

CHAPTER 47

FINANCIAL CORPORATIONS

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NOTE: "Commissioner" means commissioner of banks. See sections 46.03 and 46.04.

47.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings ascribed to them.

Subd. 2. **Bank.** A bank is a corporation under public control, having a place of business where credits are opened by the deposit or collection of money and currency, subject to be paid or remitted upon draft, check, or order, and where money is advanced, loaned on stocks, bonds, bullion, bills of exchange, and promissory notes, and where the same are received for discount or sale; and all persons and copartnerships, respectively, so operating, are bankers.

Subd. 3. **Savings bank.** A savings bank is an institution under like control, managed by disinterested trustees solely, authorized to receive and safely invest the savings of small depositors.

Subd. 4. **Trust company.** A trust company is a corporation under like control authorized, within prescribed limitations, to act as a safe deposit company, trustee or representative for or under any court, public or private corporation, or individual, and as surety or guarantor.

Subd. 5. **Building and loan association.** A building and loan association is a corporation under like control authorized solely to accumulate funds to be loaned to members to assist them in acquiring homes.

[RL s 2967] (7635)

47.015 CLOSING ON CERTAIN DAYS. Subdivision 1. **Financial institutions.** As used in this section the term "financial institution" shall include banks, trust companies, banks and trust companies, mutual savings banks, industrial loan and thrift companies, savings and loan associations, building and loan associations, national banking associations, federal reserve banks and federal savings and loan associations now or hereafter doing business in this state.

Subd. 2. **Saturday; Monday following holiday.** Any financial institution in the state may remain closed on any Saturday and on any Monday next following a Sunday on which falls a holiday designated by any law of this state. Any Saturday or any Monday on which any financial institution remains closed is a holiday and not a business day with respect to that institution. Any act which by law or contract may be performed on any such Saturday or Monday, at, by, or with respect to any such financial institution remaining closed on such day may be performed on the next succeeding regular business day. No liability or loss of rights on the part of any person or financial institution shall result from such closing.

Subd. 3. **May remain open on Mondays or holidays.** Any financial institution in the state may remain open for the transaction of business on any such Monday or on any holiday designated by any law of this state, and on any such day any financial institution in this state may accept, certify or pay checks, drafts or other instruments, may charge the same against the accounts of customers, and may receive payment of notes, drafts and other instruments, all to the same extent and with the same legal effect as if such day were a regular business day, but nothing herein contained shall affect the due date of any time instrument.

[1949 c 38 s 1; 1951 c 128 s 1; 1953 c 61 s 1; 1953 c 445 s 1; 1955 c 9 s 1; 1955 c 202 s 1; 1955 c 229 s 1; 1955 c 631 s 1; 1955 c 787 s 1]

47.0151 EMERGENCY SUSPENSION OF BUSINESS, DEFINITIONS. Subdivision 1. For the purposes of sections 47.0151 to 47.0155, the terms defined in this section have the meanings given them, unless the context requires otherwise.

Subd. 2. "Commissioner" means the commissioner of banks.

Subd. 3. "Financial institution" includes a bank, a savings bank, a trust company, any branch or agency of a foreign banking organization, a person or association of persons lawfully carrying on the business of banking, a savings and loan association, and, so far as the provisions of sections 47.0151 to 47.0155 are consistent with federal law, national banks and federal savings and loan associations.

Subd. 4. "Officer" means the person designated by the board of directors, board of trustees, or other governing body of a financial institution, to act for the financial institution in carrying out the provisions of sections 47.0151 to 47.0155 or, in the absence of a designation or of the officer or officers designated, the president or any other officer currently in charge of the operations of the financial institution or of the office or offices in question.

Subd. 5. "Office" means any place at which a financial institution transacts its business or conducts operations related to its business.

Subd. 6. "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business operations at one or more or all of the offices of a financial institution and which poses an imminent or existing threat to the safety or security of persons or property, or both. An emergency includes but is not limited to fire; flood; earthquake; hurricane; wind, rain, or snow storms; labor disputes and strikes; power failures; transportation failures; interruption of communication facilities; shortages of fuel, housing, food, transportation or labor; robbery or attempted robbery; actual or threatened enemy attack; epidemics or other catastrophes, riots; civil commotions; and other acts of lawlessness or violence.

[1971 c 318 s 1]

47.0152 POWER OF COMMISSIONER. Whenever the commissioner is of the opinion that an emergency exists, or is impending, in the state or in a part of it, he may, by proclamation, authorize financial institutions located in the affected area to close any or all of their offices. In addition, if the commissioner is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular financial institution or a particular office of it, but not financial institutions located in the area generally, he may authorize the particular financial institution or office affected, to close. The office closed shall remain closed until the commissioner proclaims that the emergency has ended, or until an earlier time when the officers of the financial institution determine that an office, closed because of the emergency, should reopen, and, in either event, for the further time reasonably necessary to reopen.

[1971 c 318 s 2]

47.0153 POWERS OF OFFICERS. Subdivision 1. When the officers of a financial institution are of the opinion that an emergency exists, or is impending, which affects, or may affect, a financial institution's offices, they shall have the authority, in the reasonable exercise of their discretion, to determine not to open any of its offices on any business day or, if having opened, to close an office during the continuation of the emergency, even if the commissioner does not issue a proclamation of emergency. The office closed shall remain closed until the time that the officers determine the emergency has ended, and for the further time reasonably necessary to reopen. No financial institution office shall remain closed for more than 48 consecutive hours, excluding other legal holidays, without the prior approval of the commissioner, or in the case of a national bank, the comptroller of the currency.

Subd. 2. The officers of a financial institution may close the financial institution or one or more of the financial institution's offices on a day designated, by the President of the United States or the governor as a day of national mourning, rejoicing, or other special observance.

[1971 c 318 s 3]

47.0154 NOTICE TO COMMISSIONER. A financial institution closing an office or offices pursuant to the authority granted under section 47.0153, subdivision 1, shall give as prompt notice of its action, as conditions will permit and by any means available, to the commissioner, and in the case of a national bank, to the comptroller of the currency and in case of federal savings and loans, to the federal home loan bank board.

[1971 c 318 s 4]

47.0155 EFFECT OF CLOSING. Any day on which a financial institution, or any of its offices, is closed during all or part of its normal business hours pursuant to sections 47.0151 to 47.0155 shall be, with respect to the financial institution or, if not all of its offices are closed, then with respect to the office which is closed, a legal holiday for all purposes with respect to any financial institution business of any character. No liability, or loss of rights of any kind, on the part of any financial institution, or director, officer, or employee thereof, shall accrue or result by virtue of any closing authorized by sections 47.0151 to 47.0155.

The provisions of sections 47.0151 to 47.0155 shall be construed and applied as being in addition to, and not in substitution for or limitation of, any other law of this state or of the United States, authorizing the closing of a financial institution or excusing the delay by a financial institution in the performance of its duties and obligations because of emergencies or conditions beyond the financial institution's control, or otherwise.

[1971 c 318 s 5]

47.02 "BANK" AND "SAVINGS BANK." A "bank" is a corporation having a place of business in this state, where credits are opened by the deposit of money or currency, or the collection of the same, subject to be paid or remitted on draft, check, or order; and where money is loaned or advanced on stocks, bonds, bullion, bills of exchange, or promissory notes, and where the same are received for discount or sale. A "savings bank" is a corporation managed by disinterested trustees, solely authorized to receive and safely invest the savings of small depositors. Every "bank" or "savings bank" in this state shall at all times be under the supervision and subject to the control of the commissioner of banks, and when so conducted the business shall be known as "banking."

[1907 c 111 s 1; 1909 c 103 s 1] (7636)

47.03 USE OF CERTAIN WORDS PERMITTED. Subdivision 1. No individual, partnership, unincorporated association, or corporation, except as specifically authorized by the laws of this state, who does not hold an effective certificate of authority, issued by the commissioner of banks, to engage in the business of banking and is not subject to and complying with all the provisions of law relating to banks shall engage in such business, or make use of the words "bank," "banker," or "banking," or any derivative or compound of any such words, or any word or words in a foreign language having the same or a similar meaning, in its business name or in any sign, symbol, token, letterhead, circular, advertisement, or any other written or printed matter, in such manner as might indicate to any person that such individual, partnership, unincorporated association, or corporation is authorized to engage in the business of

banking. This subdivision shall not apply to any holding company affiliate or affiliate as defined in the Act of Congress, known as the Banking Act of 1933, nor to any insurance company authorized to engage in the insurance business in the state of Minnesota.

Subd. 2. Every individual, partnership, unincorporated association, or corporation which shall violate any of the provisions of this section shall forfeit to the state the sum of not to exceed \$100 for each day the violation shall continue, as determined by the court, to be recovered in a civil action to be brought by the attorney general in the name of the state at the request of the commissioner of banks, and may be enjoined from any further violation in an action brought in the name of the state for that purpose.

[1907 c 111 s 2; 1945 c 133 s 1] (7637)

47.04 [Repealed, 1945 c 133 s 3]

47.05 [Repealed, 1945 c 133 s 3]

47.07 COMPANIES SUBJECT TO PROVISIONS. All companies, associations, and corporations organized under any law of this state, other than those relating to the organization of banks and trust companies, which assume or exercise any of the functions, powers, or privileges conferred upon banks or trust companies under any law of this state, shall be subject to all the limitations, penalties, and requirements incident or pertaining to these functions, powers, or privileges; and the stockholders or persons forming the same shall be liable in the same manner and to the same extent as if these companies, associations, and corporations were organized as banks or trust companies under this chapter.

[RL s 2982] (7655)

47.08 ARTICLES OF INCORPORATION FILED WITH COMMISSIONER. All persons proposing to incorporate and organize any financial institution, whether defined or described as such by the laws of the state, shall, before doing any business in the state as a corporation, and before filing their articles of incorporation with the secretary of state or with any other officer with whom the law requires such articles to be filed or recorded, file a copy of such articles with the commissioner of banks.

[1911 c 323 s 1] (7656)

47.09 ADVERTISEMENTS. No such financial institution shall, directly, indirectly, or by inference of any kind, display, represent, hold out or otherwise advertise as its capital, resources, assets or financial strength or ability or availability therefor, any capital, resources, or assets of any other financial institution or institutions, whether or not such other financial institution or institutions are in any way connected with such financial institution through or by way of a holding company or other corporation or similar structure; nor shall any such financial institution, the capital stock of which is, in whole or in part, controlled or owned by any such holding company, other corporation or similar structure, display, represent, hold out or otherwise advertise that it is affiliated with or has any other connection with such company, corporation or similar structure other than that which truly and actually exists; and no such financial institution shall advertise as its capital any amount other or greater than the amount of actual paid-in capital, which it shall have at the time of the appearance of such advertisement, and no such financial institution shall advertise in any way the aggregate or individual responsibility or financial worth of its stockholders, or in any manner seek to convey the impression that the financial resources of its stockholders above the limit provided by law are available for the purpose of meeting its liabilities.

[1911 c 323 s 2; 1925 c 169; 1931 c 380] (7657)

47.095 INTEREST RATES PAID ON DEPOSITS; DISPLAY. Any bank, savings bank, building and loan association, savings and loan association, or similar institutions, subject to the laws of the state of Minnesota, which, in its normal course of business, accepts deposits of money from any individual, shall conspicuously display signs, placards, decals, or other devices which shall contain a statement of the annual rate or rates of interest paid on such deposits and a statement showing the duration that moneys must be on deposit to be eligible for each such interest rate.

[1971 c 776 s 1]

47.096 TIME DEPOSITS; NOTICE OF AUTOMATIC RENEWAL. If a deposit for a term of one year or more, including a savings certificate and a certificate of deposit, is automatically renewable by its own terms if not redeemed at a specified redemption date, the financial corporation receiving the deposit shall give mailed written notice to the owner or holder of the deposit not less than 30 days prior to the redemption date. The written notice shall be sent to the last known address of the owner or holder as filed with the financial corporation, shall state the date of the automatic renewal and shall state any penalty diminution of interest or other consequences to the owner or holder arising out of the failure to redeem prior to automatic renewal.

[1976 c 187 s 1]

47.10 REAL ESTATE; ACQUISITION, HOLDING. Save as otherwise specially provided, the net book value of land and buildings for the transaction of the business of such corporation, including parking lots and premises leased to others, shall not be more than as follows, assets other than cash being taken at cash market value; for a bank or a trust company 40 percent of its existing capital and surplus; and upon written approval of the commissioner of banks, 60 percent of its existing capital and surplus; for a savings bank, 50 percent of its net surplus; for a building and loan association, five percent of its net assets. Any such corporation may change its location, dispose of its place of business, and acquire another, upon the written approval of the commissioner of banks. With the exception of annual amortization charges which are made in accordance with such rules and regulations as the commissioner may prescribe, no state bank or trust company shall decrease the actual cost of such investment as shown on its books by a charge to any of its capital accounts unless approved by the commissioner.

[RL s 2976; 1941 c 37 s 1; 1955 c 104 s 1; 1957 c 601 s 4] (7648)

47.11 SELECTION OF NAME. Before execution of the certificate of incorporation of any such corporation, its proposed name shall be submitted to the commissioner of banks, who shall compare it with those of corporations operating in the state, and if it is likely to be mistaken for any of them, or to confuse the public as to the character of its business, or is otherwise objectionable, additional names shall be submitted until a satisfactory one is selected, whereupon he shall issue his certificate of approval thereof.

[RL s 2972] (7644)

47.12 FINANCIAL CORPORATIONS. Corporations may be formed for any one of the following purposes:

(1) Carrying on the business of banking, by receiving deposits, buying, selling, and discounting notes, bills, and other evidences of debt legal for investment, domestic or foreign, dealing in gold and silver bullion and foreign coins, issuing circulating notes, and loaning money upon real estate or personal security;

(2) Establishing and conducting clearing houses, for effecting, in one place, the speedy and systematic daily exchange and adjustment of balances between banks and bankers in any municipality, town, or county, establishing and enforcing uniform methods of conducting the banking business in such locality, and adjusting disputes or misunderstandings between members of such clearing house engaged in the banking business;

(3) Creating and conducting savings banks for the reception, on deposit, of money offered for that purpose, the investment thereof, and the declaring, crediting, and paying of dividends thereon, as authorized and provided by law;

(4) Transacting business as a trust company in conformity with the laws relating thereto; and

(5) Carrying on, in accordance with law, the business of building, loan, and savings associations.

[RL s 2847; 1965 c 171 s 3] (7441)

NOTE: See section 300.025.

47.14 CERTIFICATE, HOW ACCOMPANIED. The certificate of incorporation, when presented to the commissioner of banks, shall be accompanied, in the case of a

bank, with the certificate of a solvent bank in this state of the deposit therein, in cash, to the credit of the proposed bank, and payable upon its order when countersigned by the commissioner of banks, of an amount equal to its capital stock, surplus and undivided profits. In the case of a reorganization of a former national bank, it shall also be accompanied with the written consent of the holders of a majority of its former capital stock. In the case of a savings bank, it shall be accompanied with proof of four weeks' published notice of the intention of the incorporators to organize the same, specifying its proposed name and location, and the names of the proposed incorporators, and that a majority thereof reside in the county of its proposed location, and a sworn declaration by each proposed trustee that he will perform his duties as such to the best of his ability, according to law, with proof of the record of such declaration with the county recorder; and if there is a savings bank organized and doing business in such county, a copy of such notice shall be served by mail on such bank at least 15 days before the filing of such certificate.

[*RL s 2973; 1965 c 171 s 4; 1976 c 181 s 2*] (7645)

47.15 BYLAWS, WHERE FILED. Within 90 days after the adoption of bylaws or any amendment thereof, a certified copy of the same shall be filed with the commissioner of banks.

[*RL s 2975*] (7647)

47.16 CERTIFICATION BY COMMISSIONER. Subdivision 1. If the commissioner of banks is satisfied that such corporation has been organized for legitimate purposes, and under such conditions as to merit and have public confidence, and that all provisions of law applicable to every branch of business in which, by the terms of its certificate, it is authorized to engage, have been complied with, he shall so certify. When the original certificate, with proof of publication thereof, and the certificate of the secretary of state to the regularity of its incorporation, shall be filed with the commissioner of banks, he shall, within 60 days thereafter, execute and deliver to it his certificate of authority.

Subd. 2. For issuing a certificate required by Laws 1955, Chapter 820, relating to an original incorporation, the secretary of state shall be paid a fee of \$10. Where the certificate relates to the regularity of an amendment to the corporate articles, the secretary of state shall be paid a fee of \$5.

[*RL s 2974; 1955 c 820 s 11*] (7646)

47.17 VICE-PRESIDENTS; ELECTION, QUALIFICATIONS. The directors of any financial institution who are required, under the provisions of its articles of incorporation, to elect a vice-president, are hereby forbidden to elect any other person than a member of the board of directors or other such governing body as vice-president of such institution; provided, however, that if the articles of incorporation of any such financial institution provide for the election of more than one vice-president, so long as there is at least one vice-president fully qualified and acting who is a member of the board of directors or other such governing body, additional vice-presidents may be elected from stockholders or members of the corporation other than members of the board of directors or of such governing body.

[*1911 c 323 s 3; 1921 c 90 s 1*] (7658)

47.18 "CORPORATION"; "AGENCY." For the purpose of sections 47.18 and 47.19, the term "corporation" shall be construed to mean any bank, savings bank, trust company, insurance company, or building and loan association organized under the laws of this state; and the term "agency" shall be construed to mean the federal home loan bank of the district of which this state is a part, or of an adjoining district if convenience shall so require, or other financial corporation, association or agency created by any act of congress.

[*1933 c 101 s 1*] (7658-1)

47.19 CORPORATION MAY BE MEMBER OR STOCKHOLDER OF FEDERAL AGENCY. Any corporation is hereby empowered and authorized to become a member of, or stockholder in, any such agency, and to that end to purchase stock in, or securities of, or deposit money with, such agency and/or to comply with any other conditions of membership or credit; to borrow money from such agency upon such rates of interest, not exceeding the contract rate of interest in this state, and upon such terms and conditions as may be agreed upon by such corporation and such agency, for the

purpose of making loans, paying withdrawals, paying maturities, paying debts, and for any other purpose not inconsistent with the objects of the corporation; provided, that the aggregate amount of the indebtedness, so incurred by such corporation, which shall be outstanding at any time shall not exceed 25 percent of the then total assets of the corporation; to assign, pledge and hypothecate its bonds, mortgages or other assets; and, in case of building and loan associations, to repledge with such agency the shares of stock in such association which any owner thereof may have pledged as collateral security, without obtaining the consent thereunto of such owner, as security for the repayment of the indebtedness so created by such corporation and as evidenced by its note or other evidence of indebtedness given for such borrowed money; and to do any and all things which shall or may be necessary or convenient in order to comply with and to obtain the benefits of the provisions of any act of congress creating such agency, or any amendments thereto.

[1933 c 101 s 2] (7658-2)

47.20 USE OF FEDERAL ACTS; DEFINITIONS; INTEREST RATES; REQUIRED PROVISIONS; INTEREST ON ESCROW ACCOUNTS; PENALTY. Subdivision 1. Pursuant to such rules as the commissioner of banks finds to be necessary and proper, if any, banks, savings banks, mutual savings banks, building and loan associations, and savings and loan associations organized under the laws of this state or the United States, trust companies, trust companies acting as fiduciaries, and other banking institutions subject to the supervision of the commissioner of banks, and mortgagees or lenders approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, are authorized:

(1) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are insured or guaranteed by the secretary of housing and urban development pursuant to the national housing act, as amended, or the administrator of veterans affairs pursuant to the servicemen's readjustment act of 1944, as amended, or the administrator of the farmers home administration pursuant to the consolidated farm and rural development act, Pub. L. 87-128, as amended, and to obtain such insurance or guarantees;

(2) To make such loans secured by mortgages on real property which the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration has insured or guaranteed or made a commitment to insure or guarantee, and to obtain such insurance or guarantees.

Subd. 2. For the purposes of this section the terms defined in this subdivision have the meanings given them:

(1) "Actual closing costs" mean reasonable charges for or sums paid for the following, whether or not retained by the mortgagee or lender:

(a) Any insurance premiums including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance, but excluding any charges or sums retained by the mortgagee or lender as self-insured retention.

(b) Abstracting, title examination and search, and examination of public records.

(c) The preparation and recording of any or all documents required by law or custom for closing a conventional loan.

(d) Appraisal and survey of real property securing a conventional loan.

(e) A single service charge, which shall include any consideration, not otherwise specified herein as an "actual closing cost" paid by the borrower and received and retained by the lender for or related to the acquisition, making, refinancing or modification of a conventional loan, and shall also include any consideration received by the lender for making a commitment for a conventional loan, whether or not an actual loan follows such commitment. The term service charge shall not include developer's commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the conventional loan, except that in the case of a construction loan, the service charge shall not exceed two percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construction loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for

which the charge is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real property securing a conventional loan or the closing of a conventional loan paid by the borrower and received by any party other than the lender.

(2) "Conventional loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a mortgage upon real property containing one or more residential units or upon which at the time the loan is made it is intended that one or more residential units are to be constructed, and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration. The term mortgage shall not include contracts for deed or installment land contracts.

(3) "Developer's commitment fee" means a fee or other consideration paid to a lender by a person in the business of building or arranging for building residential units for the purpose of securing a commitment by the lender to make conventional loans to credit worthy purchasers of residential units, or a fee or other consideration paid to a lender for the purpose of securing a commitment by the lender to make conventional loans to credit worthy purchasers of apartments as defined in section 515.02 to be created out of existing structures pursuant to the Minnesota condominium act, by a person creating the apartments.

(4) "Finance charge" means the total cost of a conventional loan including extensions or grant of credit regardless of the characterization of the same and includes interest, finders fees, and other charges levied by a lender directly or indirectly against the person obtaining the conventional loan or against a seller of real property securing a conventional loan, or any other party to the transaction except any actual closing costs and any developer's commitment fee. The finance charges plus the actual closing costs and any developer's commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional loan.

(5) "Lender" means any person making a conventional loan. The term shall also include the holder or assignee at any time of a conventional loan.

(6) "Loan yield" means the annual rate of return obtained by a lender over the term of a conventional loan and shall be computed as the annual percentage rate as computed in accordance with sections 226.5 (b), (c) and (d) of Regulation Z, 12 C.F.R. section 226, but using the definition of finance charge provided for in this subdivision. The finance charge shall be amortized over the contract term of the conventional loan.

(7) "Monthly index of long term United States government bond yields" means the monthly unweighted average of the daily unweighted average of the closing bid yield quotations in the over the counter market for all outstanding United States treasury bond issues, based on available statistics, which are either maturing or callable in ten years or more. This index is expressed in terms of percentage interest per annum.

(8) "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

(9) "Residential unit" means any structure used principally for residential purposes or any portion thereof, and shall include a unit in a townhouse or planned unit development, a condominium apartment, a non-owner occupied residence, and any other type of residence regardless of whether such unit is used as a principal residence, secondary residence, vacation residence or residence of some other denomination.

Subd. 3. Notwithstanding the provisions of section 334.01, lenders are authorized to make conventional loans and purchases of obligations representing conventional loans pursuant to such rules as the commissioner of banks finds to be necessary and proper, if any, at an interest rate not in excess of the maximum lawful interest rate prescribed in subdivision 4.

Subd. 4. No conventional loan shall be made at a rate of interest or loan yield in excess of a maximum lawful interest rate which shall be based upon the monthly index of long term United States government bond yields as compiled by the United States treasury department and published by the department in the monthly treasury bulletin. The maximum lawful interest rate shall be computed as follows:

(1) The maximum lawful rate of interest for a conventional loan made or contracted for during any calendar month shall be equal to the monthly index of long term United States government bond yields for the second preceding calendar month plus an additional two percent per annum rounded off to the nearest quarter of one percent per annum or rounded off to the highest quarter of one percent per annum if equidistant.

(2) On or before the 20th day of each month the commissioner of banking shall determine, based on available statistics, the monthly index of long term United States government bond yields for the preceding calendar month and shall determine the maximum lawful rate of interest for conventional loans for the next succeeding month, as defined in clause (1) and shall cause the maximum lawful rate of interest to be published in a legal newspaper in Ramsey county on or before the 20th day of each month and in the state register on or before the last day of each month; the maximum lawful rate of interest to be effective on the first day of the next succeeding month.

(3) A contract rate within the maximum lawful interest rate applicable to a conventional loan at the time the loan is made shall be the maximum lawful interest rate for the term of the conventional loan.

(4) Conventional loans made pursuant to a commitment for a conventional loan, including a commitment for conventional loans made upon payment of a developer's commitment fee, which provides for consummation within some future time following the issuance of the commitment may be consummated pursuant to the provisions, including the interest rate, of the commitment notwithstanding the fact that the maximum lawful rate of interest at the time such conventional loan is actually made is less than the commitment rate of interest, provided the commitment rate of interest does not exceed the maximum lawful interest rate in effect on the date the commitment was issued and provided that the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional loan within a specified time period in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment was issued. The refinancing of (a) an existing conventional loan, (b) a loan insured or guaranteed by the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration, or (c) a contract for deed by making a conventional loan shall be deemed to be a new conventional loan for purposes of determining the maximum lawful rate of interest under this subdivision. A commitment shall be deemed to be issued on the date the commitment is hand delivered by the lender to the borrower, or mailed to the borrower or to any one of them if there should be more than one.

(5) A loan made pursuant to a commitment, including a commitment for conventional loans made upon payment of a developer's commitment fee, issued on or before July 31, 1979 at a rate of interest not in excess of the rate of interest authorized by this subdivision at the time the contract or commitment for the loan was made shall continue to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

(6) This subdivision expires July 31, 1979.

Subd. 5. No conventional loan or loan authorized in subdivision 1 made on or after the effective date of Laws 1977, Chapter 350 shall contain a provision requiring or permitting the imposition of a penalty in the event the loan or advance of credit is prepaid.

Subd. 6. No conventional loan or loan authorized in subdivision 1 made on or after the effective date of Laws 1977, Chapter 350 shall contain a provision requiring or permitting the imposition of a fee or penalty in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan or advance of credit and the obligation incurred thereby is assumed by another person.

Subd. 7. (1) No conventional loan made on or after the effective date of Laws 1977, Chapter 350 shall contain a provision requiring or permitting the imposition, directly or indirectly, of any discount points, whether or not actually denominated as discount points, on any person.

(2) Discount points shall be deemed not to include a developer's commitment fee.

(3) No charges, fees, or sums permitted by this section which are paid to and received by a lender may be increased for purposes of evading compliance with this subdivision.

(4) This subdivision shall not apply to conventional loans secured by mortgages committed for purchase, purchased, or sold by the government national mortgage association pursuant to Section 115 of the Housing and Urban Development Act of 1969, Public Law 91-152, if the charge for any discount points when added to the finance charge does not result in a loan yield in excess of that permitted by subdivision 4. The loan yield shall be computed using the sum resulting when the discount points are so added to the finance charge.

Subd. 8. A lender making a conventional loan shall comply with the following:

(1) The promissory note and mortgage evidencing a conventional loan shall be printed in not less than the equivalent of 8 point type, .075 inch computer type, or elite-size typewritten numerals, or shall be legibly handwritten.

(2) The mortgage evidencing a conventional loan shall contain a provision whereby the lender agrees to furnish the borrower with a conformed copy of the promissory note and mortgage at the time they are executed or within a reasonable time after recordation of the mortgage.

(3) The mortgage evidencing a conventional loan shall contain a provision whereby the lender, if it intends to foreclose, agrees to give the borrower written notice of any default under the terms or conditions of the promissory note or mortgage, by sending the notice by certified mail to the address of the mortgaged property or such other address as the borrower may have designated in writing to the lender. The lender need not give the borrower the notice required by this paragraph if the default consists of the borrower selling the mortgaged property without the required consent of the lender. The mortgage shall further provide that the notice shall contain the following provisions:

(a) the nature of the default by the borrower,

(b) the action required to cure the default,

(c) a date, not less than 30 days from the date the notice is mailed by which the default must be cured,

(d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the mortgage and sale of the mortgaged premises, and

(e) that the borrower has the right to reinstate the mortgage after acceleration, and

(f) that the borrower has the right to bring a court action to assert the nonexistence of a default or any other defense of the borrower to acceleration and sale.

Subd. 9. (1) For purposes of this subdivision the term "mortgagee" shall mean all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions or assignees of the above. Each mortgagee requiring funds of a mortgagor to be paid into an escrow, agency or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one to four family, owner occupied residence located in this state, unless the account is required by federal law or regulation or maintained in connection with a conventional loan in an original principal amount in excess of 80 percent of the lender's appraised value of the residential unit at the time the loan is made or maintained in connection with loans insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration, shall calculate interest on such funds at a rate of not less than four percent per annum. Such interest shall be computed on the average monthly balance in such account on the first of each month for the immediately preceding 12 months of the calendar year or such other fiscal year as may be uniformly adopted by the mortgagee for such purposes and shall be annually credited to the remaining principal balance on the mortgage, or at the election of the mortgagee, paid to the mortgagor or credited to his account. If the interest exceeds the remaining balance, the excess shall be paid to the mortgagor or vendee. The requirement to pay interest shall apply to such accounts created prior to June 1, 1976 as well as to accounts created after June 1, 1976.

(2) A mortgagee offering the following option (c) to a mortgagor but not requiring maintenance of escrow accounts as described in clause (1), whether or not the accounts were required by the mortgagee or were optional with the mortgagor, shall offer to each of such mortgagors the following options:

(a) the mortgagor may manage the payment of insurance and taxes by himself;

(b) the mortgagor may open with the mortgagee a passbook savings account carrying the current rate of interest being paid on such accounts by the mortgagee in which the mortgagor can deposit the funds previously paid into the escrow account; or

(c) the mortgagor may elect to maintain a non-interest bearing escrow account as described in clause (1) to be serviced by the mortgagee at no charge to the mortgagor.

A mortgagee that is not a depository institution offering passbook savings accounts shall instead of offering option (b) above notify its mortgagors (1) that they may open such accounts at a depository institution and (2) of the current maximum legal interest rate on such accounts.

A mortgagee offering option (c) above to a mortgagor but not requiring the maintenance of escrow accounts shall notify its mortgagor of the options under (a), (b) and (c). The notice shall state the option and state that an escrow account is not required by the mortgagee, that the mortgagor is legally responsible for the payment of taxes and insurance, and that the notice is being given pursuant to subdivision 9.

Notice shall be given within 30 days after the effective date of the provisions of Laws 1977, Chapter 350 amending the subdivision, as to mortgagees offering option (c) above to mortgagors but not requiring escrow accounts as of the effective date, or within 30 days after a mortgagee's decision to discontinue requiring escrow accounts if the mortgagee continues to offer option (c) above to mortgagors. If no reply is received within 30 days, option (c) shall be selected for the mortgagor but the mortgagor may, at any time, select another option.

A mortgagee making a new mortgage and offering option (c) above to a prospective mortgagor shall, at the time of loan application, notify the prospective mortgagor of options (a), (b) and (c) above which must be extended to the prospective mortgagor. The mortgagor shall select one of the options at the time the loan is made.

Any notice required by this clause (2) shall be on forms approved by the commissioner of banking and shall provide that at any time a mortgagor may select a different option. The form shall contain a blank where the current passbook rate of interest shall be entered by the mortgagee. Any option selected by the mortgagor shall be binding on the mortgagee.

This clause (2) does not apply to escrow accounts which are excepted from the interest paying requirements of clause (1).

(3) A mortgagee shall be prohibited from charging a direct fee for the administration of the escrow account.

(4) A mortgagee shall make timely payments of tax and insurance bills provided that funds paid into the account by the mortgagor are sufficient for the payment. If there is a shortage of funds the mortgagee shall promptly notify the mortgagor of the shortage. Failure to make the payment required by this clause shall subject the mortgagee to liability for all damages caused by the failure except that this sentence shall not deprive the mortgagee of the right to present any legal defenses in any subsequent proceeding. The mortgagee is permitted to make any payment on behalf of the mortgagor even though there are not sufficient funds in a particular account to cover the payment.

Subd. 10. Notwithstanding any other law, the provisions of this section may not be waived by any oral or written agreement executed by any person.

Subd. 11. All lenders who make conventional loans pursuant to this section and who are not financial institutions supervised by state or federal government agencies shall register with the banking division of the department of commerce. Lenders who make no more than five conventional loans in any calendar year are exempt from the registration requirements of this subdivision. The commissioner of banks shall charge and collect a fee of \$25 for registration.

For purposes of this subdivision, the Minnesota housing finance agency shall not be considered a lender.

Subd. 12. All lenders, including the Minnesota housing finance agency but excluding lenders making no more than five conventional loans in any calendar year, shall make an annual report containing the following information and such further information as the commissioner may require to the commissioner of banks describing the lender's number of:

(a) conventional loans to individuals secured by a residential unit located in this state made during each month of the reporting period and the total dollar amount thereof by month;

(b) conventional loans to individuals secured by a residential unit located in this state not made by the lender but acquired from others, the total dollar amount thereof, and from whom the loans were acquired;

(c) loans, other than conventional loans, to individuals secured by a residential unit located in this state made by the lender categorized as to those insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration and all other such loans with the total dollar amount for each category of loan;

(d) conventional loans made by the lender to individuals secured by a residential unit located outside this state and the total dollar amount thereof;

(e) conventional loans to individuals secured by a newly built residential unit located in this state made by the lender and the total dollar amount thereof;

(f) conventional loans made by the lender and sold to the Minnesota housing finance agency and the total dollar amount thereof;

(g) commitments to individuals issued for conventional loans to be secured by a residential unit located in this state, and not made, and the total dollar amount thereof.

The reports shall be filed on or before March 1 of each year and shall cover the preceding calendar year.

Subd. 13. Any conventional loan having an interest rate or loan yield in excess of the maximum lawful interest rate provided for in subdivision 4 shall be usurious and subject to the same penalties as a loan made in violation of section 334.01. Any lender intentionally violating any other provision of this section shall be fined not more than \$100 for each offense.

[1935 c 49 s 1; 1937 c 88 s 1; 1969 c 579 s 1; 1976 c 196 s 1; 1976 c 300 s 2; 1977 c 350 s 1; 1978 c 529 s 2-4] (7658-3)

47.21 LAWS PRESCRIBING TYPE OF SECURITY NOT TO APPLY. No other law in this state prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit or purchases made pursuant to section 47.20, subdivisions 1, 3 and 4.

(1) Such institutions may invest in notes or bonds secured by mortgage or trust deed insured pursuant to section 47.20, subdivision 1, clause (2), and in securities issued by national mortgage associations;

(2) The notes, bonds and other securities herein made eligible for investment may be used wherever, by statute, collateral is required as security for the deposit of public or other funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated securities.

[1935 c 49 s 2; 1937 c 88 s 2; 1976 c 300 s 3] (7658-4)

47.23 SAVINGS DEPARTMENTS. Subdivision 1. Except as specifically authorized by other laws of this state, no individual, partnership, unincorporated association, or corporation, other than a savings bank, safe deposit company, or trust company, holding an effective certificate of authority or license issued by the commissioner of banks and subject to and complying with all of the provisions of law relating to such savings banks, safe deposit companies, and trust companies, respectively, shall in any manner display or make use of any sign, symbol, token, letterhead, card, circular, or advertisement stating, representing, or indicating that he, it, or they, are authorized to transact the business which a savings bank, safe deposit company, or trust company usually does, or under these provisions is authorized to do; nor shall any such individual, partnership, unincorporated association, or corporation use the words "savings" or "trust" or "safe deposit" alone or in combination in title or name or otherwise, or in any manner solicit business or make loans or solicit or receive dep-

osits or transact business as a savings bank, safe deposit company, or trust company; except that a state bank, or trust company, regularly incorporated and authorized to do business under the laws of this state, may establish and maintain a savings department under the supervision of the commissioner of banks, and may solicit and receive deposits in this savings department and advertise the same as such, and every such trust company having a savings department shall use in its name or title, in addition to the word "trust", the word "savings". Savings deposits received by such a trust company shall be invested only in authorized securities, as defined by law, and the trust company shall keep on hand, at all times, such securities in an amount at least equal to the amount of the deposits, and these securities shall be the representative of, and the fund for, applicable first and exclusively to the payments of, the savings deposits. Deposits received by the trust company subject to its right to require notice of withdrawal evidenced by passbooks or by written receipt or agreement shall be deemed savings deposits.

Subd. 2. Any old line life insurance company which does not in any manner display or make use of any sign, symbol, token, letterhead, card, circular, or advertisement representing or indicating that it is authorized to transact any business which a savings bank, safe deposit company, or trust company usually does and which does not attempt to do any such business; and which uses the word "trust" in its name in combination with other words in such a manner that it is apparent that the company is not either a savings bank, safe deposit company, or trust company, and does not attempt to do any of the business which a savings bank, safe deposit company, or trust company usually does, shall not be prohibited from so using such word "trust" in its name.

Subd. 3. Every individual, partnership, unincorporated association, or corporation which shall violate any of the provisions of this section shall forfeit to the state the sum of not to exceed \$100 for each day the violation shall continue, to be recovered in a civil action to be brought by the attorney general in the name of the state at the request of the commissioner of banks, and may be enjoined from any further violation in an action brought in the name of the state for that purpose.

[*RL s 2978; 1909 c 178 s 1; 1915 c 236 s 1; 1929 c 77 s 1; 1945 c 133 s 2; 1961 c 298 s 1*] (7651)

47.24 FAILURE TO REPORT; FORFEITURES. Every corporation which shall fail to make and transmit to the commissioner of banks, within ten days after the time prescribed by law therefor, any report required by the provisions of this chapter, or by other lawful authority, or shall fail to include therein any matter required by the commissioner of banks, shall forfeit to the state the sum of \$100 for every day that the report is withheld or delayed or that it shall fail to report any such omitted matter.

[*RL s 2979*] (7652)

47.25 NOTICE OF MEETINGS. At least 30 days prior to any annual, and at least ten days prior to any special, meeting of its stockholders, mailed notice shall be given to each stockholder, specifying the time, place, and purpose thereof; also a notice of any resolution or proposition on which action is proposed to be taken.

[*RL s 2980*] (7653)

47.26 VIOLATIONS. Every officer, agent, or employee of any corporation or copartnership, and every other individual, who shall knowingly and wilfully do or omit anything, the doing or omission of which on the part of any corporation, copartnership, or individual is in violation of any of the provisions of this chapter and who continues or repeats such act or omission for or during more than ten successive days, shall be guilty of a felony.

[*RL s 2981*] (7654)

47.27 DEFINITIONS. Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in subdivisions 2, 3 and 4, shall, for the purposes of sections 47.27 to 47.32, be given the meanings subjoined to them.

Subd. 2. "Savings bank" shall have the meaning set forth in sections 47.01 and 47.02 and shall also mean a mutual savings bank.

Subd. 3. "Savings, building and loan association" shall have the meaning set forth in section 51.01, subdivision 2.

Subd. 4. "Federal savings and loan association" means an association organized under that certain act of Congress known as The Home Owners Loan Act of 1933, and acts amendatory thereof.

[1949 c 337 s 1]

47.28 SAVINGS BANKS MAY CONVERT INTO SAVINGS, BUILDING AND LOAN ASSOCIATIONS. Subdivision 1. Any savings bank organized and existing under and by virtue of the law of this state may amend its articles of incorporation so as to convert itself into a savings, building and loan association, by complying with the following requirements and procedure:

The savings bank by a two-thirds vote of the entire board of trustees, at any regular or special meeting of said board duly called for that purpose, shall (a) pass a resolution declaring their intention to convert the savings bank into a savings, building and loan association, and (b) cause an application in writing to be executed, by such persons as the trustees may direct, in the form prescribed by the department of commerce, requesting a certificate of authorization (charter) as a savings, building and loan association to transact business at the place and in the name stated in the application. The amendments proposed to the articles of incorporation and bylaws shall be included as part of the application.

The application shall be submitted to, considered and acted upon by the department of commerce in the same manner and by the same standards as applications are submitted, considered and acted upon under section 51.08.

Subd. 2. If the certificate of authorization (charter) be issued, the articles of incorporation may then be amended so as to convert the savings bank into a savings, building and loan association by following the procedure prescribed for amending articles of incorporation of savings banks; provided, that before any such conversion shall take place the secretary of the savings bank shall cause 30 days written notice of such intended conversion (which notice, before mailing, shall be submitted to and approved by the commissioner of banks) to be mailed prepaid to each depositor, at his last known address according to the records of the bank, and after such notice each depositor may, prior to the time the conversion becomes final and complete, on demand and without prior notice, withdraw the full amount of his deposit or such part thereof as he may request, and upon such withdrawal he shall receive interest to the date of withdrawal at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaw, rule or regulation to the contrary.

Subd. 3. At any time after the expiration of the 30 day period specified in subdivision 2, (which fact shall be evidenced by the secretary of the savings bank filing an affidavit to that effect with the commissioner of banks and the secretary of state,) upon receipt of the fees required for filing and recording amended articles of incorporation of savings banks, the secretary of state shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings bank into a savings, building and loan association shall become final and complete and thereafter said corporation shall have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings, building and loan associations.

Subd. 4. When the conversion of any savings bank into a savings, building and loan association becomes final and complete, the surplus fund of the bank shall become the contingent or reserve fund of the association and every person who was a depositor of the savings bank at the time of the conversion shall cease to be a depositor and shall thereafter be a shareholder of the savings, building and loan association and be credited with payments on his share account equal to the full amount of his deposit with the savings bank at the time of conversion, plus interest to the date of conversion at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaw, rule or regulation to the contrary.

Subd. 5. The resulting association shall as soon as practicable and within such time not extending beyond three years from the date the conversion becomes final and complete and by such methods as the department of commerce shall direct, cause its organization, its securities and investments, the character of its business, and the

methods of transacting the same to conform to the laws applicable to savings, building and loan associations.

[1949 c 337 s 2]

47.29 SAVINGS BANKS MAY CONVERT INTO FEDERAL SAVINGS AND LOAN ASSOCIATIONS. Subdivision 1. Any savings bank organized and existing under and by virtue of the laws of this state, is hereby authorized and empowered, by a two-thirds vote of the entire board of trustees, at any regular or special meeting of said board duly called for that purpose to convert itself into federal savings and loan association whenever said conversion is authorized by any act of the Congress of the United States: Provided, that before any such conversion shall become final and complete, (a) the secretary of the savings bank shall cause 30 days written notice of such intended conversion (which notice, before mailing, shall be submitted to and approved by the commissioner of banks) to be mailed prepaid to each depositor, at their last known address, according to the records of the bank, and after such notice each depositor may, prior to the time the conversion becomes final and complete, on demand and without prior notice, withdraw the full amount of his deposit or such part thereof as he may request, and upon such withdrawal he shall receive interest to the date of withdrawal at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaws, rule or regulation to the contrary, and (b) that such conversion be approved in writing by the commissioner of banks.

Subd. 2. At any time after the expiration of the 30 day period specified in subdivision 1, clause (a), (which fact shall be evidenced by the secretary of the savings bank filing an affidavit to that effect with the commissioner of banks and the secretary of state of this state), upon filing a copy of the federal charter, certified by the issuing federal agency with the secretary of state of this state, the secretary of state shall record said charter and certify that fact thereon, whereupon the conversion shall be final and complete and the savings bank shall at that time cease to be a savings bank supervised by this state, and shall thereafter be a federal savings and loan association.

[1949 c 337 s 3]

47.30 SAVINGS, BUILDING AND LOAN ASSOCIATION MAY CONVERT INTO SAVINGS BANK. Subdivision 1. Any savings, building and loan association organized and existing under and by virtue of the laws of this state may amend its articles of incorporation so as to convert itself into a savings bank, by complying with the following requirements and procedure:

A meeting of the shareholders shall be held upon not less than 15 days written notice to each shareholder, served either personally or by mail prepaid, directed to him at his last known post office address according to the records of the association, stating the time, place and purpose of such meeting.

At such meeting, the shareholders may by two-thirds vote (according to the book value of said shares) of those present in person or by proxy pass a resolution declaring their intention to convert such association into a savings bank and setting forth the names of the proposed first board of trustees. A copy of the minutes of such meeting verified by the affidavit of the chairman and the secretary of the meeting, shall be filed in the office of the department of commerce and with the secretary of state within ten days after the meeting. Such copy, when so filed, shall be evidence of the holding of such meeting and of the action taken.

Subd. 2. An application for a certificate authorizing a savings bank to transact business, in the form required by sections 45.04 and 45.08, shall be submitted to, considered and acted upon by the department of commerce in the same manner and by the same standards as applications are submitted, considered and acted upon under sections 45.04, 45.07, 45.08, 50.01 and 50.02. The fees required by section 45.04 shall be paid and the amendments proposed to the articles of incorporation and bylaws shall be included as part of the application.

Subd. 3. If the department of commerce grants the application, the certificate of authorization (charter) shall be issued as provided by section 45.04, and the articles of incorporation may then be amended so as to convert the savings, building and loan association into a savings bank by following the procedure prescribed for amending articles of incorporation of savings, building and loan associations: Provided, that the proposed amended articles shall contain the names of, and be signed by, the proposed first board of trustees.

Subd. 4. Before any such conversion shall take place, a period of 30 days shall elapse from the date of the adoption by the shareholders of the resolution amending the articles of incorporation during which period of time each shareholder of the association may, on demand and without prior notice, tender his unpledged shares for repurchase by the association and thereupon be entitled to receive the full withdrawal value of his share account, or such part thereof as he may request, plus dividends to date of payment at the same rate last paid or credited by the association, notwithstanding the provisions of any law, bylaw, rule or regulation to the contrary.

Subd. 5. At any time after the expiration of the 30 day period specified in subdivision 4, (which fact shall be evidenced by the secretary of the association filing an affidavit to that effect with the commissioner of banks and the secretary of state), upon receipt of the fees required for filing and recording amended articles of incorporation of savings, building and loan associations, the secretary of state shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings, building and loan association into a savings bank shall become final and complete and thereafter the signers of said amended articles and their successors shall be a corporation, and have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings banks.

Subd. 6. When the conversion of any savings, building and loan association becomes final and complete the contingent or reserve fund of the association shall become the surplus fund of the bank and every person who was a shareholder of the association at the time of the conversion shall cease to be a shareholder and shall thereafter be a depositor of the bank and be credited with deposits in his account equal to the full withdrawal value of his share account plus dividends to the date of conversion at the same rate last paid or credited by the association, notwithstanding the provisions of any law, bylaw, rule or regulation to the contrary.

Subd. 7. The resulting savings bank shall as soon as practicable and within such time not extending beyond three years from the date the conversion becomes final and complete and by such methods as the commissioner of banks shall direct, cause its organization, its securities and investments, the character of its business, and the methods of transacting the same to conform to the laws applicable to savings banks.

[1949 c 337 s 4]

47.31 FEDERAL SAVINGS AND LOAN ASSOCIATION MAY CONVERT INTO SAVINGS BANK. When authorized by act of the Congress of the United States, any federal savings and loan association with its principal place of business in this state may convert itself into a savings bank pursuant to the laws of this state: Provided, (a) that the association complies with all requirements imposed for such conversion under the laws of the United States; (b) that the association complies with the requirements and procedure set forth in section 47.30, except that the procedure for obtaining original articles of incorporation of a savings bank shall be followed in lieu of the procedure for amending articles of incorporation and the 30 day period specified in section 47.30, subdivisions 4 and 5, shall begin on the day the organization meeting is held pursuant to section 300.025; and (c) that the commissioner of banks approves such conversion in writing.

[1949 c 337 s 5]

47.32 CONVERTING INSTITUTION DEEMED CONTINUANCE; TRANSFER OF PROPERTY AND RIGHTS. Upon the conversion of any savings bank into a savings, building and loan association or into a federal savings and loan association, and of a savings, building and loan association or federal savings and loan association into a savings bank, the corporate existence of the converting savings bank or association shall not terminate, and the resulting association or savings bank shall be a continuance of the converting savings bank or association; and all the property of the converting savings bank or association (including its rights) shall by operation of law vest in the resulting association or savings bank as of the time when the conversion becomes final and complete, and all of the obligations of the converting savings bank or association become those of the resulting association or savings bank. Actions and other judicial proceedings to which the converting savings bank or association is a party may be prosecuted and defended as if the conversion had not been made.

[1949 c 337 s 6]

47.41 NEGOTIABLE INSTRUMENTS, FACSIMILE SIGNATURES, DISBURSEMENT OF PUBLIC FUNDS. Any public officer or other person who is authorized singly or in conjunction with another or others, to sign checks, drafts, warrants, warrant-checks, vouchers or other orders on public funds on deposit in a depository bank may authorize the bank to honor any such instrument bearing a facsimile of his signature and to charge the same to the account upon which drawn, as fully as though it bore his manually written signature. Instruments so honored shall be wholly operative and binding in favor of the bank although such facsimile signature shall have been affixed without authority of such officer or other person. Any one or more or all of the signatures upon any such instrument may be facsimile as herein provided. As here used "public funds" means funds of the state or of any county, city, town, school district, any political subdivision of the state, or of any commission, board, department or agency of any thereof.

[1955 c 96 s 1; 1973 c 123 art 5 s 7]

47.42 FACSIMILE SIGNATURES, OFFICER NOT LIABLE. If the governing body of the depositor political subdivision, or of any commission, board, department or agency thereof, by resolution approves the action of the public officer or other person in the use of such facsimile, and shall have insured the depositor with an insurance company authorized to do business in this state, in such amount and form as the governing body approves, against loss of any public funds withdrawn upon unauthorized use of such facsimile signature, such public officer or other person shall not be personally liable for loss, if any, resulting from the use of any such facsimile signature unless the loss occurs by reason of his own wrongful act.

[1955 c 96 s 2]

47.51 DETACHED BANKING FACILITIES; DEFINITIONS. As used in sections 47.51 to 47.57:

"Extension of the main banking house" means any structure or stationary mechanical device serving as a drive-in or walk-up facility, or both, which is located within 150 feet of the main banking house, the distance to be measured in a straight line from the closest points of the closest structures involved and which performs one or more of the functions described in section 47.53.

"Detached facility" means any permanent structure, office accommodation located within the premises of any existing commercial or business establishment, stationary automated remote controlled teller facility, stationary unmanned cash dispensing or receiving device, located separate and apart from the main banking house which is not an "extension of the main banking house" as above defined, that serves as a drive-in or walk-up facility, or both, with one or more tellers windows, or as a remote controlled teller facility or a cash dispensing or receiving device, and which performs one or more of those functions described in section 47.53.

"Bank" means a bank as defined in section 45.08 and any banking office established prior to the effective date of Laws 1923, Chapter 170, Section 1.

"Commissioner" means the commissioner of banks.

"Municipality" means the geographical area encompassing the boundaries of any home rule charter or statutory city located in this state.

[1971 c 855 s 1; 1977 c 378 s 1]

47.52 AUTHORIZATION. (a) With the prior approval of the commissioner, any bank doing business in this state may establish and maintain not more than two detached facilities provided the facilities are located within the municipality in which the principal office of the applicant bank is located; or within 5,000 feet of its principal office measured in a straight line from the closest points of the closest structures involved; or within 25 miles of its principal office measured in a straight line from the closest points of the closest structures involved, if the detached facility is within any municipality in which no bank is located at the time of application or if the detached facility is in a municipality having a population of more than 10,000, according to the last previous United States census, or if the detached facility is located in a municipality having a population of 10,000 or less and all the banks having a principal office in the municipality have consented in writing to the establishment of the facility. (b) A detached facility shall not be closer than 50 feet to a detached facility operated by any other bank and shall not be closer than 100 feet to the principal office of any other bank, the measurement to be made in the same manner as provided above. This

clause shall not be applicable if the proximity to the facility or the bank is waived in writing by the other bank and filed with the application to establish a detached facility.

[1971 c 855 s 2; 1974 c 221 s 1; 1977 c 378 s 2]

47.53 FUNCTIONS OF A FACILITY. The function of the detached facility shall be limited to opening deposit accounts, receiving deposits of every kind, cashing checks or orders to pay, issuing drafts, money orders and travelers checks, accepting loan applications and receiving payments payable at the bank.

[1971 c 855 s 3; 1977 c 378 s 3]

47.54 NOTICES AND APPROVAL PROCEDURES. Subdivision 1. Any bank desiring to establish a detached facility shall execute and acknowledge an application, in writing, in the form prescribed by the commissioner, and shall file the application in his office, together with a fee of \$500, and if an application is contested, an additional fee equal to the actual costs incurred by the commissioner in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund. Thereupon the applicant shall publish a notice of the filing of the application in a newspaper published in the municipality in which the proposed detached facility is to be located, and if there is no such newspaper, then at the county seat of the county in which the facility is proposed to be located. The notice shall be in the form prescribed by the commissioner and, in addition to the publication, the applicant shall mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the detached facility, measured in the manner as provided above.

Subd. 2. If no objection is received by the commissioner within 30 days after the publication and mailing of the notices, the commissioner shall issue his order approving the application without a hearing if he finds that (a) the applicant bank meets current industry standards of capital adequacy, management quality, and asset condition, (b) the establishment of the proposed detached facility will improve the quality or increase the availability of banking services in the community to be served, and (c) the establishment of the proposed detached facility will not have an undue adverse effect upon the solvency of existing financial institutions in the community to be served. Otherwise, the commissioner shall deny the application.

Subd. 3. If any bank within three miles of the proposed location of the detached facility objects in writing within 30 days, the commissioner shall fix a time, within 60 days after filing of the objection, for a hearing, and the record of the hearing shall be considered by the commissioner in deciding whether or not the application shall be granted. A notice of the hearing shall be published in the form prescribed by the commissioner in a newspaper as described in subdivision 1, at the expense of the applicant, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicant and any witnesses who may appear in favor of or against the granting of the application. The hearing shall be conducted by the commissioner in accordance with the provisions of the administrative procedures act, sections 15.0411 to 15.052, governing contested cases, including the provisions of the act relating to judicial review of agency decisions.

Subd. 4. If upon the hearing, it appears to the commissioner that the requirements for approval contained in subdivision 2 have been met, he shall, not later than 90 days after the hearing, and after the applicant has otherwise complied with the provisions of law applicable to the establishment of a facility, issue the certificate of authorization. If a facility is not activated within 12 months from the date of issue of the certificate, the certificate shall automatically expire. If the commissioner shall decide that the application should not be granted, he shall issue his order to that effect and forthwith give notice by certified mail to the applicant.

[1971 c 855 s 4; 1977 c 378 s 4]

47.55 EXISTING FACILITY. A bank may retain and operate one detached facility as it may have had in operation prior to May 1, 1971 without requirement of approval hereunder, provided that its function is limited as provided in section 47.53 and its location conforms with the provisions of section 47.52. A bank having such a retained detached facility shall be limited to operating two additional detached facilities.

[1971 c 855 s 5; 1977 c 378 s 5]

47.56 TRANSFER OF LOCATION. The location of a detached facility may be transferred to another location, subject to the same procedures and approval as required hereunder for establishing a new detached facility.

[1971 c 855 s 6]

47.57 VIOLATION; PENALTIES. A violation of sections 47.51 to 47.57 shall be subject to penalties applicable to violations of laws affecting banks. In addition, a violation of sections 47.51 to 47.57 may be enjoined by a civil action for injunction by any aggrieved bank.

[1971 c 855 s 7]

ELECTRONIC FUNDS TRANSFER FACILITIES

47.61 ELECTRONIC FUNDS TRANSFER FACILITIES; DEFINITIONS. Subdivision 1. For the purposes of sections 47.61 to 47.74, unless the context requires otherwise, the following terms shall have the meanings given them.

Subd. 2. "Commissioner" means the commissioner of banks.

Subd. 3. "Electronic financial terminal" means an electronic information processing device, other than a telephone, located separate and apart from a financial institution's principal office, branch, or detached facility which is established to do either or both of the following:

- (a) Capture the data necessary to initiate financial transactions; or
- (b) Through its attendant support system, store or initiate the transmission of the information necessary to consummate a financial transaction.

Subd. 4. "Financial institution" means a national banking association, federal savings and loan association, or federal credit union having its main office in this state, or a bank, savings bank, savings and loan association, or credit union established and operating under the laws of this state.

Subd. 5. "Retail location" means a location where the primary business is selling goods or services to consumers. Such location shall include only that portion of the building or structure in which such goods or services are offered for sale and any adjoining mall areas. Such location shall not include a wholesale or manufacturing business.

Subd. 6. "Retailer" means a person primarily engaged in the business of selling goods or services to consumers or a person who owns or operates a mall area.

Subd. 7. "Transmission facility" means the electronic system which is used to forward from one financial institution, its affiliate, or agent, to one or more financial institutions, their affiliates, or agents, financial transaction data originating from an electronic financial terminal and its attendant support system.

[1978 c 469 s 1]

47.62 AUTHORIZATION. Subdivision 1. Any person may establish and maintain at a retail location one or more electronic financial terminals. Any financial institution may provide for its customers the use of an electronic financial terminal by entering into an agreement with any person who has established and maintains one or more electronic financial terminals if that person authorizes use of the electronic financial terminal to all financial institutions on a nondiscriminatory basis pursuant to section 47.64.

Subd. 2. No electronic financial terminal shall be established by a person other than a federal savings and loan association, federal credit union, or national banking association unless the commissioner has approved the establishment of the terminal.

Subd. 3. Application for authorization shall be made in the manner prescribed by rule. The commissioner shall grant authorization for the establishment of an electronic financial terminal if he finds that:

- (a) There is reason to believe that the terminal will be properly and safely managed;
- (b) The applicant is financially sound;
- (c) The proposed charges for making the services of the terminal available to financial institutions are fair, equitable, and nondiscriminatory;

(d) The applicant has furnished all of the information required by rule;

(e) The terminal applicant will not gain an unfair competitive advantage because the terminal is not operationally available to other financial institutions or their data processors within a reasonable period of time; and

(f) The location and placement of the electronic financial terminal is not designed to give or promote an unfair competitive advantage to any financial institution.

If the commissioner has not denied the application within 45 days of its submission to him, the authorization shall be deemed to be granted.

Subd. 4. When more than one electronic financial terminal is established and maintained at a single place of business by the same person, a single application and fee shall be sufficient. For each application, a \$100 fee shall be paid to the commissioner, and for each application for a change in pricing structure, a \$10 fee shall be paid to the commissioner. If the \$100 fee or the \$10 fee is less than the costs incurred by the commissioner in approving or disapproving the application, the fee shall be equal to those costs.

[1978 c 469 s 2]

47.63 FUNCTIONS OF AN ELECTRONIC FINANCIAL TERMINAL. Financial transactions which may be performed by an electronic financial terminal shall be limited to the disbursement of funds under a preauthorized credit agreement, the withdrawal of funds from a customer's account, the deposit of funds in a customer's account, the receiving of cash or checks, the disbursement of cash, the payment of loan payments, and the transfer of funds to or from one or more accounts in one or more financial institutions. All permitted transactions must be made pursuant to a preexisting contractual agreement between the financial institution and an account holder. Accounts may not be opened at such facilities. Any retailer may also operate a device which is capable of performing the functions of an electronic financial terminal for any internal business activity of that retailer.

[1978 c 469 s 3]

47.64 OPERATION OF AN ELECTRONIC FINANCIAL TERMINAL. Subdivision 1. Any person establishing and maintaining an electronic financial terminal for use by one type of financial institution shall, upon written request, make its services available to any requesting financial institution of similar type on a fair, equitable and nondiscriminatory basis approved by the commissioner. A financial institution requesting use of an electronic financial terminal shall be permitted its use only if the financial institution conforms to reasonable technical operation standards which have been established by the electronic financial terminal provider as approved by the commissioner. For purposes of this subdivision, the types of financial institutions are: (a) commercial banks and mutual savings banks; (b) credit unions; and (c) savings and loan associations. The services of an electronic financial terminal may be made available to any type of financial institution. After March 1, 1979, or earlier if determined by the commissioner to be technically feasible, an electronic financial terminal which is used by or made available to one type of financial institution shall be made available, upon request, to other types of financial institutions on a fair, equitable and nondiscriminatory basis as approved by the commissioner. The charges required to be paid to any person establishing and maintaining an electronic financial terminal shall be related to an equitable proportion of the direct costs of establishing, operating, and maintaining the terminal plus a reasonable return on those costs to the owner of the terminal. The charges may provide for amortization of development costs and capital expenditures over a reasonable period of time.

Subd. 2. If a person establishing and maintaining an electronic financial terminal makes it available for use by one or more federal savings and loan associations or one or more federal credit unions and their customers, the federal savings and loan association or federal credit union shall agree to grant to any financial institution use of all similar devices owned, maintained, or used by it. A state chartered financial institution or a national bank may participate upon contractual agreement in the use of a device which is capable of performing the functions of an electronic financial terminal and is owned or operated by one or more federal savings and loan associations or federal credit unions.

Subd. 3. Any agreement or charge between a person establishing an electronic financial terminal and the retailer at whose location the terminal is established shall be

upon such commercially reasonable terms and conditions as are agreed to by the parties. A retailer at whose retail location an electronic financial terminal is established and maintained may limit the kind of financial transaction functions which the terminal may perform, but such retailer shall make available upon request every financial transaction function which the terminal does perform to all financial institutions, their affiliates, or agents on a nondiscriminatory basis. A function involving either a bank credit card authorized pursuant to section 48.185 or other credit card authorized under any other similar open end consumer credit sales plan need not be made so available.

Subd. 4. An electronic financial terminal, if manned, shall be operated exclusively by a person who is not employed by any financial institution, any financial institution holding company, or subsidiary thereof. However, persons assisting customers of financial institutions at the site of the terminal may be trained by employees of a financial institution, financial institution holding company, or subsidiary thereof, and nothing in this section shall be construed to prohibit periodic servicing of an electronic financial terminal by an employee of a financial institution, financial institution holding company, or subsidiary thereof.

Subd. 5. To insure payment to any person who suffers loss due to negligence or intentional misconduct in the operation of an electronic financial terminal any person seeking to establish an electronic financial terminal shall, at the option of the commissioner, file with the commissioner's office either a financial statement in an acceptable form, or a bond, rider to an existing bond, or other collateral security acceptable to and in an amount set by the commissioner. The commissioner shall permit the filing of a financial statement in lieu of a bond or other security only if the financial statement demonstrates that the person seeking to establish the electronic financial terminal has the financial ability to insure payment to any person who suffers loss due to negligence or intentional misconduct in the operation of the electronic financial terminal. If the filing of a financial statement is permitted, additional periodic financial information shall be filed as required by the commissioner.

Subd. 6. The person establishing and maintaining an electronic financial terminal, exclusive of any supporting equipment, structure, or system, shall limit its use in the performance of financial transactions to transactions for customers of Minnesota financial institutions and for customers of financial institutions located within 20 miles of Minnesota in an adjoining state. Nothing in sections 47.61 to 47.74 shall be construed to authorize any person, other than a financial institution, to engage in business which is only legally authorized to be engaged in by financial institutions.

[1978 c 469 s 4]

47.65 TRANSMISSION FACILITY. Subdivision 1. Any person may establish a transmission facility in this state upon approval by the commissioner pursuant to the provisions of this section. A transmission facility which is used by, or made available to, any financial institution must be made available to all other financial institutions upon request of such financial institution and agreement by the financial institution to pay fees on a fair, equitable and nondiscriminatory basis approved by the commissioner. A person requesting use of a transmission facility shall be permitted its use only if the person conforms to reasonable technical operating standards which have been established by the transmission facility provider as approved by the commissioner. The charges required to be paid to any person establishing a transmission facility shall be related to an equitable proportion of the direct costs of establishing, operating and maintaining such facility plus a reasonable return on those costs to the owner of the facility. The charges may provide for amortization of development costs and capital expenditures over a reasonable period of time.

Subd. 2. Before installation and operation, a transmission facility application shall be submitted to the commissioner on a form provided by the commissioner which states:

- (a) The location where the transmission facility will be operated;
- (b) The ownership of the transmission facility;
- (c) If applicable, the bonding or insurance company which has provided the bond for the transmission facility;
- (d) Such other information as the commissioner requires.

If the commissioner finds that (a) the facility will be properly and safely managed, (b) the applicant is financially sound, (c) there is a reasonable probability of success for the facility, (d) the proposed charges for making the services of the facility available to financial institutions are fair, equitable and nondiscriminatory, and (e) all information has been furnished by the applicant, he shall approve the application within 90 days. If the commissioner has not denied the application within 90 days of the submission of the application, the authorization shall be deemed granted. For each application, a \$500 fee shall be paid to the commissioner. For each application for change in pricing structure, a \$50 fee shall be paid to the commissioner. If the \$500 fee or the \$50 fee is less than the costs incurred by the commissioner in approving or disapproving the application, the application fee shall be equal to those costs.

Subd. 3. To insure payment to any person who suffers loss due to negligence or intentional misconduct in the operation of a transmission facility any person seeking to establish a transmission facility shall, at the option of the commissioner, file in his office either a financial statement in an acceptable form, or a bond, rider to an existing bond, or other collateral security acceptable to and in an amount set by the commissioner. The commissioner shall permit the filing of a financial statement in lieu of a bond or other security only if the financial statement demonstrates that the person seeking to establish the transmission facility has the financial ability to insure payment to any person who suffers loss due to negligence or intentional misconduct in the operation of the transmission facility. If the filing of a financial statement is permitted, additional periodic financial information shall be filed as required by the commissioner.

[1978 c 469 s 5]

47.66 EXAMINATION. An electronic financial terminal or a transmission facility may be examined by the commissioner to the extent permitted by law as to any financial transaction by, with, or involving a financial institution solely for the purpose of reconciling accounts and verifying the security and accuracy of such electronic financial terminals or transmission facilities, including any supporting equipment, structures, or systems. All facts and information obtained in the course of such examination shall not be disclosed except as otherwise provided by law. The person examined shall pay examination fees as determined by the commissioner.

[1978 c 469 s 6]

47.67 ADVERTISING. No advertisement by a person which relates to an electronic financial terminal may be inaccurate or misleading with respect to such a terminal. Except with respect to direct mailings by financial institutions to their customers, the advertising of rate of interest paid on accounts in connection with electronic financial terminals is prohibited. Any advertisement, either on or off the site of an electronic financial terminal, promoting the use or identifying the location of an electronic financial terminal, which identifies any financial institution, group or combination of financial institutions, or third parties as owning or providing for the use of its services is prohibited. The following shall be expressly permitted:

(a) A simple directory listing placed at the site of an electronic financial terminal identifying the particular financial institutions using its services;

(b) The use of a generic name, either on or off the site of an electronic financial terminal, which does not promote or identify any particular financial institution, group or combination of financial institutions, or any third parties; and

(c) Media advertising or direct mailing of information by a financial institution or retailer identifying locations of electronic financial terminals and promoting their usage.

[1978 c 469 s 7]

47.68 ELECTRONIC FINANCIAL TERMINAL SECURITY. Every person establishing and maintaining an electronic financial terminal and every financial institution using an electronic financial terminal shall adopt and maintain safeguards to insure the safety of funds, items, and other information, which safeguards shall include security devices consistent with the appropriate requirements specified under the federal bank protection act of 1968, P. L. 90-389, or such alternative security precautions as are approved by the commissioner.

[1978 c 469 s 8]

47.69 CONSUMER PRIVACY. Subdivision 1. 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.

Subd. 2. The commissioner shall have the authority by rule to require each person operating pursuant to sections 47.61 to 47.74 to supply information to customers using electronic financial terminals of the person's consumer protection policies including the rights and liabilities of the consumer and protection against wrongful and unnecessary or accidental disclosure of confidential information.

Subd. 3. Every financial institution using an electronic financial terminal shall maintain reasonable procedures to minimize losses from unauthorized withdrawals from its customers' accounts by use of an electronic financial terminal. After a customer makes a bona fide deposit or payment at an electronic financial terminal and has received his receipt, any loss due to theft or other reason shall not be borne by the customer; provided, loss due to the nonpayment or dishonor of a check, or other order for payment, deposited at an electronic financial terminal shall be governed by the applicable provisions of chapter 336. A financial institution shall be liable for all unauthorized withdrawals unless the unauthorized withdrawal was (a) 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 (b) 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. For purposes of this subdivision, "unauthorized withdrawal" means 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.

Subd. 4. No person's social security number shall be used as the personal identification number or as any code to activate any electronic financial terminal.

Subd. 5. Any customer of a financial institution may bring a civil action against any person violating any subdivision of this section in the district court in the county in which the alleged violator resides or has his principal place of business or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages, or \$500, whichever is greater, punitive damages when applicable, together with the court costs and reasonable attorneys' fees incurred by the plaintiff. The court may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations.

Subd. 6. Every financial institution using an electronic financial terminal shall provide its customers a receipt or record of each transaction initiated at the terminal, and shall provide its customers a transaction statement at least quarterly specifying types, dates, and amounts of all electronic financial terminal transactions for the previous statement period.

[1978 c 469 s 9]

47.70 ANTI-TRUST. No person engaged in electronic financial terminal or transmission facility activities shall contract, combine, or conspire to restrain trade in the market for electronic financial terminals, or engage in any anticompetitive practices to the detriment of the public interest. Notwithstanding section 325.8017, subdivision 2, the provisions of sections 325.8011 to 325.8028 shall apply to persons engaged in electronic financial terminal or transmission facility activities.

Nothing in sections 47.61 to 47.74 shall operate or be construed to create an exception to the antitrust laws of the United States for any contract or combination required or authorized by sections 47.61 to 47.74.

[1978 c 469 s 10]

47.71 RULES. The commissioner may promulgate such rules as are reasonably necessary to carry out and make effective the provisions and purposes of sections 47.61 to 47.74.

[1978 c 469 s 11]

47.72 CEASE AND DESIST ORDER; INJUNCTION; PENALTIES. Subdivision 1. If the commissioner determines that a person, other than a national bank, federal savings and loan association, or federal credit union, is violating or about to violate sections 47.61 to 47.74 or any rule promulgated thereunder or is engaged or about to engage in an unsafe, unsound, unfair, or discriminatory practice, he may:

(a) issue and serve on such person a cease and desist order which shall become effective at the time specified therein, and remain effective and enforceable as provided therein, except to the extent that it is stayed, modified, terminated, or set aside by action of the commissioner or review in court;

(b) serve notice on such person who has established and maintains a transmission facility or an electronic financial terminal of his intent to revoke or suspend its approval to establish and maintain the transmission facility or electronic financial terminal.

When acting pursuant to this subdivision, the commissioner shall furnish the person against whom he is acting a statement of alleged violations or practices.

Subd. 2. If the violation or the unsound, unsafe, unfair or discriminatory practice continues 15 days after service of a notice of intention to revoke or suspend a person's approval to establish and maintain a transmission facility or electronic financial terminal, the commissioner may revoke or suspend such approval.

Subd. 3. The commissioner may bring an action in district court to enjoin violations of sections 47.61 to 47.74 or any regulation promulgated thereunder, or to enforce compliance with the provisions of sections 47.61 to 47.74 or any rule promulgated thereunder, and he may refer the matter to the attorney general. The court may also impose a penalty not exceeding \$5,000 per violation.

[1978 c 469 s 12]

47.73 HEARING. Any person aggrieved with a cease and desist order, revocation, suspension, or denial of an application to establish an electronic financial terminal or transmission facility may request a hearing. Within seven days after receipt of a written request with respect to a cease and desist order, revocation, or suspension, or 45 days with respect to a denial of an application, the commissioner shall hold a formal hearing which shall be conducted pursuant to chapter 15. No revocation or suspension shall be effective until after a hearing if a hearing is requested. Notwithstanding section 15.052, subdivision 6, all costs of the hearing shall be paid by the aggrieved party.

[1978 c 469 s 13]

47.74 FEDERAL INSTITUTIONS; APPLICATION. The provisions of sections 47.61 to 47.74 shall apply to national banks, federal savings and loan associations, and federal credit unions to the extent permitted by federal law.

[1978 c 469 s 14]