

CHAPTER 47

FINANCIAL CORPORATIONS

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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 35 percent of the then total assets of the corporation; to assign, pledge and hypothecate its bonds, mortgages or other assets; and, in case of savings 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.

History: 2007 c 44 s 1; 2007 c 57 art 3 s 7

47.59 FINANCIAL INSTITUTION CREDIT EXTENSION MAXIMUM RATES.

[For text of subs 1 to 5, see M.S.2006]

Subd. 6. **Additional charges.** (a) For purposes of this subdivision, "financial institution" includes a person described in subdivision 4, paragraph (a). In addition to the finance charges permitted by this section, a financial institution may contract for and receive the following additional charges that may be included in the principal amount of the loan or credit sale unpaid balances:

(1) official fees and taxes;

(2) charges for insurance as described in paragraph (b);

(3) with respect to a loan or credit sale contract secured by real estate, the following "closing costs," if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section:

(i) fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;

(ii) fees for preparation of a deed, mortgage, settlement statement, or other documents, if not paid to the financial institution;

(iii) escrows for future payments of taxes, including assessments for improvements, insurance, and water, sewer, and land rents;

(iv) fees for notarizing deeds and other documents;

(v) appraisal and credit report fees; and

(vi) fees for determining whether any portion of the property is located in a flood zone and fees for ongoing monitoring of the property to determine changes, if any, in flood zone status;

(4) a delinquency charge on a payment, including the minimum payment due in connection with open-end credit, not paid in full on or before the tenth day after its due date in an amount not to exceed five percent of the amount of the payment or \$5.20, whichever is greater;

(5) for a returned check or returned automatic payment withdrawal request, an amount not in excess of the service charge limitation in section 604.113, except that, on a loan transaction that is a consumer small loan as defined in section 47.60, subdivision 1, paragraph (a), in which cash is advanced in exchange for a personal check, the civil penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded or assessed against the borrower; and

(6) charges for other benefits, including insurance, conferred on the borrower that are of a type that is not for credit.

(b) An additional charge may be made for insurance written in connection with the loan or credit sale contract, which may be included in the principal amount of the loan or credit sale unpaid balances:

(1) with respect to insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, if the financial institution furnishes a clear, conspicuous, and specific statement in writing to the borrower setting forth the cost of the insurance if obtained from or through the financial institution and stating that the borrower may choose the person through whom the insurance is to be obtained;

(2) with respect to credit insurance or mortgage insurance providing life, accident, health, or unemployment coverage, if the insurance coverage is not required by the financial institution, and this fact is clearly and conspicuously disclosed in writing to the borrower, and the borrower gives specific, dated, and separately signed affirmative written indication of the borrower's desire to do so after written disclosure to the borrower of the cost of the insurance; and

(3) with respect to the vendor's single interest insurance, but only (i) to the extent that the insurer has no right of subrogation against the borrower; and (ii) to the extent that the insurance does not duplicate the coverage of other insurance under which loss is payable to the financial institution as its interest may appear, against loss of or damage to property for which a separate charge is made to the borrower according to clause (1); and (iii) if a clear, conspicuous, and specific statement in writing is furnished by the financial institution to the borrower setting forth the cost of the insurance if obtained from or through the financial institution and stating that the borrower may choose the person through whom the insurance is to be obtained.

(c) In addition to the finance charges and other additional charges permitted by this section, a financial institution may contract for and receive the following additional charges in connection with open-end credit, which may be included in the principal amount of the loan or balance upon which the finance charge is computed:

(1) annual charges, not to exceed \$50 per annum, payable in advance, for the privilege of opening and maintaining open-end credit;

(2) charges for the use of an automated teller machine;

(3) charges for any monthly or other periodic payment period in which the borrower has exceeded or, except for the financial institution's dishonor would have exceeded, the maximum approved credit limit, in an amount not in excess of the service charge permitted in section 604.113;

(4) charges for obtaining a cash advance in an amount not to exceed the service charge permitted in section 604.113; and

(5) charges for check and draft copies and for the replacement of lost or stolen credit cards.

(d) In addition to the finance charges and other additional charges permitted by this section, a financial institution may contract for and receive a onetime loan administrative fee not exceeding \$25 in connection with closed-end credit, which may be included in the principal

balance upon which the finance charge is computed. This paragraph applies only to closed-end credit in an original principal amount of \$4,320 or less. The determination of an original principal amount must exclude the administrative fee contracted for and received according to this paragraph.

[For text of subs 7 to 14, see M.S.2006]

History: 2007 c 44 s 2; 2007 c 57 art 3 s 8

47.60 CONSUMER SMALL LOANS.

[For text of subd 1, see M.S.2006]

Subd. 2. **Authorization, terms, conditions, and prohibitions.** (a) In lieu of the interest, finance charges, or fees in any other law, a consumer small loan lender may charge the following:

(1) on any amount up to and including \$50, a charge of \$5.50 may be added;

(2) on amounts in excess of \$50, but not more than \$100, a charge may be added equal to ten percent of the loan proceeds plus a \$5 administrative fee;

(3) on amounts in excess of \$100, but not more than \$250, a charge may be added equal to seven percent of the loan proceeds with a minimum of \$10 plus a \$5 administrative fee;

(4) for amounts in excess of \$250 and not greater than the maximum in subdivision 1, paragraph (a), a charge may be added equal to six percent of the loan proceeds with a minimum of \$17.50 plus a \$5 administrative fee.

(b) The term of a loan made under this section shall be for no more than 30 calendar days.

(c) After maturity, the contract rate must not exceed 2.75 percent per month of the remaining loan proceeds after the maturity date calculated at a rate of 1/30 of the monthly rate in the contract for each calendar day the balance is outstanding.

(d) No insurance charges or other charges must be permitted to be charged, collected, or imposed on a consumer small loan except as authorized in this section.

(e) On a loan transaction in which cash is advanced in exchange for a personal check, a return check charge may be charged as authorized by section 604.113, subdivision 2, paragraph (a). The civil penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded or assessed against the borrower.

(f) A loan made under this section must not be repaid by the proceeds of another loan made under this section by the same lender or related interest. The proceeds from a loan made under this section must not be applied to another loan from the same lender or related interest. No loan to a single borrower made pursuant to this section shall be split or divided and no single borrower shall have outstanding more than one loan with the result of collecting a higher charge than permitted by this section or in an aggregate amount of principal exceed at any one time the maximum of \$350.

[For text of subs 3 to 6, see M.S.2006]

History: 2007 c 44 s 3; 2007 c 57 art 3 s 9

47.61 ELECTRONIC FUNDS TRANSFER FACILITIES; DEFINITIONS.

[For text of subs 1 and 2, see M.S.2006]

Subd. 3. **Electronic financial terminal.** (a) "Electronic financial terminal" means an electronic information processing device that is established to do either or both of the following:

(1) capture the data necessary to initiate financial transactions; or

(2) through its attendant support system, store or initiate the transmission of the information necessary to consummate a financial transaction.

(b) "Electronic financial terminal" does not include:

(1) a telephone;

(2) an electronic information processing device that is used internally by a financial institution to conduct the business activities of the institution;

(3) an electronic point-of-sale terminal operated by a retailer that is used to process payments for the purchase of goods and services by consumers, and which also may be used to obtain cash advances or cash back not to exceed \$25 and only if incidental to the retail sale transactions, through the use of credit cards or debit cards, provided that the payment transactions using debit cards are subject to the federal Electronic Funds Transfer Act, United States Code, title 15, sections 1693 et seq., and Regulation E of the Federal Reserve Board, Code of Federal Regulations, title 12, subpart 205.2; this clause does not exempt the retailer from liability for negligent conduct or intentional misconduct of the operator under section 47.69, subdivision 5;

(4) stored-value cards to only process transactions other than those authorized by this section. Stored-value cards are transaction cards having magnetic stripes or computer chips that enable electronic value to be added or deducted as needed; or

(5) a personal computer possessed by and operated exclusively by the account holder.

[For text of subs 4 to 7, see M.S.2006]

History: 2007 c 13 art 3 s 8

47.62 AUTHORIZATION.

Subdivision 1. **General authority.** Any person may establish and maintain 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.

[For text of subs 2 to 4, see M.S.2006]

Subd. 5. [Repealed, 2007 c 44 s 9; 2007 c 57 art 3 s 64]

[For text of subd 6, see M.S.2006]

History: 2007 c 44 s 4; 2007 c 57 art 3 s 10

47.75 LIMITED TRUSTEESHIP.

Subdivision 1. **Retirement, health savings, and medical savings accounts.** (a) A commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company may act as trustee or custodian:

(1) under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended;

(2) of a medical savings account under the Federal Health Insurance Portability and Accountability Act of 1996, as amended;

(3) of a health savings account under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, as amended; and

(4) under the Federal Employee Retirement Income Security Act of 1974, as amended.

(b) The trustee or custodian may accept the trust funds if the funds are invested only in savings accounts or time deposits in the commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company, except that health savings accounts may also be invested in transaction accounts. Health savings accounts invested in transaction accounts shall not be subject to the restrictions in section 48.512, subdivision 3. All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its

business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

History: *2007 c 44 s 5; 2007 c 57 art 3 s 11*