

Commerce
CHAPTER 45
DEPARTMENT OF COMMERCE

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45.01 DEPARTMENT ESTABLISHED; COMMISSION.

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

History: 1925 c 426 art 8 s 1; 1925 c 192 s 26; 1927 c 66 s 13; 1980 c 516 s 1 (53-28, 3996-26)

45.02 COMMISSIONERS; APPOINTMENT, TERMS, VACANCIES.

The governor shall appoint the members of the commission under the provisions of section 15.06. Each member of the commission, before entering upon the discharge of his duties, shall take and file with the secretary of state the oath of office prescribed by the constitution.

A majority of the commission shall constitute a quorum.

History: 1925 c 426 art 8 s 2; 1949 c 739 s 13; 1951 c 713 s 7; 1957 c 601 s 1; 1977 c 305 s 15 (53-29)

45.021 RULES AND REGULATIONS; APPROVAL BY COMMISSIONER OF COMMERCE.

All rules and regulations which the directors of divisions in the department of commerce are authorized to promulgate are subject to the approval of the commissioner of commerce.

History: 1969 c 1129 art 4 s 13

45.03 POWERS AND DUTIES OF COMMISSION.

The commissioner of banks, the commissioner of insurance, and the commissioner of securities and real estate, respectively, shall have and possess all the rights and powers and perform all the duties which, prior to the enactment of Laws 1925, Chapter 426, were vested by law in the superintendent of banks, the commissioner of insurance, and the state securities commission, respectively,

except that application for the organization and establishment of new financial institutions under sections 45.04 to 45.08, shall be determined by the commission in the manner provided therein, or, in the absence of any law prescribing the procedure, then by such reasonable procedure as the commission may prescribe. The commission shall review, and may affirm, reverse, modify, amend, or abrogate all quasi-judicial acts of a single commissioner upon written request and application of the party aggrieved, this review to be held after such reasonable notice as the commission shall prescribe. The commission shall have power to provide for stated meetings, and special meetings may be called by the chairman, or by the other two members. The commission may confer upon the executive secretary authority to fix a time for hearings in accordance with such rules as may be adopted.

History: 1925 c 426 art 8 s 3; 1965 c 333 s 9; 1969 c 1129 art 4 s 1; 1980 c 516 s 2 (53-30)

45.031 CHAIRMAN AND EXECUTIVE SECRETARY.

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

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

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

History: 1969 c 1129 art 4 s 2

45.032 HEARINGS.

Subdivision 1. The commission or any of its members may delegate its or his authority to conduct a hearing, but not review proceedings to a hearing examiner. For purposes of this section, "appointive authority" means the commission or member thereof by whom such a delegation is made. The examiner shall have the same power as the appointive authority to compel the attendance of witnesses, to examine them under oath, to require the production of books, papers, and other evidence, and to issue subpoenas and cause the same to be served and

executed in any part of the state. The commission shall prescribe by rule and regulation, in conformity to the provisions of Minnesota Statutes 1967, Sections 15.0411 to 15.0423, inclusive, the procedures for the conduct of all hearings and review proceedings.

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

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

History: 1969 c 1129 art 4 s 5

45.033 ANNUAL REPORT OF COMMERCE COMMISSION.

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

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

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

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

History: 1969 c 1129 art 4 s 6

45.034 PREPARATION OF DEPARTMENTAL BUDGET.

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

History: 1969 c 1129 art 4 s 7

45.04 BANK APPLICATIONS.

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

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

History: 1919 c 86 s 1; 1921 c 498 s 1; 1951 c 67 s 1; 1957 c 601 s 2; 1959 c 88 s 1; 1969 c 399 s 1; 1969 c 772 s 1; 1978 c 674 s 60 (3997)

45.05 NOTICE AND HEARING, WHEN NOT GIVEN.

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

History: 1929 c 146 s 1 (3997-1)

45.06 EXPENSES OF ORGANIZATION AND INCORPORATION OF BANKS LIMITED.

The expenses of organization and incorporation to be paid by any such banks shall not exceed the statutory fees for filing applications as provided in section

45.04 and the necessary legal expenses incurred incident to drawing articles of incorporation, publication and recording thereof, and the incorporators shall, prior to the issuance of the certificate of authorization provided for by law, file with the commissioner of banks a verified statement showing the total amount of expense incurred in the organization of the bank and to be paid by it after commencing operation.

History: 1919 c 86 s 2; 1965 c 171 s 1 (3998)

45.07 CHARTERS ISSUED, CONDITIONS.

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

History: 1919 c 86 s 3 (3999)

45.071 MANDATORY INSURANCE OF ACCOUNTS.

Subdivision 1. **Continuing requirement.** Every bank shall at all times maintain in effect insurance of its deposits by the federal deposit insurance corporation, an agency of this state or a federal agency established for the purpose of insuring deposits in banking institutions. In the case of fiduciary funds deposited with the bank, this insurance requirement may be met by depositing collateral security under section 48.74. A bank which fails to meet this requirement for insurance of its deposits shall either dissolve, merge or consolidate with another bank which is insured by the federal deposit insurance corporation, an agency of this state or a federal agency established for the purpose of insuring deposits in banks. For purposes of this section, "bank" means a bank defined in section 45.08, subdivision 2, which accepts deposits.

Subd. 2. **Application for insurance; uninsured banks.** Notwithstanding the provisions of subdivision 1, a bank which does not have insurance of its deposits or a commitment for insurance of its deposits by the federal deposit insurance corporation, an agency of this state or a federal agency established for the purpose of insuring deposits in banks or collateral security deposited under section 48.74 upon the effective date of Laws 1982, Chapter 473, Sections 1 to 29 must apply for insurance of deposits not later than July 1, 1983. A bank subject to this subdivision which has been denied a commitment for insurance of its deposits shall either dissolve, merge or consolidate with another bank which is insured or apply in writing within 30 days of denial to the commissioner of banks for additional time to obtain an insurance commitment. The commissioner of banks shall grant additional time to obtain the insurance commitment upon satisfactory evidence that the bank has made or is making a substantial effort to achieve the conditions precedent to issuance of the commitment. Additional time shall not extend later than July 1, 1984.

Subd. 3. **Insurance of accounts in new bank.** No bank shall be issued a certificate of authorization after the effective date of Laws 1982, Chapter 473, Sections 1 to 29 unless the bank has obtained a commitment for insurance of its deposits by the federal deposit insurance corporation, an agency of this state or a federal agency established for the purpose of insuring deposits of banks.

History: 1982 c 473 s 1

45.08 DEFINITIONS.

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

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

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

History: 1925 c 261 s 1,2 (4000)

CONSUMER SERVICES SECTION

45.15 ESTABLISHMENT OF CONSUMER SERVICES SECTION.

A section of consumer services is established in the department of commerce under the supervision and control of a director of consumer services. The director of consumer services is appointed by the governor under the provisions of section 15.06.

History: 1969 c 1129 art 4 s 3; 1977 c 305 s 16

45.16 CONSUMER SERVICES SECTION, RESPONSIBILITIES AND DUTIES.

Subdivision 1. The section of consumer services shall have the responsibilities and duties prescribed by this section and section 45.17 and such other authority as may be conferred by the commissioner of commerce.

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

(b) Enforce the provisions of law relating to consumer fraud and unlawful practices in connection therewith as set forth in sections 325F.68 and 325F.69, and the attorney general shall act for the division in pursuing the remedies set forth in section 325F.70;

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

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

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

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

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

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

History: 1969 c 1129 art 4 s 4; 1973 c 513 s 1; 1978 c 746 s 1

45.17 REPRESENTATION OF CONSUMER INTEREST IN PUBLIC UTILITY MATTERS.

Subdivision 1. For the purposes of this section, the terms defined in this subdivision shall apply:

(1) "Public utility" means a publicly or privately owned entity engaged in supplying utility services to residential utility consumers in this state or to another public utility for ultimate distribution to residential utility consumers in this state and whose rates or charges are subject to approval by the public utilities commission or any agency of the federal government provided that no municipal or cooperative utility shall be considered a "public utility" for the purposes of this clause.

(2) "Consumer services section" means the consumer services section of the department of commerce.

(3) "Residential utility consumer" or "consumer" means a person who uses utility services at his residence in this state and who is billed by or pays a public utility for these services.

(4) "Utility services" means electricity, natural gas, or telephone services distributed to residential utility consumers by a public utility.

Subd. 2. The consumer services section shall be responsible for representing and furthering the interests of residential utility consumers through participation in matters before the public utilities commission involving utility rates and adequacy of utility services to residential utility consumers. The consumer services section shall expend a reasonable portion of its efforts among all three kinds of utility services and shall identify and promote the needs of each class of residential consumers with respect to each of the utility services.

Subd. 3. Subject to the limitations of subdivision 2, the consumer services section may intervene as of right or participate as an interested party in matters pending before the public utilities commission which affect the distribution by a public utility of utility services to residential utility consumers. The right of the consumer services section to participate or intervene shall in no way affect the obligation of the public utilities commission to protect the public interest.

Subd. 4. The public utilities commission shall give reasonable notice to the consumer services section of any matter scheduled to come before the commission affecting a public utility's rates or adequacy of services to residential utility consumers. Rules of the commission governing procedures before the commission shall apply to the consumer services section and its employees or representatives. The consumer services section shall have the same rights and privileges accorded other intervenors or participants in matters pending before the commission.

Subd. 5. The consumer services section shall be deemed to have an interest sufficient to maintain, intervene as of right in, or otherwise participate in any civil action in the trial courts or supreme court of this state for the review or enforcement of any public utilities commission action which affects a public utility's rates or adequacy of service to residential utility consumers.

Subd. 6. There is hereby created the board of residential utility consumers whose duties shall include:

(1) Establishing policy guidelines concerning the utility related activities of the commerce department's consumer services section;

(2) Reviewing and commenting upon the section's staff employment decisions related to performing the responsibilities conferred in this section; and

(3) Annually reviewing and commenting upon the consumer services section's budget of estimated expenses for utility related activities.

The board shall consist of nine voting members to be appointed by the governor. At least one member shall represent each congressional district, and at least two members shall represent farm consumers. No more than six members shall be members of the same political party. In making appointments, the governor shall give consideration to individuals having a special interest in the provision of utility services to residential consumers.

The board members shall elect from among their number a chairman and any other officers as it may deem necessary. The board shall meet at the call of the chairman or the director. The terms of office, compensation, and provisions for removal and filling vacancies of members shall be as provided in section 15.0575.

The director of the consumer services section shall submit an annual budget of estimated expenses to the board for review and comment. The director shall also periodically seek the advice of the board concerning its operations related to the responsibilities conferred by this section. The director shall also file an annual report of the section's utility related activities with the board and the legislature on or before December 31 of each year.

Subd. 7. The consumer services section shall represent and further the interests of residential utility consumers through participation as an intervenor or interested party in federal proceedings relating to the regulation of: (a) wholesale rates for energy delivered through interstate facilities; or (b) fuel used in generation of electricity or the manufacture of gas. The consumer services section may maintain, intervene in or otherwise participate in any civil actions relating to the federal proceedings. In performing its duties pursuant to this subdivision, the section shall follow the guidelines established pursuant to subdivision 6, clause (1).

History: 1978 c 746 s 2; 1980 c 579 s 2; 1980 c 614 s 123