

CHAPTER 48

BANKS, TRUST COMPANIES

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48.06 DIRECTORS; QUALIFICATIONS.

If the number of directors exceeds nine, they may designate, semi-annually, by resolution, nine of their number, a majority of whom constitutes a quorum for the transaction of business. Every director of a bank shall take and subscribe an oath that he will faithfully perform his official duties, and not knowingly violate, or permit to be violated, any provision of law. The taking of this oath must be duly certified in the minutes of the records of the bank.

History: 1983 c 250 s 5

48.152 STATE BANK ACQUISITION AND LEASING OF PERSONAL PROPERTY.

[For text of subs 1 to 7, see M.S.1982]

Subd. 8. The total amount of unpaid rental obligations of a customer to a bank on personal property, shall constitute a liability of the customer within the meaning of section 48.24, subdivisions 1 and 4.

Subd. 9. *[Repealed, 1983 c 80 s 2]*

[For text of subd 10, see M.S.1982]

History: 1983 c 80 s 1

48.19 LOANS ON REAL ESTATE RESTRICTED.

Subdivision 1. **Restrictions; exception.** No bank or trust company shall make any loan upon the security of real estate unless it is a first lien thereon, except that a bank or trust company may take a junior lien: (a) upon real estate to secure a loan previously contracted; (b) upon farm real estate to secure a loan made to a farmer who resides in a county which due to weather conditions is a declared federal disaster area at the time the loan contract is signed; or (c) upon real estate to secure a loan if the total unpaid aggregate of all outstanding liens against the real estate does not exceed 80 percent of its appraised value. This limitation applies notwithstanding the provisions of sections 47.20, subdivision 1 and 47.21 as to loans, advances of credit, or participations in loans eligible for purchase in whole or in part by the federal national mortgage association or the federal home loan mortgage corporation or which are authorized by the federal home loan bank board or office of the comptroller of the currency. Before these loans are made the value of the real estate must be determined by an appraisal made by a committee appointed by the board of directors, but the board may accept an appraisal made by or for an agency of the United States government if the agency is guaranteeing or insuring the loan or any part thereof. The appraisal must be made a matter of record.

A bank may take additional liens on the same security. These liens are considered to be part of the same mortgage lien thereon if it has been established that there are no intervening liens.

Loans in which the small business administration cooperates through agreements to participate on an immediate or deferred basis under the federal small business act or loans or obligations secured or guaranteed by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States, are not subject to the restrictions or limitations of this section imposed upon loans secured by real estate.

[For text of subs 2 and 4. see M.S.1982]

History: 1983 c 250 s 6

48.196 PENALTY FOR USURIOUS INTEREST.

The taking, receiving, reserving or charging by a lender of a rate of interest greater than is allowed by state law shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person paying it, or his legal representatives, may recover, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the lender taking or receiving the interest, if the action is commenced within two years from the time the usurious transaction occurred. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings and loan association, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, an industrial loan and thrift company organized under chapter 53, a regulated lender licensed under chapter 56, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

History: 1983 c 252 s 3

48.511 [Repealed, 1983 c 225 s 11]

48.512 PROCEDURES FOR OPENING CHECKING ACCOUNTS.

Subdivision 1. **Definitions.** For the purpose of this section the following terms have the meanings given:

(a) "Financial intermediary" means any person doing business in this state who offers transaction accounts to the public.

(b) "Transaction account" means a deposit or account established and maintained by a natural person or persons under an individual or business name for personal, household, or business purposes, on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instruments, payment orders of withdrawal, or other similar device for the purpose of making payments or transfers to third persons or others, including demand deposits or accounts subject to check, draft, negotiable order of withdrawal, share draft, or other similar item. A transaction account does not include the deposit or account of a partnership having more than three partners, the personal representative of an estate, the trustee of a trust or a limited partnership.

Subd. 2. **Required information.** Before opening or authorizing signatory power over a transaction account, a financial intermediary shall require one

applicant to provide the following information on an application document signed by the applicant:

- (a) full name;
- (b) birth date;
- (c) address of residence;
- (d) address of current employment, if employed;
- (e) telephone numbers of residence and place of employment, if any;
- (f) social security number;
- (g) driver's license or identification card number issued pursuant to section 171.07. If the applicant does not have a driver's license or identification card, the applicant may provide an identification document number issued for identification purposes by any state, federal, or foreign government if the document includes the applicant's photograph, full name, birth date, and signature;
- (h) whether the applicant has had a transaction account at the same or another financial intermediary within 12 months immediately preceding the application, and if so, the name of the financial intermediary;
- (i) whether the applicant has had a transaction account closed by a financial intermediary without the applicant's consent within 12 months immediately preceding the application, and if so, the reason the account was closed; and
- (j) whether the applicant has been convicted of a criminal offense because of the use of a check or other similar item within 24 months immediately preceding the application.

A financial intermediary may require an applicant to disclose additional information.

An applicant who makes a false material statement that he does not believe to be true in an application document with respect to information required to be provided by this subdivision is guilty of perjury. The financial intermediary shall notify the applicant of the provisions of this paragraph.

Subd. 3. Confirm no involuntary closing. Before opening or authorizing signatory power over a transaction account, the financial intermediary shall attempt to verify the information disclosed for subdivision 2, clause (i). The financial intermediary may not open or authorize signatory power over a transaction account if (i) the applicant had a transaction account closed by a financial intermediary without his consent because of his issuance of dishonored checks within 12 months immediately preceding the application, or (ii) the applicant has been convicted of a criminal offense because of the use of a check or other similar item within 24 months immediately preceding the application.

If the transaction account is refused, the reasons for the refusal shall be given to the applicant in writing.

Subd. 4. Identification is required. A financial intermediary shall not open or authorize signatory power over a transaction account if none of the applicants provides a driver's license, identification card, or identification document as required by subdivision 2. When a minor is the applicant and the minor does not have a driver's license or identification card issued pursuant to section 171.07, the identification requirements of subdivision 2, clause (g), and this subdivision are satisfied if the minor's parent or guardian provides identification of his own that meets the identification requirement. The financial intermediary may waive the identification requirement if the applicant has had another type of account with the financial intermediary for at least one year immediately preceding the time of application.

Subd. 5. **No liability.** The requirements of this section do not impose any liability on financial intermediaries offering transaction accounts or, except as provided in subdivisions 3 and 4, limit a financial intermediary's discretion as to whether to grant or deny an application subject to this section.

History: 1983 c 225 s 5

48.605 STATE BANKS, EMPLOYEE STOCK OPTION AND STOCK PURCHASE PLANS.

Subdivision 1. Any state bank may grant options to purchase, sell, or enter into agreements to sell shares of its capital stock to its employees, for a consideration of not less than 100 percent of the fair market value of the shares on the date the option is granted or, if pursuant to a stock purchase plan, 85 percent of the fair market value on the date the purchase price is fixed, pursuant to the terms of an employee restricted stock option plan or employee stock purchase plan which has been adopted by the board of directors of the bank and approved by the holders of at least three-fourths of the outstanding shares of the bank entitled to vote and by the commissioner of banks. Stock options issued hereunder shall not extend beyond a period of ten years from date of issuance and shall otherwise qualify as restricted stock options under the Internal Revenue Code, and acts amendatory thereof.

[For text of subs 2 and 3, see M.S.1982]

History: 1983 c 216 art 1 s 14

48.68 DIRECTORS; QUALIFICATIONS; VACANCIES, HOW FILLED.

A majority of the directors of a trust company must be residents of this state. Each shall take and subscribe an oath that he will diligently and honestly perform his official duties and will not knowingly violate, or permit to be violated, any provision of law relating to trust companies. The taking of this oath must be noted on the minutes of the records of the corporation and filed with the commissioner. Failure of any person selected as director to qualify creates a vacancy in the board, and all vacancies in the board must be filled by the qualified members. However, not more than one-third of the membership of the board may be so filled in any one year.

History: 1983 c 250 s 7