

CHAPTER 46

BANKING DIVISION

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46.04 COMMISSIONER; POWERS.

Subdivision 1. The commissioner of banks, referred to in Minnesota Statutes, Chapters 46 to 59, as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, Chapter 201, were conferred by law upon the public examiner, and he or she shall take over all duties in relation to state banks, savings banks, trust companies, savings associations, and other financial institutions within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of banks shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, savings associations, credit unions, industrial loan and thrift companies, and other financial institutions doing business within this state; and shall, through examiners, examine each financial institution at least once annually. In satisfying this examination requirement, the commissioner may accept reports of examination prepared by a federal agency having comparable supervisory powers and examination procedures. With the exception of industrial loan and thrift companies which do not have deposit liabilities and small loan companies, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each institution as to determine with reasonable certainty that the values are correctly carried on its books. Assets and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. It shall be the further purpose of these examinations to assess the adequacy of capital protection and the capacity of the institution to meet usual and reasonably anticipated deposit withdrawals and other cash commitments without resorting to excessive borrowing or sale of assets at a significant loss, and to investigate each institution's compliance with applicable laws and regulations. Based on the examination findings, the commissioner shall make a determination as to whether the institution is being operated in a safe and sound manner. None of the above provisions limits the commissioner in making additional examinations as deemed necessary or advisable. The commissioner shall investigate the methods of operation and conduct of these institutions and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. The commissioner may make requirements as to records as deemed necessary to facilitate the carrying out of his or her duties and to properly protect the public interest. The commissioner may examine, or cause to be examined by these examiners, on oath, any officer, director, trustee, owner, agent, clerk, customer, or depositor of any financial institution touching the affairs and business thereof, and may issue, or cause to be issued by the examiners, subpoenas, and administer, or cause to be administered by the examiners, oaths. In case of any refusal to obey any subpoena issued under the commissioner's direction, the refusal may at once be reported to the district court of the district in which the bank or other financial institution is located, and this court shall enforce obedience to these subpoenas in the manner provided by law for enforcing obedience to

subpoenas of the court. In all matters relating to his official duties, the commissioner of banks has the power possessed by courts of law to issue subpoenas and cause them to be served and enforced, and all officers, directors, trustees, and employees of state banks, savings banks, trust companies, savings associations, and other financial institutions within the state, and all persons having dealings with or knowledge of the affairs or methods of these institutions, shall afford reasonable facilities for these examinations, make returns and reports to the commissioner of banks as the commissioner may require; attend and answer, under oath, the commissioner's lawful inquiries; produce and exhibit any books, accounts, documents, and property as the commissioner may desire to inspect, and in all things aid the commissioner in the performance of his or her duties.

[For text of subd 2, see M.S.1980]

History: 1981 c 182 s 1; 1981 c 220 s 1

46.09 STATE BANK EXAMINERS OR EMPLOYEES NOT TO HOLD BANK STOCK.

Subdivision 1. No person who is a bank examiner or other officer or employee of the division of banking shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the spouse, or any other member of the household of a bank examiner, or other officer or employee, shall be so interested, it shall be conclusively presumed that the bank examiner, or other officer or employee, is indirectly interested in the corporation within the meaning of this section; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provisions of this section shall not apply to the commissioner of banks.

[For text of subd 2, see M.S.1980]

History: 1981 c 31 s 1

46.131 EXAMINATION FEES FOR FINANCIAL INSTITUTIONS.

[For text of subds 1 and 2, see M.S.1980]

Subd. 3. A proportionate share of all annual office expenses of the commissioner of banks and the portion of the general support costs of the department of commerce and of the cost of services provided by the attorney general that is attributable to the commissioner of banks, as well as all actual expenses of the examiners in the field, excepting salaries, shall be allocated to each industry affected, and referred to in subdivision 4, as assessments and on the basis of the total time devoted to each.

Subd. 4. Assessments shall be made by the commissioner against each institution within the industry on an equitable basis, according to the total assets of each institution as of the end of the previous calendar year.

[For text of subd 5, see M.S.1980]

Subd. 6. [Repealed, 1981 c 220 s 18]

[For text of subds 7 and 8, see M.S.1980]

Subd. 9. These assessments or fees shall be paid by the institution examined within 20 days after a statement of the amount has been submitted to the institution examined by the commissioner of banks and, if not so paid, shall bear interest at the discount rate charged member banks for borrowing from the Federal Reserve Bank. The penalty shall be payable to the commissioner on request.

[For text of subd 10, see M.S.1980]

History: 1981 c 220 s 2,3; 1981 c 357 s 29

46.21 DESTRUCTION OF CERTAIN RECORDS.

Subdivision 1. **Reports, correspondence.** After ten years, the commissioner of banks may dispose of any examination report, call report of the condition of state banks, earnings and dividend report, oath of office of director, examining committee report, or any correspondence with reference to any examination report. After a period of two years the commissioner of banks need not retain the examiner's original pencil copy of any examination report.

Subd. 2. **Upon liquidation.** At any time after ten years from the date of payment of the final dividend in liquidation, the commissioner of banks may destroy the records, documents, or correspondence of any financial corporation of which he has taken possession or any records, documents, or correspondence relating to liquidation of any financial corporation which has been liquidated.

History: 1981 c 220 s 4