

Commerce

CHAPTER 45

DEPARTMENT OF COMMERCE

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45.01 DEPARTMENT ESTABLISHED; COMMISSION. The department of commerce shall be under the supervision and control of a commission composed of a commissioner of banks, a commissioner of insurance, and a commissioner of securities. The commission shall be organized in three divisions: a banking division in charge of the commissioner of banks; an insurance division in charge of the commissioner of insurance; and a securities division in charge of the commissioner of securities. The commission shall adopt a seal with the words "Department of Commerce of Minnesota" and such design as the commission shall prescribe engraved thereon, by which seal the commission shall authenticate its signatures and proceedings.

[1925 c 426 art 8 s 1; 1925 c 192 s 26; 1927 c 66 s 13] (53-28, 3996-26)

45.02 COMMISSIONERS; APPOINTMENT, TERMS, VACANCIES. The governor, by and with the advice and consent of the senate, shall appoint the members of the commission. The term of each member shall be six years. In case of a vacancy it shall be filled for the unexpired portion of the term. Each member of the commission, before entering upon the discharge of his duties, shall take, subscribe, and file with the secretary of state, the oath of office prescribed by the constitution, and shall give bond to the state, the commissioner of banks in the amount of \$50,000, the commissioner of insurance in the amount of \$25,000, and the commissioner of securities in the amount of \$10,000, conditioned for the faithful discharge of his duties during his continuance in office and for the payment without delay to the officer or person entitled by law thereto of all moneys which shall come into his hands by virtue thereof.

A majority of the commission shall constitute a quorum.

Each commissioner shall receive a salary in an amount set by the legislature payable semi-monthly, and each shall devote his entire time to the duties of his office.

[1925 c 426 art 8 s 2; 1949 c 739 s 13; 1951 c 713 s 7; 1957 c 601 s 1] (53-29)

45.021 RULES AND REGULATIONS; APPROVAL BY COMMISSIONER OF COMMERCE. All rules and regulations which the directors of divisions in the department of commerce are authorized to promulgate are subject to the approval of the commissioner of commerce.

[1969 c 1129 art 4 s 13]

45.03 POWERS AND DUTIES OF COMMISSION. The commissioner of banks, the commissioner of insurance, and the commissioner of securities, respectively, shall have and possess all the rights and powers and perform all the duties which, prior to the enactment of Laws 1925, Chapter 426, were vested by law in the superintendent of banks, the commissioner of insurance, and the state securities commission, respectively, except that application for the organization and establishment of new financial institutions under sections 45.04 to 45.08, shall be determined by the commission in the manner provided therein, or, in the absence of any law prescribing the procedure, then by such reasonable procedure as the commission may prescribe. The commission shall review, and may affirm, reverse, modify, amend, or abrogate all quasi-judicial acts of a single commissioner upon written request and application of the party aggrieved, this review to be held after such reasonable notice as the commission shall

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prescribe. The commission shall have power to provide for stated meetings, and special meetings may be called by the chairman, or by the other two members. The commission may confer upon the executive secretary authority to fix a time for hearings in accordance with such rules as may be adopted.

[1925 c 426 art 8 s 3; 1965 c 333 s 9; 1969 c 1129 art 4 s 1] (53-30)

45.031 CHAIRMAN AND EXECUTIVE SECRETARY. Subdivision 1. The governor shall appoint one member of the commission to serve as its chairman for a four year term which shall coincide with the term of the governor and continue until a successor is duly appointed and qualifies. A vacancy in the office of chairman shall be filled by appointment of the governor for the unexpired portion of the term. The term of the first chairman appointed pursuant to this subdivision shall expire with the expiration of the term of the governor who makes the appointment. The chairman shall be paid a salary of \$2,000 per annum in addition to the salary which he receives as a member of the commission.

Subd. 2. The commission shall appoint an executive secretary who shall serve at the pleasure of the commission in the unclassified service. The salary of the executive secretary shall be fixed by law. The executive secretary shall be the chief administrative officer of the commission, and shall be charged with keeping full and correct records of all transactions and proceedings of the commission and the performance of such other duties as may be prescribed by the commission. He shall be the official custodian of the records and seal of the commission. He shall be directly responsible to the chairman of the commission in the performance of his duties, and shall serve as his administrative assistant insofar as the duties and responsibilities of the chairman so require.

Subd. 3. Subject to the provisions of Laws 1969, Chapter 1129, and to other applicable laws, the commission shall employ such officers, employees, and agents as it may deem necessary to discharge the functions of the commission within the funds provided therefor from time to time; define the duties of such officers, employees, and agents; and delegate to them such powers, duties, and responsibilities as may be determined by the commission. Except as otherwise provided for herein, the personnel listed in this subdivision are in the classified service of the state civil service.

[1969 c 1129 art 4 s 2]

45.032 HEARINGS. Subdivision 1. The commission or any of its members may delegate its or his authority to conduct a hearing, but not review proceedings to a hearing examiner. For purposes of this section, "appointive authority" means the commission or member thereof by whom such a delegation is made. The examiner shall have the same power as the appointive authority to compel the attendance of witnesses, to examine them under oath, to require the production of books, papers, and other evidence, and to issue subpoenas and cause the same to be served and executed in any part of the state. The commission shall prescribe by rule and regulation, in conformity to the provisions of Minnesota Statutes 1967, Sections 15.0411 to 15.0423, inclusive, the procedures for the conduct of all hearings and review proceedings.

Subd. 2. If a hearing examiner conducts a hearing he shall make findings of fact and submit them to the appointive authority. The transcript of testimony and exhibits shall constitute the exclusive record upon which such findings are made. The findings shall be available for public inspection. After receipt of the hearing examiner's findings, the appointive authority shall decide the case. In deciding the case, the appointive authority shall have all of the powers which it would have had if no hearing examiner had been appointed. Thereafter the decision by the appointive authority shall be subject to review as otherwise provided by law.

Subd. 3. Hearing examiners shall be employed by the commission. The executive secretary of the commission may serve as a hearing examiner. Hearing examiners need not be attorneys at law. They shall be in the classified service of the state civil service, except that (a) the executive secretary shall not be in the classified service even though he serves as a hearing examiner in accordance with this subdivision; and (b) the commission may temporarily employ persons who are not in the classified service to serve as hearing examiners. The chairman shall assign individual hearing examiners to hear cases where an appointive authority directs that the matter be heard by a hearing examiner.

[1969 c 1129 art 4 s 5]

45.033 ANNUAL REPORT OF COMMERCE COMMISSION. Subdivision 1. On or before December 1 of each year the commission shall submit a report to the governor and the legislature. This report shall describe the activities of the commission during the fiscal year ending on the preceding June 30; give general information as to the conditions relating to banking, insurance, and securities regulation within the state during that year; and make such recommendations and suggestions as the commission may deem proper.

Subd. 2. The annual report shall contain a list of state banks, trust companies, building and loan associations, and other financial corporations within the state, their capital stock and surplus funds; a list of suspended banks and financial corporations; and a list of charter applications, together with their disposition, for the year. The report shall not contain a detailed statement of the condition of each bank or other financial corporation.

Subd. 3. The annual report shall contain a statement of the financial condition and business transactions of the insurance companies doing business in the state, as disclosed by official examinations and their annual statements; and the condition of the receiverships of insolvent companies.

Subd. 4. The annual report shall contain a summary of all applications for security registrations received, withdrawn, granted, and denied, and a summary of all securities registrations and licenses suspended, revoked, or cancelled.

[1969 c 1129 art 4 s 6]

45.034 PREPARATION OF DEPARTMENTAL BUDGET. The budget estimates prescribed by section 16A.10, subdivisions 1 and 2, shall be prepared and submitted by the commission in respect of the department of commerce and all of its constituent divisions.

[1969 c 1129 art 4 s 7]

45.04 BANK APPLICATIONS. Subdivision 1. **Filing; fee; hearing.** The incorporators of any bank proposed to be organized under the laws of this state shall execute and acknowledge an application, in writing, in the form prescribed by the department of commerce, and shall file the same in its office, which application shall be signed by two or more of the incorporators, requesting a certificate authorizing the proposed bank to transact business at the place and in the name stated in the application. At the time of filing the application the applicant shall pay a filing fee of \$1,000, which shall be paid into the state treasury and credited to the general fund and shall pay to the commissioner of banks the sum of \$500 as a fee for investigating the application which shall be turned over by him to the state treasurer and credited by the treasurer to the general fund of the state. Thereupon the commission shall fix a time, within 60 days after the filing of the application, for a hearing at its office at the state capitol, at which hearing it shall decide whether or not the application shall be granted. A notice of the hearing shall be published in the form prescribed by the commission in some newspaper published in the municipality in which the proposed bank is to be located, and if there be no such newspaper, then at the county-seat of the county in which the bank is proposed to be located. The notice shall be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At the hearing the commission shall consider the application and hear the applicants and such witnesses as may appear in favor of or against the granting of the application of the proposed bank.

Subd. 2. **Approval, disapproval.** If, upon the hearing, it shall appear to the commission that the application should be granted, it shall, not later than 90 days after the hearing, and after the applicants have otherwise complied with the provisions of law applicable to the organization of a bank, including the provisions herein contained, make and file in the office of the commissioner of banks its order, in writing, directing him to issue the certificate of authorization as provided by law. If the certificate of authorization is not activated within a period of 12 months from date of directive to the commissioner of banks, the department of commerce may upon notice in writing to the applicants request a new hearing. If the commission shall decide that the application should not be granted, it shall deny the application and make its order, in writing, to that effect, and file the same in the office of the commissioner of banks, and forthwith give notice thereof by registered mail to one of the incorporators named in the application for the proposed bank, addressed to the incorporator at the address stated in the application, and thereupon the commissioner of banks shall refuse to is-

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sue the certificate of authorization, which is prescribed by law, to the proposed bank.

[1919 c 86 s 1; 1921 c 498 s 1; 1951 c 67 s 1; 1957 c 601 s 2; 1959 c 88 s 1; 1969 c 399 s 1; 1969 c 772 s 1] (3997)

45.05 NOTICE AND HEARING, WHEN NOT GIVEN. The department of commerce may, at its discretion, dispense with the notice and hearing provided for by section 45.04 in cases where application is made for the incorporation of a new bank to take over the assets of one or more existing banks, or where the application contemplates the reorganization of a national bank into a state bank in the same locality; provided, this act shall not increase the number of banks in the community affected.

[1929 c 146 s 1] (3997-1)

45.06 EXPENSES OF ORGANIZATION AND INCORPORATION OF BANKS LIMITED. The expenses of organization and incorporation to be paid by any such banks shall not exceed the statutory fees for filing applications as provided in section 45.04 and the necessary legal expenses incurred incident to drawing articles of incorporation, publication and recording thereof, and the incorporators shall, prior to the issuance of the certificate of authorization provided for by law, file with the commissioner of banks a verified statement showing the total amount of expense incurred in the organization of the bank and to be paid by it after commencing operation.

[1919 c 86 s 2; 1965 c 171 s 1] (3998)

45.07 CHARTERS ISSUED, CONDITIONS. If the applicants are of good moral character and financial integrity, if there is a reasonable public demand for this bank in this location, if the organization expenses being paid by the subscribing shareholders do not exceed the necessary legal expenses incurred in drawing incorporation papers and the publication and the recording thereof, as required by law, if the probable volume of business in this location is sufficient to insure and maintain the solvency of the new bank and the solvency of the then existing bank or banks in the locality without endangering the safety of any bank in the locality as a place of deposit of public and private money, and if the department of commerce is satisfied that the proposed bank will be properly and safely managed, the application shall be granted otherwise it shall be denied. In case of the denial of the application, the department of commerce shall specify the grounds for the denial and the supreme court, upon petition of any person aggrieved, may review by certiorari any such order or determination of the department of commerce.

[1919 c 86 s 3] (3999)

45.08 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the word defined in subdivision 2, for the purposes of sections 45.04 to 45.07, shall be given the meaning subjoined to it; and the word defined in subdivision 3, for the purposes of chapters 46 to 77, shall be given the meaning subjoined to it.

Subd. 2. **Bank.** The word "bank" means any savings bank or bank of discount or deposit or trust company organized under the laws of this state.

Subd. 3. **Department.** The word "department" means the department of commerce of the state of Minnesota.

[1925 c 261 s 1,2] (4000)

CONSUMER SERVICES SECTION

45.15 ESTABLISHMENT OF CONSUMER SERVICES SECTION. A section of consumer services is established in the department of commerce under the supervision and control of a director of consumer services. The director of consumer services is appointed by the governor, by and with the advice and consent of the senate, for a four year term which shall coincide with the term of the governor and until a successor is duly appointed and qualifies. A vacancy in the office of director shall be filled for the unexpired term.

[1969 c 1129 art 4 s 3]

45.16 CONSUMER SERVICES SECTION, RESPONSIBILITIES AND DUTIES. Subdivision 1. The section of consumer services shall have the responsibilities and duties prescribed by this section and such other authority as may be conferred by the commissioner of commerce.

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Subd. 2. (a) Act as the representative of the governor in all matters affecting consumer affairs;

(b) Enforce the provisions of law relating to consumer fraud and unlawful practices in connection therewith as set forth in sections 325.78 and 325.79, and the attorney general shall act for the division in pursuing the remedies set forth in section 325.80;

(c) Make recommendations to the chairman of the commerce commission for transmission to the governor and the legislature for such statutory needs as may exist in adequately protecting the consumer;

(d) Receive registration statements and annual reports of persons soliciting charitable funds in accordance with the requirements of sections 309.50 to 309.61, in lieu of the duties of the secretary of state in connection therewith. The duties of the secretary of state under such sections are hereby abolished and the activity assigned to the department of commerce, division of licensing and consumer services as provided herein;

Adopt, pursuant to the administrative procedures act, rules and regulations to implement the provisions of this section.

Subd. 3. [Repealed, 1973 c 638 s 66]

Subd. 4. The director of consumer services with the approval of the chairman of the commerce commission may assign any of his duties and responsibilities to sections which he may create within his division.

Subd. 5. Sections 45.15 and 45.16 are effective upon the appointment of a director.

[1969 c 1129 art 4 s 4; 1973 c 513 s 1]