in payment of, or to protect, a debt previously contracted in a legal manner.

Statutory Authority: *MS s 46.01*

2675.2080 APPRAISAL PRINCIPLES FOR CLASSIFICATION.

The following shall be methods of appraisal for each of the four groups defined in part 2675.2070.

Group I: securities in this group are to be appraised at the lower of book value, or cost adjusted for amortization of premium or accretion of discount as permitted by parts 2675.1150 and 2675.1160. Market prices are, in general, to be disregarded in so far as the appraised value column is concerned. Any excess of the total book value of eligible securities over their total appraised value is to be included under classification IV (loss).

Group II: securities in this group are to be appraised at their actual market value. If quotations are not available, appraisal shall be made by the Bond Department of the Division of Banking on the basis of such credit information as may be obtainable. Fifty percent of the net depreciation in this group will be deducted in computing the adjusted capital.

Group III: securities in this group are to be appraised at the most recent bid price. In the absence of any bid, appraisal shall be made on the basis of such credit information as may be obtainable. Any excess of the total book value over appraised value is to be included under classification IV (loss).

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Group IV: common and/or preferred stocks acquired by the bank in payment of, or to protect, a debt, previously contracted, are to be appraised in the manner outlined in group III.

Statutory Authority: *MS s 46.01*

2675.2090 PROBLEM BANKS.

Subpart 1. **Definition.** The valuation program herein described shall not be applicable to any institution which, in the opinion of the commissioner of banks, is a problem bank by reason of:

- A. marked deficiency of capital;
- B. extremely poor asset position generally;
- C. speculatively inclined or otherwise unsound management;
- D. adverse trends;
- E. unduly disproportionate holdings of fourth or lower rated securities;
- F. potentially hazardous concentration in securities of any class diversification or long term securities; or
- G. other circumstances which indicate a condition approaching insolvency or which probably will necessitate a rehabilitation of the bank's capital.

Subp. 2. **Securities appraisal.** In any instances set forth in subpart 1, all securities are to be appraised at current market value.

Statutory Authority: *MS s 46.01*

BANKING PROCEDURES

2675.2100 CASH ITEMS.

A daily record shall be maintained of all cash items for anything other than currency or coin being held over until the following day's business and not in the process of being forwarded for collection or being returned to endorsers. No checks shall be held in a bank's cash account to avoid the showing of overdrafts. These daily records shall be retained for a period of at least two years.

Statutory Authority: *MS s 46.01*

2675.2110 BANKING HOUSE.

All new investments in banking quarters must be approved by the commissioner of banks, subject to statutory requirements, whether or not a fee interest is involved, with the exception that subsequent expenditures for improvements or remodeling need not require such approval, provided that the total such charges to this account will not increase such investments to a point where the total will exceed 40 percent of a bank's capital and surplus accounts.

Statutory Authority: *MS s 48.21*

2675.2120 BANKING PREMISES.

In the event that investment exceeds 40 percent of capital and surplus, there shall be made an annual chargeoff of five percent on said investment until it has been reduced to 40 percent. Thereafter, each bank and trust company shall chargeoff not less than three percent annually until investment has been reduced to 15 percent of capital and surplus, providing no previous program has been agreed upon.

Further chargeoffs may be made at the discretion of each bank or trust company, except that the commissioner of banks in his judgment may require additional chargeoffs regardless of amount of investment and respective percentage of capital and surplus where such action appears to be warranted.

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Investment in real estate to be used for future banking premises must be charged off at the rate of 15 percent annually, each annual chargeoff to be made on the anniversary of the acquisition of said real estate.

Statutory Authority: *MS s 48.21*

2675.2130 FURNITURE AND FIXTURES.

Purchases capitalized in this account shall be amortized at the minimum rate of ten percent annually, with such exceptions as may be made by the commissioner of banks. Each such annual charge shall be based on the remaining book value at the end of each year.

Statutory Authority: *MS s 46.01*

2675.2140 LEASEHOLD INVESTMENT AMORTIZATION.

A leasehold investment which has been approved by the commissioner of banks shall be amortized over the period of the lease. If there is an optional clause in such lease for an additional period to be covered thereby, this shall serve to extend the amortization period to such extent. In no event, however, shall the rate of amortization be less than five percent or less than four percent if the total of a bank's investment in banking quarters be more than 40 percent of its capital and surplus accounts.

Statutory Authority: *MS s 46.01*

2675.2150 CONTRACTS FOR DEED.

No bank or trust company may make a loan to be secured by the assignment of a contract for deed for more than \$1,000, unless the following requirements are complied with:

A. Contract and assignment shall be recorded.

B. There shall be a deed of vendors interest, which shall be recorded, and an abstract or other title document brought up to date to show title in vendor and contract to vendee. There shall also be an attorney's opinion to indicate the absence of prior liens.

C. Appropriate documents necessary to effect transfer of title and also adequate insurance coverage shall be in evidence.

Statutory Authority: *MS s 47.20 subd 1*

2675.2160 INVESTMENTS IN AUTOMOBILES.

No state bank or trust company shall make any expenditure for an automobile except for its business operations. Such investments may be capitalized but must be amortized over a three year period, chargeoffs to be made annually starting one year after date of purchase. Title papers shall be in the name of the bank or trust company and adequate insurance shall be carried at all times. Investment may be carried under "furniture and fixtures" but a separate memorandum record should be maintained to show necessary details to facilitate supervision.

Statutory Authority: *MS s 46.01*

2675.2170 OTHER REAL ESTATE.

Other real estate:

A. Any real estate acquired by a bank through foreclosure, conveyed to a bank as satisfaction of a debt previously contracted, or acquired by a bank in any legal manner in satisfaction of debts previously contracted, shall be designated as "other real estate" from the date upon which the bank actually acquires title.

B. "Other real estate" cannot be entered upon the books of a bank at an amount greater than the balance of the principal amount of the indebtedness at the time of acquisition.

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C. A chargeoff of ten percent of the original amount at which the "other real estate" was placed on the books shall be made annually at the close of each calendar year. The chargeoff for the first calendar year of ownership shall be an amount to be arrived at by using the same percentage to the full annual chargeoff requirements as the number of months investment has been on the books is to a 12-month period.

D. "Other real estate" sold on contract for deed must be carried as "other real estate" until at least 25 percent of the purchase price has been paid in cash, after which it may be transferred to loans and discounts.

E. It is required that a bank have an abstract of title, continued to show title in the bank on each item of "other real estate." Insurance should be obtained where necessary and taxes must be kept current if the "other real estate" is carried as an asset.

Bank must also have an attorney's opinion or equivalent evidence to show the status of its ownership as to other possible existing liens against each property.

Statutory Authority: *MS s 48.21*

2675.2180 REAL ESTATE TAX RECORD.

Banks shall install and maintain tax records as to properties in which it has a financial interest by the holding of real estate mortgages, contracts for deed, other real estate, or otherwise.

Statutory Authority: *MS s 47.20; 48.21*

2675.2190 F.H.A. PREMIUMS.

Premiums on F.H.A. mortgages must be charged off on the day the loans are placed on the books.

Statutory Authority: *MS s 47.20*

2675.2200 CHARGED OFF ASSETS.

↑ Subpart 1. **Record.** A complete record of charged off assets shall be maintained on which all recoveries shall be shown. This record shall also cite authority of directors with regard to any debts that have been compromised, and include signed compromise agreements, if it is possible to obtain them.

↱ Subp. 2. **Worthless items.** When the board of directors has determined that all liquidation efforts have been exhausted, it shall, by appropriate board resolution, declare such charged off items worthless and that fact shall be noted on the liability ledger sheet or similar record.

↱ Subp. 3. **List of worthless items.** When the state department examiner finds an accumulation of charged off assets which have been declared worthless, he shall make a list in triplicate showing name, original amount, and the amount charged off. He will then seal all such items with one list placed inside the package and one list attached to the outside of the package. The third list will be kept by the examiner. The sealing of such assets will be for audit purposes only and will in no way preclude the bank from opening the package, if for some reason it becomes necessary to obtain one or more of the items that have been sealed by the examiner.

Statutory Authority: *MS s 46.01*

2675.2210 POSTING RECORDS.

All asset and liability records of a bank must be posted on a daily basis.

Statutory Authority: *MS s 46.01*

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2675.2220 ADDITIONAL COMMON STOCK SALES.

Any bank which increases its common capital account by means of the sale of additional common stock need not carry such funds in any other bank but may carry them on its own books among demand liabilities and furnishing appropriate certificate to the commissioner of banks as to the total paid in.

Statutory Authority: *MS s 46.01*

2675.2230 CAPITAL DEBENTURES.

Capital debentures are only to be issued with the approval of the commissioner and on such terms and conditions as he may approve. Debentures shall provide that they shall not be paid or retired if such payment or retirement would impair the capital of the issuer. For the purpose of considering adequacies of a bank's capital structure as compared to deposit liabilities, such outstanding debentures shall be included in the overall total of capital accounts.

Statutory Authority: *MS s 46.01*

2675.2240 DIVIDENDS.

The dividend period for the purpose of declaring dividends in accordance with the provisions of Minnesota Statutes, section 48.09 shall be the period commencing on January 1 and ending as of the close of business December 31 of each calendar year and the net profits for each such period shall be determined from the annual earnings and dividends reports of each bank.

The Division of Banking will supply each bank with forms to be completed with information called for by such forms and returned to the commissioner of banks. The forms shall contain a statement by the commissioner of banks providing that if certain requirements as set forth therein are met, the bank may pay a cash dividend or dividends without specific approval of the commissioner of banks in the year succeeding the dividend period in such amount or amounts as will not reduce the bank's capital, surplus, undivided profits, and reserves below such requirements. Except as provided in the preceding sentence, no bank or trust company shall pay a cash dividend to its stockholders until written approval for such dividend has been obtained from the commissioner of banks.

The Division of Banking will supply forms to each bank which shall, within ten days of the date of declaration of any dividend, report to the commissioner of banks the date of declaration, the rate and amount of the dividend, and the date on which such dividend is payable.

Statutory Authority: *MS s 46.01*

2675.2246 CERTIFICATE OF DEPOSIT OF OTHER BANKS.

Where a bank incurs a direct liability to another bank by an issuance of a certificate of deposit, such must be carried on its books as "bills payable."

Where a bank makes a direct investment in a certificate of deposit of another bank, such investment shall not exceed its legal lending limit as provided in Minnesota Statutes, section 48.24 and shall also be carried under "other assets."

Statutory Authority: *MS s 46.01*

2675.2250 OVERDRAFTS.

Overdrafts:

A. All checks which are to be honored by a bank shall be charged to the proper account on the same or next business day after receipt.

B. Checks which are not paid because of causing overdrafts shall be returned to the proper endorser before the close of the next business day after receipt.

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C. Such checks as have been referred to in item B shall at no time be carried as cash items, beyond midnight of the next business day after receipt, but returned to respective endorsers, excepting in instances where checks are cashed over the counter and there is no opportunity to return them to the endorser.

D. No overdraft shall be permitted to an officer or employee of a bank with the exception of those which occur in the ordinary course of posting and are reimbursed during the same or the following business day. Overdrafts originating and disposed of in this manner shall not be construed as being in violation of Minnesota Statutes, section 48.08.

Statutory Authority: *MS s 46.01*

2675.2260 RECORDS OF CHECKS, DRAFTS, AND OTHER LIABILITIES.

A numerical record shall be installed and maintained to disclose at the time of issuance, all liabilities resulting from the issuing of checks, drafts, check certifications, and similar liabilities.

Statutory Authority: *MS s 46.01*

2675.2270 DISCLOSURE OF CONTINGENT OR ACTUAL LIABILITIES.

Any liability either actual or contingent that may be incurred by a bank in the conduct of its daily operations must be reflected on the bank's financial statements under an appropriate caption on its statement of condition or as a footnote to the statement. In the case of agreements which may be entered into between a Minnesota state bank and automobile manufacturers, such agreements result in a contingent liability and should be shown as a footnote to the daily statement. When a draft (whether demand or time) is received by the bank under this agreement, it becomes an actual liability and is to be entered in the general ledger as "acceptances outstanding" with a corresponding entry under assets with the caption "customers' liabilities on acceptances."

Statutory Authority: *MS s 46.01*

2675.2280 SAVINGS PASSBOOKS.

Savings passbooks must not be retained by a bank for safekeeping except for collateral purposes.

Statutory Authority: *MS s 46.01*

2675.2290 ACCOUNTING BY SERVICE CORPORATION OR OTHER BANK.

Any bank receiving banking services from another bank or from a service corporation shall provide the following:

A. a certificate from the bank receiving such services, stating that it will comply with the provisions of Minnesota Statutes, section 48.89 and giving full assurance that the performance of such bank services by the other bank, or the respective clerical service corporation (name of either to be given), will be subject to Banking Division rules in the same manner as if such services were being performed by the bank itself and on its own premises;

B. a certificate to be furnished by the bank furnishing such clerical services, or the clerical service corporation, agreeing as to performing such services as outlined in Minnesota Statutes, section 48.89 that its performance thereof will be subject to regulation and examination by the commissioner of banks to the same extent as if such services were being performed by the serviced bank itself on its own premises.

Statutory Authority: *MS s 46.01*

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2675.2300 SAFE DEPOSIT BOXES.

There must be a rental agreement, signed by the parties who are to have entry, and this agreement must specifically state who is to be authorized to enter.

The record to the agreement must contain the signature of each person who is to have access to the safe deposit box.

The guard key should be restricted to authorized bank personnel and must be kept in such a place as not to be available for customer's use. Bank employees are not to be permitted to enter the vault with the customer's key and to bring the box out to the customer. The customer must control the box at all times when the safe deposit box door is open.

There must be a record signed by each customer at each time of entry by such a customer to his safe deposit box.

A bank shall not retain customers' safe deposit box keys under any circumstances.

Keys to safe deposit boxes not under lease must be kept under dual control until such time as such box is rented.

Statutory Authority: *MS s 46.01*

FIDELITY INSURANCE

2675.2400 INSURANCE APPROVAL.

The board of directors of each bank shall, at least once a year or at each annual meeting, approve of the amount of fidelity insurance to be carried for the ensuing year.

Statutory Authority: *MS s 46.01*

2675.2410 MINIMUM COVERAGE.

Each bank shall procure and keep in force blanket bond coverage (fidelity insurance described in Minnesota Statutes, section 48.12) in such minimum amounts per \$1,000,000 of deposits and such additional amounts in the deposit range shown in the following schedule as the commissioner may require:

Amounts of Blanket Bond Coverage	
Banks with Deposits of	Range of Amounts
Less than \$750,000	\$ 25,000 to 50,000
\$ 750,000 to 1,500,000	50,000 to 75,000
1,500,000 to 2,000,000	75,000 to 90,000
2,000,000 to 3,000,000	90,000 to 120,000
3,000,000 to 5,000,000	120,000 to 150,000
5,000,000 to 7,500,000	150,000 to 175,000
7,500,000 to 10,000,000	175,000 to 200,000
10,000,000 to 15,000,000	200,000 to 250,000
15,000,000 to 20,000,000	250,000 to 300,000
20,000,000 to 25,000,000	300,000 to 350,000
25,000,000 to 35,000,000	350,000 to 450,000
35,000,000 to 50,000,000	450,000 to 550,000
50,000,000 to 75,000,000	550,000 to 700,000
75,000,000 to 100,000,000	700,000 to 850,000
	and up

Statutory Authority: *MS s 46.01*

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2675.2420 INSURANCE COMMISSION AGREEMENTS.

If an officer of a bank is acting as an insurance agent and such business is being conducted on the banking premises, there must be an arrangement as to allocating overhead expenses or as to distribution of net earnings and to be included in an appropriate board resolution.

Statutory Authority: *MS s 46.01*

BANK CHARTER

2675.2500 DISPLAY AND REPLACEMENT COPIES.

Every bank shall display its bank charter in a prominent place in the lobby. In case of destruction or misplacement of the charter, the Division of Banking will supply a duplicate, upon application, without cost.

Statutory Authority: *MS s 46.01*

SAVINGS AND LOAN ASSOCIATIONS

2675.3100 LIQUIDITY.

Subpart 1. **Ratio.** An association shall maintain a liquidity ratio based upon its cash and obligations of the United States or this state, or in obligations of political subdivisions of this state, in an amount equal to a percentage from four percent up to eight percent of its outstanding withdrawable shares as the commissioner of banks may determine at least semiannually. Each state chartered association shall be notified, by first class mail, of the liquidity ratio required for each semiannual period within 15 working days of the end of the preceding period. Semiannual periods shall end on June 30 and December 31 of each year. Such association shall also be notified immediately, by first class mail, of a change in the required liquidity ratio established at any time other than the end of a semiannual period.

Subp. 2. **Definitions.** Definitions:

A. The term "cash" means cash on hand and cash invested in or on deposit in banks, including the Federal Home Loan Bank, and in other savings and loan associations, which is not pledged as security for indebtedness.

B. The term "obligations of the United States or this state" means all unpledged evidences of indebtedness assumed by the United States or the state of Minnesota or any of its political subdivisions and all unpledged evidences of indebtedness assumed by any agency or instrumentality of the United States or of the state of Minnesota or any of its political subdivisions, which are by statute fully guaranteed as to principal and interest.

Statutory Authority: *MS s 51A.42 subd 3*

2675.3110 MORTGAGE LOANS.

A separate individual record shall be kept of each mortgage loan. Only such advances or charges as are provided for in the loan contract and/or those specifically provided for in Minnesota Statutes, section 51A.38 may be added to the loan balance.

The loan record shall show the contractual status as to delinquency or advance payment in dollars and cents at the close of each six month accounting period. Advances charged to the loan and not repaid will be reflected in the delinquency.

An attorney's opinion or title insurance policy will be required with all loans, which opinion or policy should show the status of fee title and whether or not the association has a first valid lien on the property.

Statutory Authority: *MS s 51A.42 subd 3*

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2675.3120 OTHER REAL ESTATE.

When real estate is acquired through foreclosure or by deed in lieu thereof, it shall be transferred to an account entitled "other real estate" on the date the association actually acquires title.

"Other real estate" cannot be entered on the books of an association at an amount greater than the balance of the principal amount of the loan at the time of acquisition, plus foreclosure costs and delinquent taxes and assessments paid at time of acquisition.

A separate record of each parcel shall be kept which will show among other things the legal description, the balance due on the principal debt, the cost of foreclosure, delinquent taxes, or other costs of acquisition, subsequent additions, if any, chargeoffs, and final disposition.

No cost of repairs or cost of restoration of property may be added to the real estate account except such expenditures as represent permanent improvements.

No additions to book value may be made after the date of sale in cases of foreclosure, except as noted in the previous sentence. If deed is taken in lieu of foreclosure, real estate must be carried at a figure not exceeding the balance due on the mortgage, plus taxes and assessments paid by the association other than taxes which were current when deed was obtained.

When "other real estate" is sold on a contract for deed, the parcel involved shall be transferred to an account entitled "real estate contracts."

When sales are made at prices in advance of the book value of real estate, the profit involved shall be considered a deferred profit and held in a reserve account and only credited to actual profits after 33-1/3 percent of the purchase price has been paid on the contract, excluding interest payments.

Statutory Authority: *MS s 51A.42 subd 3*

2675.3130 PARCELS OF UNSOLD "OTHER REAL ESTATE."

Parcels of unsold "other real estate."

A. Parcels of "other real estate," not yet sold on contract for deed, must be charged off against the legal reserve account annually at the rate of at least five percent of the original amount. The first chargeoff for each parcel must be made not later than 12 months after the date of acquisition.

B. In lieu of item A, and if an association chooses to establish a specific reserve for losses for the excess book value of unsold real estate parcels based on dated and signed appraisals by the association of qualified appraisers at the time the association acquires each parcel, it may do so by transferring these amounts from the legal reserve account. If said parcels of other real estate continue to remain unsold and when due passage of years prove the specific reserve for losses to be insufficient based on annual multiples of five percent of the original amount, as the case may be, the association shall then begin annual transfers, as provided in item A, to the specific reserve account from the legal reserve account.

Statutory Authority: *MS s 51A.42 subd 3*

2675.3140 SHARES.

Any association issuing shares by series shall keep an individual record of each certificate issued, adequate to show each payment made thereon, and at the close of each accounting period to show the value to date, the dividend credited, and the delinquent or advance payments in dollars and cents. Red figures will indicate delinquency. Black figures will indicate advance payments.

When a bonus agreement is entered into in connection with any share account the share record shall show, in addition to the customary record and stipulated monthly payment, the amount of "bonus dividend" allocated to the account, and for each and every month the amount the account is delinquent or

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paid in advance.

Statutory Authority: *MS s 51A.42 subd 3*

2675.3150 INTEREST EARNED BUT NOT COLLECTED.

When interest on loans is calculated and added to the loan balance, and if all or part of such interest is not paid, such amount must be set up as "interest earned but not collected" at time of adjusting the loan balance and can only be transferred to interest received after being actually paid by the borrower.

Statutory Authority: *MS s 51A.42 subd 3*

2675.3155 SURETY BONDS.

Subpart 1. **Minimum coverage.** Each association shall maintain bond coverage with a bonding company acceptable to the commissioner of banks, and such bond shall be in form known as "standard form no. 22" or its equivalent or in other form acceptable to the commissioner of banks. The bonds shall cover each director, officer, employee, and agent who has control over or access to cash or securities of such association. Such coverage shall be maintained in the minimum amount set forth below, computed on a base consisting of the total assets of the savings association, as follows:

Base	Minimum Bond
Not over \$300,000	\$15,000 plus \$7,500 for each \$100,000 or fraction thereof over \$100,000
\$300,001 to \$1,000,000	\$45,000 plus \$15,000 for each \$100,000 or fraction thereof over \$400,000
\$1,000,001 to \$10,000,000	\$150,000 plus \$30,000 for each \$1,000,000 or fraction thereof over \$2,000,000
\$10,000,001 to \$30,000,000	\$450,000 plus \$60,000 for each \$5,000,000 or fraction thereof over \$15,000,000
\$30,000,001 to \$60,000,000	\$705,000 plus \$75,000 for each \$10,000,000 or fraction thereof over \$40,000,000
\$60,000,001 to \$100,000,000	\$945,000 plus \$90,000 for each \$15,000,000 or fraction thereof over \$70,000,000
\$100,000,001 and over	\$1,230,000 plus \$105,000 for each \$25,000,000 or fraction thereof over \$125,000,000

Subp. 2. **Deductible amounts.** No association shall be required to maintain such bond coverage in an amount greater than \$3,000,000. Such bond coverage may contain provision for a deductible amount from any loss which, except for such deductible provision, would be recoverable from the bonding company. A deductible shall not be in excess of the following amounts in relation to the following bond bases:

Base	Permissible Deductible
Under \$1,000,000	\$ 500
\$ 1,000,001 to \$ 10,000,000	1,000
10,000,001 to 50,000,000	1,500
50,000,001 to 100,000,000	2,500

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100,000.001 to 150,000.000	5,000
150,000.001 to 200,000.000	7,500
200,000.001 and over	10,000

The permissible deductible amount specified in this paragraph may be increased by an association to a maximum of three times the above-specified permissible amount whenever losses under the bond exceed 50 percent of the premium payable for the current premium term. A deductible amount may be applied separately to one or more insuring agreements. The bond shall not provide that there may be more than one deductible amount from all losses caused by the same person or caused by the same persons acting in collusion or combination in cases in which such losses result from dishonesty of employees (as defined in the bond).

Subp. 3. Coverage of service organizations. If the accounting records of an association are maintained and serviced by a data processing organization, that organization, while performing such data processing services, must be covered as an employee under the association's bond.

A service corporation of an association shall maintain such bond coverages as may be appropriate considering the nature of its activities and the practice of other corporations engaged in similar activities:

Statutory Authority: *MS s 51A.42 subd 3*

2675.3160 BRANCH OFFICES.

Subpart 1. Authorizing resolution. A savings association may establish a branch office only in the manner prescribed herein. An association which desires to establish a branch office shall, by resolution of its board of directors, authorize the establishment of such office at a specified location. The president and secretary of the association, or its other presiding and recording officers, shall execute a certificate embracing, under the corporate seal of the association, the resolution of the board of directors authorizing the establishment of such branch office, and shall execute and acknowledge an application, in writing, in the form prescribed by the Banking Division, requesting a certificate authorizing the association to establish a branch office at the location stated in the application. The certificate embracing the resolution and the application shall be filed with the commissioner of banks.

Subp. 2. Summary denial. The commissioner shall summarily deny such application if it is determined that any of the following conditions exist: the location of the proposed branch office is more than 100 miles from home office of the association on the effective date of this part; the association has been transacting business for a period of less than three years; or the commissioner has denied, other than summarily, within one year preceding the filing of the application, another application by the association under this part for a certificate authorizing it to establish a branch office at the same location or within the immediate vicinity thereof.

If the commissioner summarily denies such application, he shall serve the order of summary denial upon the association by mail at its principal place of business.

Subp. 3. Hearing. If the application is not summarily denied, the commissioner shall fix the time, within 60 days after the filing of the application, for a hearing at his office, at which hearing he shall decide whether or not the application shall be granted. Notice of the hearing shall be published in the form prescribed by the commissioner in some newspaper published in the municipality in which the proposed branch office is to be located, and if there is no such newspaper, then at the county seat of the county in which the branch office is proposed to be located. The notice shall be published once, at the expense of the association, not less than 15 days nor more than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the

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application and hear such witnesses as may appear in favor of or against the granting of the application.

Subp. 4. **Criteria for granting.** If upon the hearing it appears to the commissioner that there is a reasonable public demand for the branch office in the location specified by the application, that there is a reasonable probability of its usefulness and success, that it can be established without undue injury to the properly conducted, existing financial institutions in the locality, and that it will be properly and safely managed, the application shall be granted; otherwise it shall be denied.

Subp. 5. **Written denial.** If the application is denied, the commissioner shall, not later than 60 days after the hearing, make his order in writing to that effect, specifying the ground for denial and forthwith give notice thereof by registered mail to the association, at its principal place of business; and, thereupon, the commissioner shall refuse to issue a certificate of authorization to the association.

Subp. 6. **Authorizing certificate.** If upon hearing it shall appear to the commissioner of banks that the application shall be granted, he shall not later than 60 days after the hearing issue a certificate authorizing the association to establish a branch office at the location stated in the application, subject to such conditions as he may deem necessary. After the issuance of the certificate of authorization by the commissioner, it shall be filed for record with the secretary of state and with the county recorder of the county of the principal place of business of the association and also with the county recorder of the county in which said branch office is to be located, if different from that of the principal place of business of the association.

Subp. 7. **Deadline.** If a branch office is not opened for business to the public within 12 months following the date of issuance by the commissioner of the certificate authorizing its establishment, unless extended by order of the commissioner for a period not exceeding an additional 12 months, said certificate shall become void.

Statutory Authority: *MS s 51A.42 subd 3*

2675.3170 BOOKS, RECORDS, AND REPORTS.

An association shall keep a complete set of books and records and shall keep the commissioner of banks advised at all times of the address at which they are maintained. Any association receiving recordkeeping services from another association or from a service corporation shall provide the following:

A. a certificate from the association receiving such services, stating that it will comply with the provisions of Minnesota Statutes, sections 46.04 and 51A.42 and giving full assurance that the performance of such recordkeeping services by the other association, or the respective clerical service corporation (name of either to be given), will be subject to Banking Division rules in the same manner as if such services were being performed by the association itself and on its own premises; and

B. a certificate to be furnished by the association furnishing such clerical services, or the clerical service corporation, agreeing as to performing such services as outlined in Minnesota Statutes, sections 46.04 and 51A.42 that its performance thereof will be subject to regulation and examination by the commissioner of banks to the same extent as if such services were being performed by the serviced association itself on its own premises.

Statutory Authority: *MS s 51A.42 subd 3*

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2675.3180 INVESTMENT RECORDS.

Subpart 1. **Requirements.** During the period in which investments are carried on an association's books, it shall be required that:

A. original invoices of bond purchases and sales be retained as a part of the records of an association;

B. a record be maintained of all securities bought and sold, showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where deposited for safekeeping;

C. any investment, other than U.S. governments direct and/or guaranteed, shall be supported by full credit information at the time of purchase (dealer's circular or prospectus).

Subp. 2. **Purchase exceeding par.** Purchase of a security at a price exceeding par is prohibited, unless the association shall:

A. charge off the premium when the securities are placed on the books; or

B. provide for the regular amortization of the premium paid, so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

C. set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under item B; and

D. accrued interest paid on securities must be charged to interest received, and bond commissions and all costs of sales or purchases must be charged to expense.

Subp. 3. **Purchase less than par.** Upon the purchase of a security at a price less than par, the association shall place such security on its books at cost and may provide for the regular accretion of the discount, ratably over the period from purchase to maturity of the security.

Statutory Authority: *MS s 51A.42 subd 3*

2675.3190 CHARTER.

The charter must be framed and hung in a conspicuous place in the main lobby of the association's office.

Statutory Authority: *MS s 51A.42 subd 3*

LICENSED REGULATED LENDERS

2675.4100 LICENSED OFFICE.

No application for a loan shall be taken, nor shall any note evidencing the loan obligation be signed, nor shall the proceeds of any loan be paid to a borrower at any other place than that named in the license; except that a renewal note to evidence the unpaid balance of an existing loan and other instruments given to secure said balance, may be taken outside of the office of the licensees, and in loan transactions where there is more than one signer only one thereof shall be required to sign in the office of the licensee; provided, however, that this part shall not apply to loans consummated by mail.

Statutory Authority: *MS s 56.21*

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2675.4110 MAXIMUM LOAN APPLIES TO MULTIPLE OFFICES.

Licenses shall not induce or permit any borrower to become obligated, directly or contingently, for a total amount in excess of maximum limit stated in Minnesota Statutes, section 56.131 on loans obtained from two or more licensed offices operated in Minnesota by the same individual, partnership, affiliated partnership, corporation, or affiliated corporation. Licensees shall take reasonable precautions to prevent borrowers from obtaining amounts in excess of the maximum limit in this manner.

Statutory Authority: *MS s 56.21*

2675.4140 LICENSEES TO BE RESPONSIBLE FOR ACTS OF ASSIGNEES.

Subpart 1. Notification. Within ten days after the transaction date, licensees shall notify the commissioner of banks of the bulk purchase of loan accounts made pursuant to the Minnesota Regulated Loan Act from another licensee or person authorized by the Minnesota Regulated Loan Act to engage in this business without necessity of a license and of the bulk sale of loan accounts to another licensee or person authorized by the Minnesota Regulated Loan Act to engage in this business without necessity of a license. Notices of the purchase and sale of accounts shall state the name and address of the licensee or person from whom accounts are being purchased, to whom accounts are being sold, and shall state the total number of accounts and the total outstanding principal balances involved.

Subp. 2. Disposition of loan accounts to unlicensed persons. Licensees shall not make a bulk sale or otherwise dispose of loan accounts made pursuant to the Minnesota Regulated Loan Act to any person not licensed under or authorized to engage in this business without necessity of a license by the Minnesota Regulated Loan Act unless prior approval is obtained from the commissioner of banks. The privilege of receiving the charges allowed by the Minnesota Regulated Loan Act cannot be transferred to an unlicensed purchaser or purchaser not authorized to engage in this business without necessity of a license and all loans sold, assigned, or transferred to a nonlicensee or unauthorized person shall be endorsed to bear interest at a rate not to exceed the maximum legal contract rate of interest. This subpart does not apply to a transfer of loan accounts made pursuant to the Minnesota Regulated Loan Act that is involuntary or by operation of law.

Statutory Authority: *MS s 56.21*

2675.4150 MANAGEMENT AND CONTROL.

Subpart 1. License criteria. Licenses are issued after consideration of the experience, character, and general fitness of the officer or manager in charge of the licensed office.

Subp. 2. Change of managing officer. Changes of such managing officer which occur must be reported promptly, in writing, to the commissioner of banks, in advance of the effective date of change when circumstances permit, but in any event within ten days of such transfer.

Statutory Authority: *MS s 56.21*

2675.4160 TRANSFERRED ACCOUNTS.

The original ledger card or record of payments on any transferred regulated loan must be retained in the transferring licensed regulated loan office for at least two years from the date of transfer.

Statutory Authority: *MS s 56.21*

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2675.4170 COMPUTING DATE AND TIME.

For the purpose of computing elapsed periods of time, a month shall be considered a calendar month and, where a fraction of a month is involved, a day shall be considered 1/30 of a month. The method employed must count only 30 days for any full calendar month elapsed but count the actual days in any fractional month period. A full calendar month is the period from a given date in one month to the same numbered date in the following month and in case there is no same numbered date in the following month, to the last day in the following month. In any period extending beyond one or more full months, the one or more full months fall at the start of the period and the fractional month at the end.

Statutory Authority: *MS s 56.21*

2675.4180 REFUND OF UNEARNED INTEREST.

The refund of unearned precomputed interest shall be computed as of the next installment date on any regulated loan prepaid in full by cash, a new loan, renewal, refinancing, or otherwise if prepaid when:

A. 15 days or more have elapsed after a scheduled installment due date in any month where the actual number of days in the interval between the scheduled installment dates totals 28 or 29 days; or

B. 16 days or more have elapsed after a scheduled installment due date in any month where the actual number of days in the interval between the scheduled installment dates totals 30 or 31 days; or

C. when fewer days than described in item A or B have elapsed the refund shall be computed as of the prior due date.

Statutory Authority: *MS s 56.21*

INDUSTRIAL LOAN AND THRIFT COMPANIES

2675.5100 BOOKS AND RECORDS.

Subpart 1. **Minimum requirements.** In order to facilitate a satisfactory examination by the commissioner of banks or the commissioner's representatives, each industrial loan and thrift company shall maintain such books and records as are deemed necessary, and a monthly trial balance as of the close of the accounting period to be in the branch office within 25 days.

Subp. 2. **Additional requirements.** The principal office of each industrial loan and thrift company in this state shall maintain the following additional books and records:

A. a consolidated monthly trial balance as of the close of the accounting period to be in the principal office within 25 days;

B. copies of the corporate stock register;

C. copies of all corporate insurance policies and surety bonds, as required by part 2675.5120; and

D. copies of the minutes of all the annual, regular, and special meetings of the board of directors and stockholders.

Subp. 3. **Retention period.** Unless otherwise provided, all legal instruments, supporting documents, and ledger cards or record of payments shall be maintained in the office for at least two years after recording the final entry on them.

Statutory Authority: *MS s 46.01*

2675.5110 CASH DIVIDENDS.

No industrial loan and thrift company which sells certificates of indebtedness to the public for investment purposes shall pay a cash dividend to its stockholders until written approval for such payment has been obtained from the commissioner of banks. Banks requesting information that will be required for the approval of dividends will be supplied by the division upon request.

Statutory Authority: *MS s 46.01*

2675.5120 SURETY BONDS AND INSURANCE.

Each industrial loan and thrift company shall provide adequate corporate surety bond coverage on all its officers and employees having access to cash or other assets of the company. They shall also provide other types of insurance that may be deemed necessary.

Statutory Authority: *MS s 46.01*

2675.5130 MANAGEMENT.

Subpart 1. **License criteria.** Certificates of authorization are granted after consideration of the experience, character, and general fitness of the officer or manager in charge of the licensed office.

Subp. 2. **Change of managing officer.** Changes of such managing officer which occur must be reported promptly, in writing, to the commissioner of banks, in advance of the effective date of change when circumstances permit, but in any event within ten days of such transfer.

Statutory Authority: *MS s 46.01*

CREDIT UNIONS**2675.6100 BOOKS, RECORDS, AND REPORTS.**

Subpart 1. **Notice of location.** A credit union shall keep a complete set of books and records and shall keep the commissioner of banks advised at all times of the address at which they are maintained.

Subp. 2. **Recordkeeping services.** Any credit union receiving recordkeeping services from another credit union or from a service corporation shall provide the following:

A. a certificate from the credit union receiving such services, stating that it will comply with the provisions of Minnesota Statutes, section 52.06 and giving full assurance that the performance of such recordkeeping services by the other credit union, or the respective clerical service corporation (name of either to be given), will be subject to Banking Division rules in the same manner as if such services were being performed by the credit union itself and on its own premises;

B. a certificate to be furnished by the credit union furnishing such clerical services, or the clerical service corporation, agreeing as to performing such services as outlined in Minnesota Statutes, section 52.06 that its performance thereof will be subject to regulation and examination by the commissioner of banks to the same extent as if such services were being performed by the serviced credit union itself on its own premises.

Subp. 3. **Audit report.** The supervisory committee shall file a report in duplicate on forms furnished by the commissioner of banks, within 30 days after the date of each semiannual audit.

Subp. 4. **Cash receipts and assets.** All cash receipts and assets of the credit union must be kept intact and not commingled with any other funds under any circumstances.

Subp. 5. **Passbooks and statements of account.** A credit union shall supply its members with passbooks, showing the current position of shares, deposits, and loans. When a statement of the account plan is used, the member's official permanent record for transactions shall be the statement of account which will

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itemize all transactions and which must be issued to each member at least quarterly, unless otherwise approved by the commissioner of banks. No credit union shall hold any passbooks or statements of members.

Subp. 6. **Individual ledger cards.** A number shall be assigned to each member in sequence upon his election to membership, and no such number shall ever be reissued to any other member. Each member's assigned number shall appear on his passbook and individual ledger card for shares, deposits, and loans. All ledger cards must be kept so that the year can be readily ascertained.

Statutory Authority: *MS s 52.06*

2675.6110 PURCHASE OF REAL ESTATE.

No credit union shall purchase real estate unless approved by the commissioner of banks.

Statutory Authority: *MS s 46.01*

2675.6120 OTHER REAL ESTATE.

Whenever real estate is acquired by a credit union through foreclosure or by deed in lieu thereof, it shall be transferred from loans to an account titled "other real estate" on the date upon which the credit union actually acquired title.

No costs of repairs or costs of restoration of such property may be added to the real estate account, except such expenditures as represent permanent improvements. Taxes delinquent when title is acquired may, when paid by the credit union, be added to the book value of the property.

No additions to book value may be made after the date of sale in cases of foreclosure except as noted in the preceding paragraph. If a deed is taken in lieu of foreclosure, real estate must be carried at a figure not exceeding the balance due on the mortgage, plus delinquent taxes and assessments paid by the credit union at the time of acquiring title thereto.

When sales are made on a contract for deed at a price exceeding the book value of the real estate, the profit involved shall be considered a deferred profit and held in a reserve account and only credited to actual profit after one-third of the purchase price has been paid on the contract, excluding interest payments.

"Other real estate" must be charged off annually at the rate of at least ten percent of the original amount and the first charge off must be made not later than 12 months after the date of acquisition.

Statutory Authority: *MS s 46.01*

2675.6130 ORGANIZATIONS AS MEMBERS OR BORROWERS.

Loans may be made to organizations and such may become members, providing they consist for the most part of the same general group as the credit union membership and a substantial number of such credit union members derive the profits and benefits accruing therefrom.

Statutory Authority: *MS s 46.01*

2675.6140 CANCELLED MORTGAGES, NOTES, AND PLEDGES.

All cancelled notes and mortgages, and all pledges must be returned to the borrower.

Statutory Authority: *MS s 46.01*

2675.6150 REAL ESTATE MORTGAGES.

Subpart 1. **Security.** A credit union may take only the following liens upon real estate as security for loans:

- A. a first lien; or
- B. a junior lien if:

(1) the credit union owns all prior liens on the real estate and there are no other intervening liens; or

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(2) the lien is taken to secure debts previously contracted; or

(3) the loan is guaranteed or insured in whole or in part by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned indirectly or directly by the United States, and shall not be subject to the restrictions or limitations imposed by parts 2675.6140 to 2675.6160 upon loans secured by real estate; or

C. a second lien not within the scope of item B if:

(1) the amount of the loan plus the remaining balance on the loan secured by the first lien does not exceed 80 percent of the current appraised value of the mortgaged property;

(2) the credit union relies primarily on other security as collateral for the loan or looks for repayment by relying primarily on the borrower's general credit standing and forecast of income supported by the borrower's signed financial statement;

(3) the lien secures a nonautomobile loan; and

(4) except for home improvement loans, the lien is taken as security for a loan in a principal amount of \$3,000 or more.

Subp. 2. **Appraisal report.** The credit committee with the approval of the board of directors may accept the appraisal report of any other person or persons qualified to appraise real estate which shows the estimated value of the land and building separately, and any other required information, but the credit committee must approve all such loans.

Subp. 3. **Form of mortgage note and deed.** Any standard Minnesota form of real estate mortgage note is acceptable. Any standard Minnesota mortgage deed form is acceptable.

Subp. 4. **Title.** In the case of abstract title property, the loan file of all mortgagees should contain the recorded mortgage and note, and in the case of the first mortgagee the abstract continued to and containing evidence of the usual searches dated at least one day after date of the recording of the mortgage.

In the case of torrens title property, the loan file of all mortgagees should contain a copy of the mortgage and note and either the owner's duplicate certificate of title or the mortgagee's duplicate with memorial of mortgage thereon, and in the case of the first mortgagee a registered property certificate (sometimes called certificate of condition of title) continued to at least one day after date of recording of the mortgage.

Subp. 5. **Attorney's opinion or title insurance.** An attorney's opinion as to the fee title and stating that the credit union mortgage is a valid lien on the property, as specified in subpart 1, or a title insurance policy is required.

Subp. 6. **Loss insurance.** Evidence of adequate insurance to cover mortgage with loss payable clause payable to credit union shall be required for mortgages.

Statutory Authority: *MS s 46.01*

2675.6160 PERSONAL LOANS.

Subpart 1. **Liability record.** A record or index of cosigners' or guarantors' aggregate direct and indirect liability to the credit union shall be maintained, and financial statements are to be taken on the original loan or on any substantial increases.

Subp. 2. **Record retention.** All applications on loans paid or refinanced, must be retained for a minimum period of five years as a part of the credit union's credit file containing the current loan note and supporting papers.

Subp. 3. **Unsecured loans.** All unsecured loans of \$1,500 or more in a credit union of less than \$1,000,000 in assets, and unsecured loans of \$3,000 or more in credit unions of \$1,000,000 or more in assets, shall be supported by signed financial statements of the borrower, comakers, and/or guarantors. Such

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current financial information is also required on loans which the commissioner or his examiners considers inadequately secured. The loan application shall show the estimated value of collateral offered at the time a loan is granted.

Subp. 4. **Board or committee members.** If a board member or member of a committee has a loan delinquent or criticized, the commissioner of banks may require that such director or committee member be removed from his position.

Statutory Authority: *MS s 46.01*

2675.6170 MEMBERSHIP RESTRICTIONS.

With the exception of residence within a well-defined neighborhood, community, or rural district, the field of membership shall consist of regularly qualified members who can be reasonably held to have a common bond of occupation or association, together with their spouses and blood or adoptive relatives and excluding the blood relatives of the spouses in each instance.

Statutory Authority: *MS s 46.01*

2675.6180 BOARD OF DIRECTORS.

Subpart 1. **Change.** Notice of any change in officers, directors, or committee members between annual meetings must be forwarded to the commissioner of banks within ten days after such change.

Subp. 2. **Review of examiner's report.** When the examiner's report is received by a credit union, it must be reviewed by the board of directors at a regular or special meeting within 30 days after its receipt. The letter from this department which accompanies the report must also be read at the directors' meeting. The directors' reply must be on the form attached to the face of the examiner's report. The minutes must show the fact that the directors reviewed the report and also any action taken.

Subp. 3. **Monthly meeting.** At each monthly board meeting the directors shall also be provided with the following information: the amount of any reserve requirement deficiency, the amount needed to pay the credit union's anticipated dividend rate, and whether the credit union has adequate year-to-date net earnings to do so.

Subp. 4. **Minute book.** The minutes of any meeting must be written up as soon as practicable and signed by the secretary and the presiding officer at the next meeting as soon as approved. They should be kept in a book and be available with the credit union records for inspection by the commissioner of banks or his representatives at all times without previous notice.

Statutory Authority: *MS s 46.01*

2675.6190 DIVIDENDS AND INTEREST.

Dividends on shares and interest on deposits amounting to less than one dollar in any dividend or interest period may by action of the board of directors be deferred, accumulated, and paid at the time of withdrawal of the account unless immediate posting of the dividend or accumulated dividends would complete an additional share. Such deferrals shall be maintained in a reserve for dividends account.

Statutory Authority: *MS s 46.01*

2675.6200 LOAN CHARGES.

No credit union shall make a charge or permit a charge to be made for obtaining a loan, other than the charges permitted by the credit union law.

Statutory Authority: *MS s 46.01; 52.141*

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2675.6210 ASSET RECEIPT.

Whenever it becomes necessary to remove any asset from the files for any reason whatsoever, an authentic receipt attached to a copy of such asset must replace it.

Statutory Authority: *MS s 46.01*

2675.6220 CHARGED OFF ASSETS.

A record of all assets charged off, either to the statutory reserve fund or undivided earnings, must be maintained. This record should be kept current and available to the examiners at each examination.

Statutory Authority: *MS s 46.01*

2675.6230 FURNITURE AND FIXTURES ACCOUNT.

Purchases capitalized to the furniture and fixtures account shall be amortized at the minimum rate of ten percent annually, with such exceptions as may be made by the commissioner of banks. Each such annual charge shall be based on the remaining book value at the end of each year.

Statutory Authority: *MS s 46.01*

2675.6240 BALANCE SHEETS AND EXPENSE STATEMENTS.

The commissioner of banks may require credit unions to prepare and present to the board of directors monthly balance sheets and income and expense statements which clearly indicate the following items of information: the number and dollar amount of delinquent personal and real estate loans according to the most recent delinquent loan schedules (if the schedules are not current their dates shall be indicated); income from personal loans; income from real estate loans, if any; income from investments, if any; and other income, if any.

Expenses shall be itemized in reasonable detail monthly and the percentage of income consumed by each classification of expense shall be shown quarterly. The year-to-date amount to be transferred to reserves shall be indicated.

Statutory Authority: *MS s 46.01*

2675.6250 SURETY BONDS.

Subpart 1. Minimum provisions. Credit unions operating under Minnesota law shall be required to be protected by a blanket bond with the following provisions: all officers, committee members, employees, bank messengers, and attorneys representing the credit union shall be covered by the bond. The credit union shall be protected against losses from a lack of honesty or a lack of faithful performance, burglary or robbery, forgery or alteration, and misplacement or mysterious and unexplainable disappearance. The schedule of basic coverage required shall be as set forth in part 2675.9910.

Subp. 2. Notice of claim. Upon learning of a possible bond claim, the insured shall give to the bonding company or any of its authorized agents written notice by registered mail of any such claim under the bond as soon as possible, and the insured shall send to the commissioner of banks, within ten days, a copy of its notification letter to the bonding company.

Statutory Authority: *MS s 46.01*

2675.6260 DELINQUENT LOANS.

Subpart 1. Delinquent personal loans. Credit unions shall be required to send an annual schedule of delinquent personal loans to the commissioner of banks. This schedule shall list delinquent personal loans according to the following categories: three to six months delinquent; six to 12 months delinquent; 12 or more months delinquent. This schedule shall also show for each delinquent personal loan the date of loan, date of last principal payment, and the original amount of loan. The commissioner of banks may require this

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report more frequently than annually if a need to do so is indicated. The board of directors of the credit union shall study this report carefully.

Subp. 2. **Reserve requirements.** The reserve requirements shall consist of the following percentages of the total unpaid balances of the delinquent personal loans:

- A. three to six months, ten percent;
- B. six to 12 months, 25 percent; and
- C. 12 months or more, 80 percent.

This calculation shall be based on the most recent report required by the commissioner of banks or a more recent report prepared at the initiative of the credit union. If the amount in the statutory reserve is inadequate to meet the reserve needs, the commissioner of banks may require the credit union to maintain the amount of the deficiency in a contingency reserve. No net earnings or undivided earnings may be used to pay dividends until the reserve needs have been met in full without the permission of the commissioner of banks. At any subsequent time that any or all of the amount in the contingency reserve is not needed to meet the reserve needs, the unneeded amount may be transferred from the contingency reserve into undivided earnings.

Subp. 3. **Real estate loans.** Delinquency on real estate loans shall be calculated on a contractual basis.

Statutory Authority: *MS s 52.25*

2675.6270 INVESTMENT RECORDS.

During the period in which investments are carried on a credit union's books, it shall be required that:

A. original invoices of bond purchases and sales be retained as a part of the records of a credit union;

B. a record be maintained of all securities bought and sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where deposited for safekeeping;

C. any investment, other than U.S. governments direct and/or guaranteed, shall be supported by full credit information at the time of purchase (dealer's circular or prospectus); and

D. purchase of a security at a price exceeding par is prohibited, unless the credit union shall:

(1) charge off the premium when the securities are placed on the books; or

(2) provide for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

(3) set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under subitem (2).

Accrued interest paid on securities must be charged to interest received. Bond commissions and all costs of sales or purchase must be charged to expense.

Upon the purchase of a security at a price less than par, the credit union shall place such security on its books at cost and may provide for the regular accretion of the discount, ratably over the period from purchase to maturity of the security.

Statutory Authority: *MS s 46.01*

2675.6280 RELATIVES AS EMPLOYEES OF THE CREDIT UNION.

R A relative of a board or committee member or full-time employee may not be employed by a credit union unless such employment is approved by five-sevenths of the entire board as a result of a secret ballot. A relative of a board or committee member or full-time employee who is already employed by the credit union shall be subject to the foregoing provision and his employment shall be reconsidered at the request of any two directors.

Statutory Authority: *MS s 46.01*

2675.6290 INSURANCE.

A credit union may establish, operate, or maintain an insurance agency as a separate corporation or agency within its physical premises.

A credit union may be the policyholder of either a group insurance plan or a subgroup under a master policy plan.

Premiums may be remitted by the credit union to an insurer or the holder of a master policy on behalf of a credit union member provided that said credit union has obtained written authorization from such member.

The credit union may accept reimbursement from the insurer for the actual cost of ministerial tasks performed pertaining to insurance. This reimbursement shall not exceed ten percent of gross premiums. The credit union may not accept a commission on the insurance sale.

Where a credit union is engaged in the facilitation of its members' voluntary purchase of types of insurance incidental to the borrowing of money for provident and productive purposes, including but not limited to fire, theft, automobile, life, and temporary disability insurance, a member shall be given the elective of purchasing any required insurance from the vendor of his choice, and the members' file shall contain his signed written elective.

If the insurance is cancelled, the unearned premium shall be paid to the member or credited to the member's share or deposit or loan account as the case may be.

Statutory Authority: *MS s 46.01*

2675.6300 C.P.A. AUDIT IN LIEU OF EXAMINATION.

R Any C.P.A. audits which the commissioner of banks may wish to accept in lieu of examinations must include a balance sheet examination and the classifying of assets in a manner consistent with state credit union examinations. This C.P.A. report of examination will be submitted on the same forms and in the same manner that state credit union examiners employ.

Any credit union may request prior approval by the commissioner to submit a C.P.A. audit in lieu of examination. Where such approval is given, the commissioner shall retain the authority to reject the C.P.A. audit which is submitted if it is inadequate by the standards of the Banking Division.

Statutory Authority: *MS s 52.06*

DEBT PRORATING COMPANIES

2675.7100 SURETY BOND.

Subpart 1. **Minimum amount.** The corporate surety bond shall be for an amount not less than \$5,000 but, at the discretion of the commissioner of banks, may be at least equal to the largest amount which may or has accrued in the trust account during the year. Securities in excess of a minimum of \$5,000 surety bond, which are acceptable to the commissioner, may be forwarded for deposit with the state treasurer as additional surety, provided prior approval has been obtained.

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Subp. 2. **Form and expiration.** The surety bond shall be executed on forms provided by the commissioner and shall expire simultaneously with the license.

Statutory Authority: *MS s 332.15 subd 5; 332.25*

2675.7110 REPORT TO COMMISSIONER.

Each debt prorating company shall annually, on or before the 15th day of February, file a report as of December 31 with the commissioner of banks containing such information as the commissioner may require. Such reports shall be made on the form prescribed by the commissioner.

Statutory Authority: *MS s 332.22 subd 1; 332.25*

2675.7120 CONTRACT REQUIREMENTS.

Each contract entered into by the licensee and the debtor must be in writing and signed by both parties. The licensee shall provide the debtor with a copy of the signed contract.

The contract shall set forth the following items which shall be made a part thereof:

- A. the names and addresses of the licensee and the debtor;
- B. all debts which are to be managed by the licensee, including the name of the creditor and the amount of the debt;
- C. in clear and precise terms, payments and time of payments reasonably within the ability of the debtor to pay;
- D. the dollar charges agreed upon for the services of the lender as provided under Minnesota Statutes, section 332.23; and
- E. the terms upon which the debtor may cancel the contract as set out in Minnesota Statutes, section 332.23.

Statutory Authority: *MS s 332.25*

2675.7130 OFFICE RECORDS AND PROCEDURES.

Subpart 1. **Basics.** Office records shall be maintained in each individual office and shall include the following:

A. a ledger card for each account which must contain at least the following information:

- (1) name, address, and account number of the debtor;
- (2) date debtor entered into the plan, schedule of payments, and amount of the initial indebtedness;
- (3) name, address, account number, and initial amount due each creditor;
- (4) date, name, address, account number, and initial amount due each creditor under a separate and additional contract;
- (5) amount, date, and receipt number of each payment received from the debtor;
- (6) source and nature of unusual payments received from or on behalf of the debtor;
- (7) date, amount, check number, and current balance due each creditor; and
- (8) balance in escrow after payment.

B. a receipt for all payments received from a debtor or other person on behalf of the debtor; the receipt shall be:

- (1) prenumbered by the printer;
- (2) issued in duplicate, one copy to the payor and one copy filed in consecutive, numerical order in the licensed office; and
- (3) given or sent immediately to the payor, or maintained in the debtor's file and attached to the next quarterly statement sent to the debtor.

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Subp. 2. **Trust funds.** In addition to the requirements of subpart 1, each office shall comply with the following:

A. All payments received from a debtor or on behalf of a debtor shall be deposited into a separate trust account daily in an approved bank and such funds shall not be commingled with the licensee's own property or funds.

B. The trust fund account must be reconciled monthly with the cancelled checks together with voided or unused checks filed in numerical order after the monthly statement has been reconciled. All trust fund checks must be prenumbered by the printer.

C. The licensee's own operating bank account must be reconciled monthly and proper records maintained, but not commingled with the trust account record.

D. A daily receipts and disbursements journal shall be maintained showing receipt of all debtor payments as well as the disbursement of these payments.

E. Accounting records must be maintained which show daily debtor payments received, disbursement to creditors, fees collected, and money held in escrow.

F. A scrapbook containing copies of all advertising promulgated by or for each office including radio and television scripts.

G. A statement, as required under Minnesota Statutes, section 332.22, shall be delivered to each debtor for the quarters ending March 31, June 30, September 30, and December 31, within 20 days following the end of the quarter; upon cancellation or termination of the contract; or upon receipt of a written request from or on behalf of a debtor and a duplicate copy of any such statement maintained in the debtor's file.

H. Documents or records shall be maintained for each debtor indicating steps taken to obtain consent of all creditors; notice to the debtor of the right to cancel the contract for failure to obtain the consent of all creditors; and notice to all creditors of the debtor's cancellation of the contract.

Subp. 3. **Variances.** Any variation of these standard procedures or records that prevent the licensee from maintaining the required records must be first approved, in writing, by the commissioner of banks.

Statutory Authority: *MS s 332.25*

2675.7140 FEES.

The origination fee may not exceed \$25 but shall not be collected unless there is a valid contract with a written budget analysis indicating that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan.

No additional charges, such as filing wage assignments, purchasing money orders, dishonored checks, telephone calls, or telegrams are allowed.

No cancellation fee is allowed.

Statutory Authority: *MS s 332.25*

ELECTRONIC FUNDS TRANSFER TERMINALS

2675.8100 DEFINITIONS.

Subpart 1. **Scope.** All terms in parts 2675.8100 to 2675.8170 that are defined in Minnesota Statutes, sections 47.61 to 47.74 shall have the meanings attributed to them therein. For the purpose of Minnesota Statutes, sections 47.61 to 47.74 and parts 2675.8100 to 2675.8170, terms defined herein shall have the meanings given to them.

Subp. 2. **Act.** "Act" means Minnesota Statutes, sections 47.61 to 47.74 (Laws of Minnesota 1978, chapter 469), as enacted and subsequently amended.

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Subp. 3. **Card.** "Card" means the device used to activate a terminal, including a credit card or debit card.

Subp. 4. **Card issuer.** "Card issuer" means a financial institution or a person authorized by a financial institution providing the use of a terminal to a customer to be activated by a card.

Subp. 5. **Control.** "Control" means the ownership of greater than 50 percent interest in the terminal or terminals; or any leasehold interest in the terminal or terminals; or the power to act as agent or card issuer authorized by those persons having ownership or leasehold interests in the terminal or terminals for purposes of the act and parts 2675.8100 to 2675.8170.

Subp. 6. **Customer.** "Customer" means any person who has established a contractual relationship with a financial institution whereby that person is authorized to initiate any of those functions permitted to be performed under the act at a terminal.

Subp. 7. **Operator.** "Operator" means any person who assists in the initiation of terminal transactions on behalf of a customer. Operator does not include an employee of a financial institution, financial institution holding company or subsidiary thereof of the customer.

Subp. 8. **Person.** "Person" means any individual, body politic or corporate, partnerships, or other unincorporated associations, including financial institutions.

Subp. 9. **Personal identification code.** "Personal identification code" is the confidential code provided to the customer which is necessary to the completion of a transaction at a terminal.

Subp. 10. **Provider.** "Provider" means the person or persons having control over a terminal under the act.

Subp. 11. **Terminal.** "Terminal" means an electronic financial terminal as defined in the act.

Subp. 12. **Transaction.** "Transaction" means each separate, identifiable financial function performed at a terminal as authorized under the act.

Statutory Authority: *MS s 47.71*

2675.8110 AUTHORITY, SCOPE, AND PURPOSE.

Minnesota Statutes, section 47.71, authorizes the commissioner of banks to promulgate rules as are reasonably necessary to carry out and make effective the provisions and purposes of the act. Parts 2675.8100 to 2675.8170 relate to the operation of electronic funds transfer terminals and the manner and information required in the submission of applications for authorization, establish minimum technical operation standards, and require disclosure of information to customers using such terminals. Parts 2675.8100 to 2675.8170 establish an application procedure and guide to standards considered reasonable to accomplish the purposes of the act. Further, the act mandates the promulgation of rules to inform, guide, and protect consumers, retailers, and financial institutions in the utilization of electronic financial terminal systems. Parts 2675.8100 to 2675.8170 further set out specific requirements concerning the issuance of cards, disclosures of pertinent required information, and reporting of data relating to financial transactions initiated at electronic financial terminals.

Statutory Authority: *MS s 47.71*

2675.8120 APPLICATION FOR AUTHORIZATION.

Any person, including a card issuer, seeking approval to act as a provider of a terminal or terminals at a specific retail location shall, not less than 45 days before the establishment of the terminal or terminals, file with the commissioner a written application on a form provided by the commissioner entitled "Electronic Financial Terminal Authorization Application." Such application shall include the following information:

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A. name and principal address of the person filing the application, together with such person's financial statement for the most recently closed fiscal year;

B. the name and principal address of the person or persons having control thereof, if other than the applicant, together with such persons' financial statements for the most recently closed fiscal year;

C. descriptive information, including the number of terminals applied for, the retail location of each terminal by street address or other designation (including city and county), and the manufacturer, model number, and type of the terminal;

D. whether the terminal will be attended or unattended* and, if attended, by whose employees or agents as operators;

E. the functions to be performed at the terminal;

F. schedule of charges to be paid to the provider by those financial institutions sharing the terminal or terminals;

G. a complete description of the physical and technical operation standards pertaining to the terminal, including information and specifications necessary to enable a financial institution that is eligible to share the terminal to obtain interface with the terminal;

H. operational information, including the manner in which the terminal is activated, anticipated hours of use, anticipated date of first use of the terminal following approval by the commissioner, and name and principal address of any financial institution, other than the provider, which is permitted or is seeking permission from the provider to share the terminal;

I. all agreements used or intended to be used relating to the ownership, operation, and control of the terminal, including agreements with and disclosures to customers required by the act and part 2675.8160, subpart 1.

J. a description of the safeguards to be used to meet the terminal security requirements of section 8 of the act;

K. a description of the procedures to be used to meet the customer privacy requirements of section 9, subdivision 1 of the act;

L. a description of the procedures to be used to minimize losses due to unauthorized withdrawals from customer accounts by use of a terminal as required by section 9, subdivision 3 of the act;

M. evidence of the bond or other means adopted to comply with the provisions of section 4, subdivision 5 of the act; and

N. certification under oath by the applicant that all requirements of the act and of parts 2675.8100 to 2675.8170 shall be met and shall be observed.

Statutory Authority: *MS s 47.62 subd 3*

2675.8130 NOTICE TO COMMISSIONER.

Notice to commissioner:

A. The commissioner shall be given written notice by the applicant within 30 days following the contracting by a provider with additional financial institutions which have been permitted to share the terminal or terminals.

B. The commissioner shall be given written notice by the applicant not less than 30 days prior to the change of control or change of the operator of any terminal or terminals. For purposes of this item, "operator" does not include individual employees of a provider or retailer.

C. The commissioner shall be given written notice by the applicant of the termination of terminal operations at the location authorized not more than ten days after termination of all regulated activity.

Statutory Authority: *MS s 47.62 subd 3*

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2675.8140 TECHNICAL STANDARDS.

For purposes of approval by the commissioner of applications for the establishment and use of terminals, the following technical operation standards and requirements shall be deemed reasonable:

A. physical specifications for cards are those established by the American National Standards Institute, Inc., ANSI X4.13-1971, corrected edition, as approved April 28, 1971, as to its paragraphs 2 to 5.3, inclusive;

B. special physical characteristics applicable to magnetic stripped encoded cards are those characteristics established by the American National Standards Institute, Inc., ANSI X4.16-1976, as approved February 24, 1976, as to its paragraphs 2 to 5.6.5, inclusive;

C. the receipt or record provided to the customer for each transaction initiated at a terminal shall contain the following information: date of the transaction; amount of the transaction; description of the transaction which may be in clear and understandable abbreviations or codes; and identity of any customer's financial institution with whom funds are electronically transferred;

D. all financial transactions performed at a terminal as authorized by section 3 of the act shall be processed as if the transactions were conducted at the principal office of the financial institution having due regard for the reasonable time necessary for the transportation or transmission of data or funds deposited or received at the terminal in cash or checks to the point of verification by the financial institution. There shall be no differential in such time delay, if any, between the various permitted transactions initiated at a terminal unless acknowledged in writing by the customer; in the event cards meeting the requirements of the act and parts 2675.8100 to 2675.8170 are outstanding under a preauthorized agreement and in lieu of an acknowledgement in writing by the customer, such time differential shall be disclosed to the customer in writing before authorization for use of a terminal; and

E. a personal identification code shall be utilized as a means of verification of the authenticity of transactions to be completed at a terminal; the personal identification code shall not be distributed until the financial institution issuing the card has received the customer's signed contract.

Statutory Authority: *MS s 47.64 subd 1*

2675.8150 ALTERNATIVE TECHNICAL STANDARDS.

In lieu of compliance with part 2675.8140, items A and B, an applicant seeking approval for the establishment and use of a terminal or terminals may adopt alternative physical specifications and physical characteristics for cards upon a showing that the proposed alternative specifications and characteristics meet or exceed the requirements set forth in part 2675.8140, items A and B, in providing the following:

A. protection to the customer and sharing financial institutions against misuse or unauthorized use of cards;

B. reliability of accurate processing of information regarding transactions performed through the use of the cards; and

C. fair, equitable, and nondiscriminatory access to the terminal by other potential sharing financial institutions.

Statutory Authority: *MS s 47.64 subd 1*

2675.8160 CUSTOMER DISCLOSURE REQUIREMENTS.

Subpart 1. **Disclosure information.** Pursuant to section 9 of the act, the following information shall be disclosed in writing by the card issuer to its customer at the time the card is issued or in the event cards meeting the requirements of the act and parts 2675.8100 to 2675.8170 are outstanding (this disclosure shall be made before the customer is allowed to use a terminal):

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A. the types of financial transactions available through the use of the terminal;

B. the schedule of charges made by the financial institution for the customer's use of the terminal;

C. any restrictions or limits on the number of transactions or dollar value limits that may be imposed upon the customer by the card issuer;

D. the frequency for sending periodic transaction statements to the customer;

E. the procedure to be used to give notice of error to the card issuer (said disclosure shall include the manner in which notice of error is to be filed and with whom it is to be filed, and shall include the mailing address and telephone number of the person to whom notice may be given);

F. the specific manner in which the agreement under which a card was issued may be terminated, either by the card issuer or by the customer;

G. the customary time needed to complete terminal transactions with the financial institution clearly stating differential in time if any between the various permitted transactions initiated at a terminal;

H. where payment for goods or services is made by a transfer of funds through a terminal: whether the transaction may be reversed by the customer, the procedure by which the transaction may be reversed, and a statement that the payment for goods or services made in this manner shall not affect any of the rights, protections, or liabilities in existing law concerning a cash or credit sale made by means other than through the use of a terminal;

I. a statement that the 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 his agent, in which case the operator of an electronic financial terminal or his 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 (an unauthorized withdrawal is 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 receives no benefit);

J. a statement that any customer may bring a civil action against any person violating the consumer privacy and unauthorized withdrawal provisions of the act and may recover, in addition to actual damages, or \$500, whichever is greater, punitive damages, together with the court costs and reasonable attorney's fees incurred; and

K. a statement that 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 his account from misuse by any person manning an electronic financial terminal, including any supporting equipment, structures, or systems.

Subp. 2. **Type sizes.** All information required to be disclosed by subpart 1 shall be printed in not less than eight-point type, .075 inch computer type, or elite size typewritten characters.

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Subp. 3. **Listing.** A directory listing as permitted under the act shall be made available by the applicant at the retail location of the terminal identifying the financial institutions using its services.

Statutory Authority: *MS s 47.69 subd 2; 47.71*

2675.8170 TRANSACTION STATEMENT.

A financial institution shall provide each customer with a periodic transaction statement at least quarterly. The statement shall include, but need not be limited to, the following: date of transaction, amount of each transaction, and type of each transaction, which may be in clear and understandable abbreviations or codes.

Statutory Authority: *MS s 47.71*

2675.9910 SCHEDULE OF BASIC SURETY BOND COVERAGE.

Credit Union Assets	Minimum Amount Of Bond
0 - 5,000	1,000
5,001 - 10,000	5,000
10,001 - 15,000	10,000
15,001 - 20,000	15,000
20,001 - 30,000	20,000
30,001 - 40,000	25,000
40,001 - 50,000	33,000
50,001 - 60,000	35,000
60,001 - 70,000	37,000
70,001 - 80,000	39,000
80,001 - 90,000	41,000
90,001 - 100,000	43,000
100,001 - 125,000	45,000
125,001 - 150,000	50,000
150,001 - 175,000	55,000
175,001 - 200,000	60,000
200,001 - 225,000	65,000
225,001 - 250,000	69,000
250,001 - 275,000	72,500
275,001 - 300,000	76,500
300,001 - 325,000	80,000
325,001 - 350,000	84,000
350,001 - 375,000	87,500
375,001 - 400,000	91,500
400,001 - 450,000	95,000
450,001 - 500,000	97,500
500,001 - 550,000	100,000
550,001 - 600,000	102,500
600,001 - 650,000	105,000
650,001 - 700,000	107,500

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700,001 -	750,000	110,000
750,001 -	800,000	112,500
800,001 -	850,000	115,000
850,001 -	900,000	117,500
900,001 -	1,000,000	120,000

Credit unions with assets of \$1,000,000 or less shall obtain an endorsement to their bond providing for coverage up to \$1,000,000. Larger bonds may be required according to the size of the credit union.

Statutory Authority: *MS s 46.01*