

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1122

12/27 Dick Gomsrud to send Aff. mailing + Mlg. Cert.

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12-20-84
DATE FOR REVIEW 12-29-84
DATE DUE 1-3-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 01/03/85 (CDS) Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 1-7-84 Revisor approved 12/20/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 12.13.84 Date

N/A Notice of Intent to Solicit Outside Opinion

_____ Order for rulemaking
_____ date of Hearing not submitted. Order adopting amended. OK CDS

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
11.5.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
11.5.84 At least 30/20 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

_____ Notice of Submission to the Attorney General

_____ Agency has determined that institutions affected by rules do not come within definition of small biz

OK

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE, FINANCIAL EXAMINATIONS

Office Memorandum

TO : J. Michael Miles, Manager, Asst. Atty. General
Attorney General's Office

DATE: December 18, 1984

FROM : James G. Miller
Assistant Commissioner

PHONE: 297-2548

SUBJECT: AR0603 Adopted Rules Relating to the Operation of Commercial Banks

This is to submit the above titled administrative rule file to your office for review pursuant to Minn. Stat. § 14.26. There were several letters received containing comments but no requests to be informed that these materials have been submitted to the Attorney General. As a result of the written comments several minor and non-substantive changes have been adopted by findings of fact, conclusions and adoption order. For this reason included in these submissions are copies of the modification dated December 17, 1984, from the Revisor of Statutes.

If you have any questions please contact me at 297-2548.

JGM:lp

Enclosure

RECEIVED
DEC 20 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Michael A. Hatch
Commissioner, Department of Commerce

DATE: 1-7-85

ATTN: Gregory P. Huwe

FROM : Special Assistant Attorney General

PHONE:

Larry D. Starns LDS
Special Assistant Attorney General

297-3493

SUBJECT: In the Matter of the Proposed Amendments to the Rules Concerning the Operations of Commercial Banks.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

LDS:sz
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Commerce

Financial Examinations Division

Adopted Rules Relating to the Operation of Commercial Banks

Rules as Adopted

2675.0200 FINANCIAL STATEMENTS.

Signed, current financial statements of the borrowers, endorsers, or guarantors are required on loans which the commissioner or an examiner determines to be inadequately secured. Financial statements are considered current when renewed at least annually.

2675.0300 DELINQUENT LOANS.

Subpart 1. **When delinquent.** For the purposes of the report of examination of banks, loans, leases, and unplanned overdrafts are considered delinquent and are separated into two distinct groupings as follows:

A. "A" paper consists of all loans and leases which are six months past their maturity, or on which interest or principal is due and unpaid for six months or more, including unplanned overdrafts.

B. "B" paper consists of all other loans and leases which are 30 days, but less than six months past their maturity, or on which interest or principal is due and unpaid for a period of 30 days, but less than six months including unplanned overdrafts. An installment loan will not be considered overdue until at least two monthly payments are due. The same will apply to real estate mortgage loans, term loans, or any other loans payable on regular monthly installments of principal and/or interest.

Subp. 2. **Examples of "A" paper and "B" paper.** The following examples will illustrate the applications to "A" paper and "B" paper:

A. Single payment notes: Note dated January 2, 1984, due July 2, 1984, with interest to be paid at maturity. If

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unpaid, the note becomes "B" paper at close of business August 2, 1984, and "A" paper at close of business January 2, 1985.

B. Demand notes: Note dated January 2, 1984, written "due on demand." Interest will be considered to be due every six months, if not otherwise indicated in the body of the note. If interest is unpaid, this note becomes "B" paper at the close of business August 2, 1984, and "A" paper at the close of business January 2, 1985.

C. Installment notes: Note dated January 2, 1984, to be paid in monthly installments beginning February 2, 1984. Allowing one month grace, if the installment due on February 2, 1984, is unpaid, the balance of this note will become "B" paper at the close of business March 2, 1984, and "A" paper at the close of business on August 2, 1984.

Subp. 3. **Apportionment.** The overdue figure shall include the total dollar balance of the lease or loan that is not current.

For examination purposes, past due loans that are in a nonaccrual status or that are renegotiated troubled debt are to be apportioned to "A" paper or "B" paper as appropriate.

2675.0901 REAL ESTATE LOANS-DOCUMENTATION.

Each real estate secured loan file shall include the following documentation and evidence where the loan is in an amount over $7,500 or not otherwise exempt from the definition of real estate in Minnesota Statutes, section 48.19, subdivision 4:

A. An attorney's opinion~~,~~ or a title insurance policy, or, in the case of Torrens title property, ~~the mortgagee's~~ a duplicate certificate of title with memorial of the bank's mortgage thereon is required on all real estate loans which shall describe the status of fee title, the validity of the bank's lien, and the position of the lien.

B. Evidence of adequate insurance coverage with loss payable clause payable to the bank shall be required for mortgages on improved property.

Written binders of insurance are acceptable evidence of

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insurance. No bank shall refuse to accept a binder tendered at the time of closing as evidence of any insurance coverage required as a condition of a loan agreement if the binder conforms with usual and customary conditions as to designation of loss payee and mortgagor.

C. Real estate appraisal reports are required for each mortgage. The appraisal and the reasonableness of its accuracy is the responsibility of the appraisal committee. The appraisal report and its acceptance by the appraisal committee shall be made part of the mortgage file.

2675.1100 BOND INVESTMENT RECORDS.

During the period in which such investment is carried on a bank's books, it shall be required that original invoices of bond purchases and sales be retained as a part of the records of a bank; a record be maintained of all securities bought and sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where pledged or deposited for safekeeping; all municipal and corporation bonds owned by a bank be supported by full credit information at the time of purchase; and every sale and every purchase will be considered a separate transaction and trades, switches and securities received under debt readjustment, as well as new purchases, must meet the requirements of these parts.

2675.1110 ELIGIBLE SECURITIES.

An obligation of indebtedness which may be purchased for its own account by a state bank, in order to come within the classification of eligible securities within the meaning of this part, must be a marketable obligation. It must be salable under ordinary circumstances with reasonable promptness at a fair value; and with respect to the particular security, there must be present one or more of the following characteristics:

A. a public distribution of the securities must have been provided for or made in a manner to protect or insure the marketability of the issue; or

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B. other existing securities of the obligor must have such a public distribution as to protect or insure the marketability of the issue under consideration; or

C. in the case of eligible securities for which a public distribution as set forth in item A or B cannot be so provided, or so made, and which are issued by established commercial or industrial businesses or enterprises, that can demonstrate the ability to service such securities, the debt evidenced thereby must mature not later than 20 years after the date of issuance of the security and must be of such sound value or so secured as reasonably to assure its payments.

2675.1130 INVESTMENT QUALITIES.

Securities, in order to be eligible for purchase by state banks, must be in the form of bonds, notes, and/or debentures, and must be of recognized investment quality. Eligible securities are those which are included among the four highest ratings of the rating services, and nonrated securities of equivalent value. With regard to the ratings, the following items shall apply:

A. to C. [Unchanged.]

2675.1140 HOLDING BONDS ON PAR OR FACE VALUE.

The statutory limitation on the amount of the eligible securities of any one obligor or maker which may be held by the bank, not otherwise exempted by Minnesota Statutes, section 48.24, subdivision 6, is to be determined on the basis of the par or face value of the securities, and not on their book value.

2675.1150 PURCHASE OF ASSET AT A PREMIUM OR DISCOUNT.

When assets are purchased at a premium or discount, a bank:

A. shall charge off the premium when the asset is placed on the books; or, provide for the regular amortization of the premium pursuant to generally accepted accounting principles; and

B. may provide for the regular accretion of the discount pursuant to generally accepted accounting principles.

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2675.1180 FOREIGN BORROWERS SECURITIES.

Purchase of securities of foreign borrowers, whether private, corporate, or governmental, is prohibited with the exception of:

A. [Unchanged.]

B. bonds of the International Bank for Reconstruction and Development, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the International Bank for Reconstruction and Development only by banks, trust companies, and savings banks;

C. bonds of the Inter-American Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the Inter-American Development Bank only by banks, trust companies, and savings banks;

D. bonds of the Asian Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the Asian Development Bank only by banks, trust companies, and savings banks; and

E. bonds of the African Development Bank, which are payable in dollars of the United States; provided however, that the total par value of such bonds held by any bank or trust company shall never exceed 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the African Development Bank only by banks, trust companies, and savings

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banks.

2675.2000 BANKS SELLING WITH REPURCHASE AGREEMENT.

As to repurchase agreements accompanying sales of securities, it is permissible for the bank selling securities to another to agree that the bank shall have an option or right to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement, but in no case in excess of the market value at the time of repurchase.

Except for securities which are the direct obligation of, or obligations that are fully guaranteed as to principal and interest by the United States government or an agency thereof, it is not permissible for the bank selling securities to another to agree that the purchaser shall have the right or the option to require the bank to repurchase said securities at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement have the right or option to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement.

2675.2050 PURCHASE OF NONELIGIBLE SECURITIES PROHIBITED; DISPOSITION; EXCEPTIONS.

The purchase of securities other than eligible securities as defined in part 2675.1110 is prohibited. Any such purchase will be considered a violation of this part and the commissioner will require that any noneligible security so purchased be disposed of within a reasonable length of time. No bank shall be permitted to purchase securities of business or municipal corporations that shall have undergone debt readjustment until 12 months shall have elapsed since the effective date of the readjustment. Such securities, if purchased, must also be disposed of. However, the purchase of railroad equipment trust obligations which are not in default either as to principal or interest, or both, and which are considered to be of eligible quality shall not be prohibited.

(?) (ok refer to 2675.1110)

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2675.2100 CASH ITEMS.

A daily record shall be maintained of all cash items for anything other than currency or coin being held over until the following day's business and not in the process of being forwarded for collection or being returned to endorsers. No checks shall be held in a bank's cash account to avoid the showing of overdrafts.

2675.2110 BANKING HOUSE.

A. Investment for banking house and premises requires no prior written approval of the commissioner pursuant to Minnesota Statutes, section 47.10, unless:

(1) the investment is in nonadjacent property, or

(2) the total investment exceeds 50 percent of the banks's capital and paid-in surplus.

B. In determining the total investment in banking premises, the net book value for land, buildings, real estate for future use, leasehold improvements, and leases capitalized according to financial accounting standard board practices are to be aggregated.

C. A bank shall maintain documentation to reflect that investments in banking premises are depreciated or amortized pursuant to generally accepted accounting principles. The documentation shall disclose the period of time the assets are expected to remain on the books, and the accepted practice used to consistently assign the cost and write down the value.

D. Investment in nonadjacent real estate to be used for future banking premises not utilized as intended within five years shall be considered other real estate unless definite plans for utilization are in process and extended time is approved by the commissioner.

E. Prior to December 31, 1985, a bank may, without obtaining approval, restate the net book value of its banking premises to reflect the original cost less any prior write down required under generally accepted accounting principles. Adequate documentation shall be maintained to substantiate any

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restatement of banking premises. Alternatively, a bank not restating the value of banking premises may write down the remaining net book value pursuant to generally accepted accounting principles.

2675.2130 FURNITURE AND FIXTURES, PERSONAL PROPERTY, AUTOMOBILES, AND EQUIPMENT.

Purchases capitalized in this account shall be amortized as required by generally accepted accounting principles, or a greater amount as may be approved in writing by the commissioner. Furniture and fixtures, personal property, automobiles, and equipment used in the conduct of banking business may be acquired by purchase or lease without obtaining prior approval of the commissioner unless the seller or lessor has an existing direct or indirect interest in the management or ownership of the acquiring bank.

2675.2140 LEASEHOLD INVESTMENT AMORTIZATION.

Leasehold investments shall be amortized as required by generally accepted accounting principles. Leasehold investments receiving prior approval pursuant to Minnesota Statutes, section 47.10, subdivision 3, are subject to further prior approval of renegotiated and amended terms. If there is an optional clause in such lease for an additional period to be covered thereby, this shall serve to extend the amortization period to such extent.

2675.2170 OTHER REAL ESTATE.

Other real estate:

A. Any real estate acquired or owned by a bank (1) pursuant to Minnesota Statutes, section 48.21, clauses (2) to (5); (2) not used in the business resulting from relocation of the principal office, or closing of a detached facility; or (3) abandonment of plans to use real estate acquired for future expansion, shall be designated as "other real estate." The property acquired pursuant to (1) shall be so designated from the date upon which the bank actually acquires title. Property owned pursuant to subitems (2) and (3) shall be so designated

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from the date the determination is made to divert or abandon as actual operating bank premises.

B. "Other real estate" shall not be entered upon the books of a bank at an amount greater than the balance of the principal amount of the indebtedness at the time of acquisition or the remaining book value if owned. In any case, the book value of other real estate shall never exceed the estimated fair market value of the property. The fair market value shall be determined by an appraisal prepared by an independent qualified appraiser within 30 days of acquisition. The appraisal shall be made part of the other real estate file.

C. Reasonable attempts shall be made to dispose of other real estate by sale. The other real estate file shall be documented with disposal attempts. In no case, is depreciation required on other real estate, but it shall be removed from the books within five years after acquisition.

D. "Other real estate" sold on contract for deed may be carried as a loan at the lesser of the principal balance due on the contract, or at its present book value. Loss on sale of "other real estate" shall be recognized in the period the sale occurs. Gains on sale of other real estate shall be either accreted ratably on the same basis as repayment, or may be deferred until title is transferred to the buyer.

E. "Other real estate" shall be documented with an attorney's opinion or equivalent evidence to reflect title and all encumbrances. ~~Adequate property and liability insurance shall be carried, and taxes shall be kept current~~ Insurance must be maintained where necessary and taxes must be kept current if the "other real estate" is carried as an asset. FF

2675.2200 CHARGED OFF ASSETS; DUAL CONTROL.

Subpart 1. **Record.** A complete record of charged off assets shall be maintained on which all recoveries shall be shown. This record shall also cite authority of directors with regard to any debts that have been compromised, and include signed compromise agreements, if it is possible to obtain them.

The original records of charged off assets shall be

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maintained under dual control to effect any entry subsequent to the board's charge off resolution.

Subp. 2. and 3. [See repealer.]

2675.2220 ADDITIONAL COMMON STOCK SALES.

Any bank which increases its common capital account by means of the sale of additional common stock need not carry such funds in any other bank but may carry them on its own books among demand liabilities and furnishing appropriate certificate to the commissioner as to the total paid in.

2675.2240 DIVIDENDS.

The dividend period for the purpose of declaring dividends in accordance with Minnesota Statutes, section 48.09 shall be the period commencing on January 1 and ending as of the close of business December 31 of each calendar year and the net income for each such period shall be determined from the consolidated report of income of each bank.

The Department of Commerce will supply each bank with forms to be completed with information called for. The forms must be mailed or delivered to the commissioner within ten days of the date of declaration of any dividend and at least 15 days prior to the proposed payment date of any dividend. The forms shall contain a statement by the commissioner providing that if certain requirements as set forth therein are met, the bank may pay a cash dividend or dividends without specific approval of the commissioner in the year succeeding the dividend period in such amount or amounts as will not reduce the bank's capital, surplus, undivided profits, and reserves below such requirements. Except as provided in the preceding sentence, no bank or trust company shall pay a cash dividend to its stockholders until written approval for the dividend has been obtained from the commissioner.

Declared dividends shall be deducted from undivided profits and carried on the books as another liability entitled "dividends payable." The other liability account shall be reversed upon payment or nonapproval by the commissioner.

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2675.2246 CERTIFICATE OF DEPOSIT OF OTHER FINANCIAL INSTITUTIONS.

Where a bank makes a direct investment in a certificate of deposit of another financial institution, such investment shall not exceed its legal lending limit as provided in Minnesota Statutes, section 48.24; however, this limitation shall apply only to that portion, if any, of the investment which is not insured by an agency of the United States.

2675.2250 OVERDRAFTS; OFFICERS OR EMPLOYEES.

No overdraft shall be permitted to an officer or employee of a bank with the exception of those which occur in the ordinary course of posting and are reimbursed during the same or the following business day. Overdrafts originating and disposed of in this manner shall not be construed as being in violation of Minnesota Statutes, section 48.08.

2675.2420 OTHER BUSINESS; EXPENSE REIMBURSEMENT AGREEMENTS.

If an officer of a bank is acting as an insurance agent, acting to effect transactions in securities or the business of an insurance agency or securities broker-dealer not owned by the bank is being conducted on the banking premises, there must be an arrangement as to allocating overhead expenses or as to distribution of net earnings and be included in an appropriate board resolution. The allocations may include the credit insurance income required to be turned over to the bank pursuant to Minnesota Statutes, section 47.016, or commissions.

2675.2500 DISPLAY AND REPLACEMENT COPIES.

Every bank shall display its bank charter in a prominent place in the lobby. In case of destruction or misplacement of the charter, the commissioner will supply a duplicate, upon application, at the cost set out in Minnesota Statutes, section 46.131, subdivision 10.

REPEALER. Minnesota Rules, parts 2675.0700; 2675.0800; 2675.0900; 2675.0910; 2675.0920; 2675.0930; 2675.0940; 2675.0950; 2675.1160; 2675.2010; 2675.2020; 2675.2030; 2675.2060;

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2675.2070; 2675.2080; 2675.2090; 2675.2120; 2675.2150; 2675.2160; 2675.2190; 2675.2200, subparts 2 and 3; 2675.2230; 2675.2290; and 2675.2410 are repealed.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN - 7 1985
Joan Anderson Growe
Secretary of State
3:11 PM

APPROVED AS TO LEGALITY
January 3, 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

PROPOSED RULES

DEPARTMENT OF COMMERCE
FINANCIAL EXAMINATIONS DIVISION

Proposed Amendments to the Rules Concerning the Operation of Commercial Banks

Notice is hereby given that the Commissioner of Commerce proposes to adopt amendments to the above rules without a public hearing. The Commissioner has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21 to 14.28. The amendments including repeal of certain rules are needed to respond to changes already made in state and federal law relating to banking and with particular attention to removing burdensome or unnecessary requirements.

Persons interested in these rules shall have 30 days after publication in the State Register to submit commentsin support of or in opposition to the proposed amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Commissioner and do not result in a substantial change to the proposed language.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. §§ 14.14 to 14.20, and a notice of the public hearing will be published in the State Register.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

David A. Shern, Deputy Commissioner
Division of Financial Examinations
Department of Commerce
500 Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-2135

Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

Authority for the adoption of these rules is contained in Minn. Stat. § 46.01, subdivision 2. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and which identifies the data and information relied upon to support the proposed amendments has been prepared and is available from the Deputy Commissioner upon request.

Upon adoption of the final rules without a public hearing, the proposed amendments, this notice, the statement of need and reasonableness, all written comments reviewed, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to revise a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Deputy Commissioner. Notice of the date of submission of the proposed rules to the Attorney General for review will be mailed to any person requesting to receive the notice. Copies of this Notice and the proposed rules are available and may be obtained by contacting Linda Phillips, at the Department of Commerce, 500 Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101, (612) 297-2548.

A copy the proposed rules is attached to this notice.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2675.0200 FINANCIAL STATEMENTS.

~~All unsecured loans of $500 or more in banks of less than $1,000,000 in deposits and unsecured loans of $1,000 or more in banks of $1,000,000 or more of deposits shall be supported by~~ Signed, current financial statements of the borrowers, endorsers, or guarantors. ~~Such current financial information is~~ also are required on loans which the commissioner or his an examiner considers determines to be inadequately secured or ~~those which are secured by a chattel mortgage on farm livestock and/or machinery.~~ Such Financial statements ~~shall be~~ are considered current when renewed at least annually ~~as long as such loans remain unpaid at such amounts.~~

2675.0300 DELINQUENT LOANS.

Subpart 1. When delinquent. ~~Any note, including a real estate mortgage note, in the absence of a properly executed extension, will be considered past due the next day after maturity, unless subsequent interest has been received, in which case the date to which interest has been paid becomes the maturity date. If that date has gone by, the entire note becomes "B" paper, except that after six months it becomes "A" paper.~~ For the purposes of the report of examination of banks, loans, leases, and unplanned overdrafts are considered delinquent and are separated into two distinct groupings as follows:

A. "A" paper consists of all loans and leases which are six months past their maturity, or on which interest or principal is due and unpaid for six months or more, including unplanned overdrafts.

B. "B" paper consists of all other loans and leases which are 30 days, but less than six months past their maturity, or on which interest or principal is due and unpaid for a period of 30 days, but less than six months including unplanned overdrafts. An installment loan will not be considered overdue until at least two monthly payments are due. The same will

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apply to real estate mortgage loans, term loans, or any other loans payable on regular monthly installments of principal and/or interest.

Subp. 2. ~~Installment loans~~ Examples of "A" paper and "B" paper. ~~All notes due on a monthly installment basis are allowed 30 days grace and neither the principal nor payment is considered as past due, if any payment is less than 30 days overdue. However, in the event that a payment runs over 30 days delinquent, the whole principal balance becomes past due and subject to "B" classification, except that if such delinquency runs six months or more, it becomes subject to "A" classification. Interest payments will have no effect to change classification described above.~~ The following examples will illustrate the applications to "A" paper and "B" paper:

A. Single payment notes: Note dated January 2, 1984, due July 2, 1984, with interest to be paid at maturity. If unpaid, the note becomes "B" paper at close of business August 2, 1984, and "A" paper at close of business January 2, 1985.

B. Demand notes: Note dated January 2, 1984, written "due on demand." Interest will be considered to be due every six months, if not otherwise indicated in the body of the note. If interest is unpaid, this note becomes "B" paper at the close of business August 2, 1984, and "A" paper at the close of business January 2, 1985.

C. Installment notes: Note dated January 2, 1984, to be paid in monthly installments beginning February 2, 1984. Allowing one month grace, if the installment due on February 2, 1984, is unpaid, the balance of this note will become "B" paper at the close of business March 2, 1984, and "A" paper at the close of business on August 2, 1984.

Subp. 3. ~~Demand notes~~ Apportionment. ~~Demand notes are considered current if no longer than six months have elapsed since the date to which interest was previously paid. Such notes are considered to mature exactly six months from such a date and become past due one day thereafter, unless subsequent interest is received.~~ The overdue figure shall include the

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total dollar balance of the lease or loan that is not current.

For examination purposes, past due loans that are in a nonaccrual status or that are renegotiated troubled debt are to be apportioned to "A" paper or "B" paper as appropriate.

2675.0901 REAL ESTATE LOANS-DOCUMENTATION.

Each real estate secured loan file shall include the following documentation and evidence where the loan is in an amount over $7,500 or not otherwise exempt from the definition of real estate in Minnesota Statutes, section 48.19, subdivision 4:

A. An attorney's opinion, a title insurance policy, or, in the case of Torrens title property, the mortgagee's duplicate certificate of title with memorial of the bank's mortgage thereon is required on all real estate loans which shall describe the status of fee title, the validity of the bank's lien, and the position of the lien.

B. Evidence of adequate insurance coverage with loss payable clause payable to the bank shall be required for mortgages on improved property.

Written binders of insurance are acceptable evidence of insurance. No bank shall refuse to accept a binder tendered at the time of closing as evidence of any insurance coverage required as a condition of a loan agreement if the binder conforms with usual and customary conditions as to designation of loss payee and mortgagor.

C. Real estate appraisal reports are required for each mortgage. The appraisal and the reasonableness of its accuracy is the responsibility of the appraisal committee. The appraisal report and its acceptance by the appraisal committee shall be made part of the mortgage file.

2675.1100 BOND INVESTMENT RECORDS.

During the period in which such investment is carried on a bank's books, it shall be required that original invoices of bond purchases and sales be retained as a part of the records of a bank; a record be maintained of all securities bought and sold

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showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where pledged or deposited for safekeeping; ~~and~~ all municipal and corporation bonds owned by a bank be supported by full credit information at the time of purchase; and every sale and every purchase will be considered a separate transaction and trades, switches and securities received under debt readjustment, as well as new purchases, must meet the requirements of these parts.

2675.1110 ELIGIBLE SECURITIES.

An obligation of indebtedness which may be purchased for its own account by a state bank, in order to come within the classification of eligible securities within the meaning of this part, must be a marketable obligation. It must be salable under ordinary circumstances with reasonable promptness at a fair value; and with respect to the particular security, there must be present one or more of the following characteristics:

A. a public distribution of the securities must have been provided for or made in a manner to protect or insure the marketability of the issue; or~~,~~

B. other existing securities of the obligor must have such a public distribution as to protect or insure the marketability of the issue under consideration; or~~,~~

C. in the case of eligible securities for which a public distribution as set forth in item A or B cannot be so provided, or so made, and which are issued by established commercial or industrial businesses or enterprises, that can demonstrate the ability to service such securities, the debt evidenced thereby must mature not later than ~~ten~~ 20 years after the date of issuance of the security and must be of such sound value or so secured as reasonably to assure its payments~~;-and such-securities-must,-by-their-terms,-provide-for-the amortization-of-the-debt-evidenced-thereby-so-that-at-least-75 percent-of-the-principal-will-be-extinguished-by-the-maturity date-by-substantial-periodic-payments.--Provided,-that-no amortization-need-be-required-for-the-period-of-the-first-year~~

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~~after-the-date-of-issuance-of-such-securities.~~

2675.1130 INVESTMENT QUALITIES.

Securities, in order to be eligible for purchase by state banks, must be in the form of bonds, notes, and/or debentures, and must be of recognized investment quality. Eligible securities are those which are included among the four highest ratings of the rating services, and nonrated securities of equivalent value~~,-the-latter-to-be-determined-by-the-bond department-of-the-Banking-Division~~. With regard to the ratings, the following items shall apply:

A. to C. [Unchanged.]

2675.1140 HOLDING BONDS ON PAR OR FACE VALUE.

The statutory limitation on the amount of the eligible securities of any one obligor or maker which may be held by the bank, not otherwise exempted by Minnesota Statutes, section 48.24, subdivision 6, is to be determined on the basis of the par or face value of the securities, and not on their book value.

2675.1150 WHEN PURCHASE ~~PRICE-MAY-EXCEED-PAR~~ OF ASSET AT A PREMIUM OR DISCOUNT.

~~Subpart-1.--Purchase.--Purchase-of-an-eligible-security-at a-price-exceeding-par-is-prohibited,-unless-the-bank-shall:~~

~~A.--charge-off-the-premium-when-the-securities-are placed-on-the-books;-or,~~

~~B.--provide,-for-the-regular-amortization-of-the premium-paid-so-that-the-premium-shall-be-entirely-extinguished at-or-before-the-maturity-of-the-security-and-the-security (including-premium)-shall-at-no-intervening-date-be-carried-at an-amount-in-excess-of-that-at-which-the-obligor-may-legally redeem-such-security;-or,~~

~~C.--set-up-a-reserve-account-to-amortize-the-premium, said-account-to-be-credited-periodically-with-an-amount-not-less than-the-amount-required-for-amortization-under-item-B.~~

~~Subp.-2.--Interest-and-commissions.--Accrued-interest-paid on-securities-must-be-charged-to-interest-received.--Bond commissions-and-all-costs-of-sales-or-purchases-must-be-charged~~

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~~to expense.~~

When assets are purchased at a premium or discount, a bank:

A. shall charge off the premium when the asset is placed on the books; or, provide for the regular amortization of the premium pursuant to generally accepted accounting principles; and

B. may provide for the regular accretion of the discount pursuant to generally accepted accounting principles.

2675.1180 FOREIGN BORROWERS SECURITIES.

Purchase of securities of foreign borrowers, whether private, corporate, or governmental, is prohibited with the exception of:

A. [Unchanged.]

B. bonds of the International Bank for Reconstruction and Development, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ~~ten~~ 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the International Bank for Reconstruction and Development only by banks, trust companies, and savings banks;

C. bonds of the Inter-American Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ~~ten~~ 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the Inter-American Development Bank only by banks, trust companies, and savings banks; ~~and~~

D. bonds of the Asian Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ~~ten~~ 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the Asian

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Development Bank only by banks, trust companies, and savings banks; and

E. bonds of the African Development Bank, which are payable in dollars of the United States; provided however, that the total par value of such bonds held by any bank or trust company shall never exceed 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the African Development Bank only by banks, trust companies, and savings banks.

2675.2000 BANKS SELLING WITH REPURCHASE AGREEMENT.

As to repurchase agreements accompanying sales of securities, it is permissible for the bank selling securities to another to agree that the bank shall have an option or right to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement, but in no case in excess of the market value at the time of repurchase.

Except for securities which are the direct obligation of, or obligations that are fully guaranteed as to principal and interest by, the United States government or an agency thereof, it is not permissible for the bank selling securities to another to agree that the purchaser shall have the right or the option to require the bank to repurchase said securities at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement have the right or option to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement.

2675.2050 PURCHASE OF NONELIGIBLE SECURITIES PROHIBITED; DISPOSITION; EXCEPTIONS.

The purchase of securities other than eligible securities as defined in part 2675.1110 is prohibited. Any such purchase will be considered a violation of this part and the commissioner ~~of banks, in his discretion,~~ will require that any ~~such~~

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noneligible security so purchased be disposed of within a reasonable length of time. No bank shall be permitted to purchase securities of business or municipal corporations that shall have undergone debt readjustment until 12 months shall have elapsed since the effective date of the readjustment. Such securities, if purchased, must also be disposed of. However, the purchase of railroad equipment trust obligations which are not in default either as to principal or interest, or both, and which are considered to be of eligible quality shall not be prohibited.

2675.2100 CASH ITEMS.

A daily record shall be maintained of all cash items for anything other than currency or coin being held over until the following day's business and not in the process of being forwarded for collection or being returned to endorsers. No checks shall be held in a bank's cash account to avoid the showing of overdrafts. ~~These daily records shall be retained for a period of at least two years.~~

2675.2110 BANKING HOUSE.

~~All new investments in banking quarters must be approved by the commissioner of banks, subject to statutory requirements, whether or not a fee interest is involved, with the exception that subsequent expenditures for improvements or remodeling need not require such approval, provided that the total such charges to this account will not increase such investments to a point where the total will exceed 40 percent of a bank's capital and surplus accounts.~~

A. Investment for banking house and premises requires no prior written approval of the commissioner pursuant to Minnesota Statutes, section 47.10, unless:

(1) the investment is in nonadjacent property, or

(2) the total investment exceeds 50 percent of the banks's capital and paid-in surplus.

B. In determining the total investment in banking premises, the net book value for land, buildings, real estate

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for future use, leasehold improvements, and leases capitalized according to financial accounting standard board practices are to be aggregated.

C. A bank shall maintain documentation to reflect that investments in banking premises are depreciated or amortized pursuant to generally accepted accounting principles. The documentation shall disclose the period of time the assets are expected to remain on the books, and the accepted practice used to consistently assign the cost and write down the value.

D. Investment in nonadjacent real estate to be used for future banking premises not utilized as intended within five years shall be considered other real estate unless definite plans for utilization are in process and extended time is approved by the commissioner.

E. Prior to December 31, 1985, a bank may, without obtaining approval, restate the net book value of its banking premises to reflect the original cost less any prior write down required under generally accepted accounting principles. Adequate documentation shall be maintained to substantiate any restatement of banking premises. Alternatively, a bank not restating the value of banking premises may write down the remaining net book value pursuant to generally accepted accounting principles.

2675.2130 FURNITURE AND FIXTURES, PERSONAL PROPERTY, AUTOMOBILES, AND EQUIPMENT.

Purchases capitalized in this account shall be amortized at ~~the minimum rate of ten percent annually~~ as required by generally accepted accounting principles, ~~with such exceptions~~ or a greater amount as may be ~~made~~ approved in writing by the commissioner ~~of banks. Each such annual charge shall be based on the remaining book value at the end of each year~~ Furniture and fixtures, personal property, automobiles, and equipment used in the conduct of banking business may be acquired by purchase or lease without obtaining prior approval of the commissioner unless the seller or lessor has an existing direct or indirect interest in the management or ownership of the acquiring bank.

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2675.2140 LEASEHOLD INVESTMENT AMORTIZATION.

A Leasehold ~~investment which has been approved by the commissioner of banks~~ investments shall be amortized ~~over the period of the lease~~ as required by generally accepted accounting principles. Leasehold investments receiving prior approval pursuant to Minnesota Statutes, section 47.10, subdivision 3, are subject to further prior approval of renegotiated and amended terms. If there is an optional clause in such lease for an additional period to be covered thereby, this shall serve to extend the amortization period to such extent. ~~In no event, however, shall the rate of amortization be less than five percent or less than four percent if the total of a bank's investment in banking quarters be more than 40 percent of its capital and surplus accounts.~~

2675.2170 OTHER REAL ESTATE.

Other real estate:

A. Any real estate acquired or owned by a bank ~~through foreclosure, conveyed to a bank as satisfaction of a debt previously contracted, or acquired by a bank in any legal manner in satisfaction of debts previously contracted~~ (1) pursuant to Minnesota Statutes, section 48.21, clauses (2) to (5); (2) not used in the business resulting from relocation of the principal office, or closing of a detached facility; or (3) abandonment of plans to use real estate acquired for future expansion, shall be designated as "other real estate." The property acquired pursuant to (1) shall be so designated from the date upon which the bank actually acquires title. Property owned pursuant to subitems (2) and (3) shall be so designated from the date the determination is made to divert or abandon as actual operating bank premises.

B. "Other real estate" ~~cannot~~ shall not be entered upon the books of a bank at an amount greater than the balance of the principal amount of the indebtedness at the time of acquisition or the remaining book value if owned. In any case, the book value of other real estate shall never exceed the

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estimated fair market value of the property. The fair market value shall be determined by an appraisal prepared by an independent qualified appraiser within 30 days of acquisition. The appraisal shall be made part of the other real estate file.

C. ~~A chargeoff of ten percent of the original amount at which the "other real estate" was placed on the books shall be made annually at the close of each calendar year. The chargeoff for the first calendar year of ownership shall be an amount to be arrived at by using the same percentage to the full annual chargeoff requirements as the number of months investment has been on the books is to a 12 month period~~ Reasonable attempts shall be made to dispose of other real estate by sale. The other real estate file shall be documented with disposal attempts. In no case, is depreciation required on other real estate, but it shall be removed from the books within five years after acquisition.

D. "Other real estate" sold on contract for deed ~~must~~ may be carried as ~~"other real estate" until at least 25 percent of the purchase price has been paid in cash, after which it may be transferred to loans and discounts~~ a loan at the lesser of the principal balance due on the contract, or at its present book value. Loss on sale of "other real estate" shall be recognized in the period the sale occurs. Gains on sale of other real estate shall be either accreted ratably on the same basis as repayment, or may be deferred until title is transferred to the buyer.

E. ~~It is required that a bank have an abstract of title, continued to show title in the bank on each item of "other real estate." Insurance should be obtained where necessary and taxes must be kept current if the "other real estate" is carried as an asset.~~

~~Bank must also have an attorney's opinion or equivalent evidence to show the status of its ownership as to other possible existing liens against each property~~ "Other real estate" shall be documented with an attorney's opinion or equivalent evidence to reflect title and all encumbrances. Adequate

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property and liability insurance shall be carried, and taxes shall be kept current.

2675.2200 CHARGED OFF ASSETS; DUAL CONTROL.

Subpart 1. Record. A complete record of charged off assets shall be maintained on which all recoveries shall be shown. This record shall also cite authority of directors with regard to any debts that have been compromised, and include signed compromise agreements, if it is possible to obtain them.

The original records of charged off assets shall be maintained under dual control to effect any entry subsequent to the board's charge off resolution.

Subp. 2. and 3. [See repealer.]

2675.2220 ADDITIONAL COMMON STOCK SALES.

Any bank which increases its common capital account by means of the sale of additional common stock need not carry such funds in any other bank but may carry them on its own books among demand liabilities and furnishing appropriate certificate to the commissioner ~~of banks~~ as to the total paid in.

2675.2240 DIVIDENDS.

The dividend period for the purpose of declaring dividends in accordance with ~~the provisions of~~ Minnesota Statutes, section 48.09 shall be the period commencing on January 1 and ending as of the close of business December 31 of each calendar year and the net ~~profits~~ income for each such period shall be determined from the ~~annual earnings and dividends reports~~ consolidated report of income of each bank.

The ~~Division of Banking~~ Department of Commerce will supply each bank with forms to be completed with information called for ~~by such~~. The forms ~~and returned~~ must be mailed or delivered to the commissioner ~~of banks~~ within ten days of the date of declaration of any dividend and at least 15 days prior to the proposed payment date of any dividend. The forms shall contain a statement by the commissioner ~~of banks~~ providing that if certain requirements as set forth therein are met, the bank may pay a cash dividend or dividends without specific approval of

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the commissioner ~~of banks~~ in the year succeeding the dividend period in such amount or amounts as will not reduce the bank's capital, surplus, undivided profits, and reserves below such requirements. Except as provided in the preceding sentence, no bank or trust company shall pay a cash dividend to its stockholders until written approval for ~~such~~ the dividend has been obtained from the commissioner ~~of banks~~.

~~The Division of Banking will supply forms to each bank which shall, within ten days of the date of declaration of any dividend, report to the commissioner of banks the date of declaration, the rate and amount of the dividend, and the date on which such dividend is payable~~ Declared dividends shall be deducted from undivided profits and carried on the books as another liability entitled "dividends payable." The other liability account shall be reversed upon payment or nonapproval by the commissioner.

2675.2246 CERTIFICATE OF DEPOSIT OF OTHER BANKS FINANCIAL INSTITUTIONS.

~~Where a bank incurs a direct liability to another bank by an issuance of a certificate of deposit, such must be carried on its books as "bills payable."~~

Where a bank makes a direct investment in a certificate of deposit of another bank financial institution, such investment shall not exceed its legal lending limit as provided in Minnesota Statutes, section 48.24 ~~and shall also be carried under "other assets."~~; however, this limitation shall apply only to that portion, if any, of the investment which is not insured by an agency of the United States.

2675.2250 OVERDRAFTS; OFFICERS OR EMPLOYEES.

~~Overdrafts:~~

~~A. All checks which are to be honored by a bank shall be charged to the proper account on the same or next business day after receipt.~~

~~B. Checks which are not paid because of causing overdrafts shall be returned to the proper endorser before the~~

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~~close of the next business day after receipt.~~

~~C. Such checks as have been referred to in item B shall at no time be carried as cash items, beyond midnight of the next business day after receipt, but returned to respective endorsers, excepting in instances where checks are cashed over the counter and there is no opportunity to return them to the endorser.~~

~~D.~~ No overdraft shall be permitted to an officer or employee of a bank with the exception of those which occur in the ordinary course of posting and are reimbursed during the same or the following business day. Overdrafts originating and disposed of in this manner shall not be construed as being in violation of Minnesota Statutes, section 48.08.

2675.2420 ~~INSURANCE COMMISSION~~ OTHER BUSINESS; EXPENSE REIMBURSEMENT AGREEMENTS.

If an officer of a bank is acting as an insurance agent ~~and such~~, acting to effect transactions in securities or the business of an insurance agency or securities broker-dealer not owned by the bank is being conducted on the banking premises, there must be an arrangement as to allocating overhead expenses or as to distribution of net earnings and ~~to~~ be included in an appropriate board resolution. The allocations may include the credit insurance income required to be turned over to the bank pursuant to Minnesota Statutes, section 47.016, or commissions.

2675.2500 DISPLAY AND REPLACEMENT COPIES.

Every bank shall display its bank charter in a prominent place in the lobby. In case of destruction or misplacement of the charter, the ~~Division of Banking~~ commissioner will supply a duplicate, upon application, ~~without~~ at the cost set out in Minnesota Statutes, section 46.131, subdivision 10.

REPEALER. Minnesota Rules, parts 2675.0700; 2675.0800; 2675.0900; 2675.0910; 2675.0920; 2675.0930; 2675.0940; 2675.0950; 2675.1160; 2675.2010; 2675.2020; 2675.2030; 2675.2060; 2675.2070; 2675.2080; 2675.2090; 2675.2120; 2675.2150;

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2675.2160; 2675.2190; 2675.2200, subparts 2 and 3; 2675.2230; 2675.2290; and 2675.2410 are repealed.

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OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD603

Agency: Department of Commerce

Division:

Agency Contact: Jim Miller

Minnesota Rules: Parts 2675.0200; 2675.0300; 2675.0901; 2675.1100; 2675.1110; 2675.1130 to 2675.1150; 2675.1180; 2675.2000; 2675.2050; 2675.2100; 2675.2110; 2675.2130; 2675.2140; 2675.2170; 2675.2200; 2675.2220; 2675.2240; 2675.2246; 2675.2250; 2675.2420; 2675.2500

Title: Proposed Rules Relating to the Operation of Commercial Banks

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: October 17, 1984

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Amendments to the Rules Concerning the Operation of Commercial Banks

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on November 5, 1984 and was sent by the United States mail to all persons on the list maintained by the Department of Commerce pursuant to Minn. Stat. § 14.14, subd. 1a, on November 5, 1984.

After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five (25) written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minnesota Rules 2675.0200 through 2575.2420 are adopted this 13th day of December, 1984 pursuant to authority vested in me by Minn. Stat. § 46.01.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Adoption of
Proposed Amendments to Rules Relating to Banks

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Linda J. Phillips, being first duly sworn, deposes and says:

That on the 5th day of November, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Linda J. Phillips
Linda J. Phillips

Subscribed and sworn to before me this
5th day of November, 1984.

Barbara Ahlberg

BARBARA AHLBERG
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES JULY 31, 1990

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Rules Relating to

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 Noon, this 2nd day of November, 1984.

Linda J. Phillips

Linda J. Phillips

Robert R. Abrohams
Robert R. Abrohams Agency, Inc.
1112 Plymouth Bldg.
Minneapolis, MN 55402
Mr. Abrohams:

John B. LaMacchia & Associates
Actuaries Management Consultants
12 North Central Avenue
St. Louis, MO 63105
Sir:

Sam Ruhle
Office of Administrative Hearings
400 Summit Bank Building
Minneapolis, MN 55415
Mr. Ruhle:

Joseph T. Justice, Counsel
Alexander Howden Group U.S. Inc.
P.O. Box 19539
Atlanta, GA 30325
Mr. Justice:

Alliance of American Insurers
Attn: Debra G. Wozniak
1501 Woodfield Rd., Suite 400 West
Schaumberg, IL 60195
Ms. Wozniak:

Willys P. Jones
Allison-Williams Co.
2300 IDS Center
Minneapolis, MN 55402
Mr. Jones:

Mr. Robert J. Demichelis
American Council of Life Insurance
1850 K Street NW
Washington, DC 20006
Mr. Demichelis:

Fred McGarvey
American Insurance Association
230 W. Monroe
Chicago, IL 60606
Mr. McGarvey:

Daniel D. Foth
Associated Builders & Contractors
6300 Walker Street, Room 109
Minneapolis, MN 55416
Mr. Foth:

Morris J. Anderson, Exec. Dir.
Association of Minnesota Counties
555 Park Street, Suite 300
St. Paul, MN 55103

R. G. Lanham, Dir. of Research
Carleton Financial Corporations
P.O. Box 570
South Bend, IN 46624
Mr. Lanham:

John F. Sheski, Counsel
Central Life Assurance Company
P.O. Box 5620
Madison, WI 53705
Mr. Sheski:

Glen Tullman
Certified Collateral Corporation
640 N. LaSalle, Suite 640
Chicago, IL 60610
Mr. Tullman:

M. D. Monette, V. P. & Counsel
Colonial Penn Group, Inc.
5 Penn Center Plaza
Philadelphia, PA 19181
Mr. Monette:

Coury, Schwinn, Kodadek & McRoberts
1380 Soo Line Bldg.
Minneapolis, MN 55402

Sir:

Norman E. Nelson, Govt. Affairs Dept.
Crum & Forster Corporation
305 Madison Avenue
Morristown, NJ 07960
Mr. Nelson:

Gerard P. Davey
Attorney at Law
One Newport Pl., Suite 900
Newport Beach, CA 92660
Mr. Davey:

Michael Bernardino, Mgr.
Dean Witter Reynolds, Inc.
5 World Trade Center
New York, NY 10048
Mr. Bernardino

Gerald G. Dederick, Esq.
6800 France Ave. S., #750
Edina, MN 55435

Mr. Dederick:

Director
Developmental Disabilities Office
201 Capitol Square Building
St. Paul, MN 55101
Sir:

David L. Boehnen
Dorsey & Whitney
1st Bank Place East
Minneapolis, MN 55402

Nicholas T. Kakos
Federal Cartridge Corporation
Twin Cities Army Ammunition Plant
New Brighton, MN 55112
Mr. Kakos:

Richard Russell, Esq.
Finley, Kumble, Wagner, et al
425 Park Ave.
New York, NY 10022
Mr. Russell:

Fireman°s Fund Emp. Ins. Co.
Contracts Department
P.O. Box 1100
Green Bay, WI 54305
Sir:

Conrad M. Fredin
811 Norwest Center
Duluth, MN 55802

Mr. Fredin:

George H. Frisch
1781 Saunders
St. Paul, MN 55116

Mr. Frisch:

Michael D. Johnson
Frundt, Frundt & Johnson
117 W. 5th Street
Blue Earth, MN 56013
Mr. Johnson:

Mr. Larry A. Bakken
Hamline Law School
1536 Hewitt
St. Paul, MN 55102
Mr. Bakken:

John A. Knapp, Esq.
Hessian, McKasy & Soderberg, P. A.
1500 Midwest Plaza Building
Minneapolis, MN 55402
Mr. Knapp:

Norbert A. McCrady
Independent Bankers of Minn.
7850 Metro Pkway., Suite 213
Bloomington, MN 55420
Mr. McCrady:

Investment Company Institute
1775 K Street NW
Washington, DC 20006

Sir:

J. David Wise
Investors Diversified Serv., Inc.
IDS Tower
Minneapolis, MN 55402

Stan Jacobson
Research Dept., State of MN
Room 17, State Capitol
St. Paul, MN 55155
Mr. Jacobson:

Kathleen P. Burek
Exec. Dir., LCRAR
Rm. 510, State Office Building
St. Paul, MN 55155
Ms. Burek:

Susan J. Ladwig
900 Midland Bank Building
Minneapolis, MN 55401

Ms. Ladwig:

Richard H. Smith, Dir.
Dept. of Land Registration
P.O. Box 569
Bentonville, AR 72712
Mr. Smith:

Vincent A. Pellerito, President
Land Registrations, Inc.
4603 N. 16th St., Suite 2
Phoenix, AZ 85016
Mr. Pellerito:

League Service Corporation
575 University Avenue
St. Paul, MN 55103

Sir:

John R. Houston, Esq.
Lindquist & Vennum
4200 IDS Center
Minneapolis, MN 55402
Mr. Houston:

Mary Beth Brody
MacIntosh & Commers
430 Marquette
Minneapolis, MN 55402
Ms. Brody:

Jean M. Reynolds, Treasurer
Mairs and Power, Inc.
W-2062 First National Bank Bldg.
St. Paul, MN 55101
Ms. Reynolds:

Ron Marien
9604 13th Ave. S.
Bloomington, MN 55420

Mr. Marien:

Katie McLenighan
299 E. State Office Bldg.
St. Paul, MN 55155

Mr. Ronald R. Radtke, M[illegible], Comp. Svcs.
Metropolitan Prop. & Li[illegible]lity Ins. Co.
700 Quaker Lane
Warwick, RI 02887
Mr. Radtke:

D. F. Hennen, Plant Manager
Midland Glass Company, Inc.
P.O. Box 69
Shakopee, MN 55379
Mr. Hennen:

Jerrold T. Miller
J. T. Miller Company
1000 Currie Avenue
Minneapolis, MN 55403
Mr. Miller:

John S. Jackson, Gen. Counsel
Minnesota Bankers Association
332 Baker Building
Minneapolis, MN 55402
Mr. Jackson:

Gene Johannes
Minnesota Chiropractic Assoc.
2353 Rice St., Suite 125
St. Paul, MN 55113
Mr. Johannes:

Minn. Consumer Finance Confer.
810 Norwest Center
St. Paul, MN 55101

Sir:

Jean Dawson
Minn. Government Report
B-12 Press Room, State Capitol
St. Paul, MN 55155
Ms. Dawson:

Minnesota League of Credit Unions
575 University Ave.
St. Paul, MN 55103

Sir:

Joan M. Archer
Minn. Mfg. Housing Assoc.
222 E. Little Canada Rd., S222
St. Paul, MN 55117
Ms. Archer:

Ms. Lois Wattman DeWitt
Minnesota Medical Association
2221 University Ave. SE, #400
Minneapolis, MN 55414
Ms. Wattman:

James N. Denn
Minnesota Motor Transport Assn.
1821 University Ave., Room 134N
St. Paul, MN 55104

Minn. Petroleum Council
1025 Northern Federal Bldg.
St. Paul, MN 55102

Sir:

John Van Doorn
Minn. Retail Merchants Assoc.
180 Metro Square Bldg.
St. Paul, MN 55101
Mr. Van Doorn:

Minn. School of Real Est. Inc.
140 W. 98th St.
Oxboro Plaza Bldg.
Bloomington, MN 55420
Sir:

Maureen Adrian, Exec. Asst.
Minn. State Builders Assoc.
666 Transfer Rd.
St. Paul, MN 55114
Ms. Adrian:

Abe Rosenthal, Exec. Vice Pres.
Minn. Transport Services Assn.
1821 University Ave.
St. Paul, MN 55104
Mr. Rosenthal:

Philip B. Sears, Esq.
Mosburg & Wright, Inc.
2200 Classen Blvd., 4th Fl.
Oklahoma City, OK 73106
Mr. Sears:

Michael J. Ahern
Moss & Barnett
200 S. Sixth St.
Minneapolis, MN 55402
Mr. Ahern:

John F. Stone
Moss & Barnett
200 S. Sixth St.
Minneapolis, MN 55402
Mr. Stone

NIARS Corporation
Three Eighteen West Franklin
Minneapolis, MN 55404

Sir:

Mark A. Welshons, Secretary
NWNL Reinsurance Company
P.O. Box 20
Minneapolis, MN 55440
Mr. Welshons:

John B. Crosby, V.P. & Gen. Couns.
Natl. Assoc. of Ind. Insurers
2600 River Road
Des Plaines, IL 60018

William R. Anderson, Counsel
Natl. Assoc. of Life Underwriters
1922 F Street, NW
Washington, D.C. 20006
Mr. Anderson:

Richard Bouhan, Gov°t. Relations Dir.
Natl. Assoc. of Prof. Surplus Lines Off.
P.O. Box 1507
Roswell, GA 30077
Mr. Bouhan:

Lee T. Peterson
Nelson, Nelson, Kufus & Assoc.
665 N. Snelling Ave.
St. Paul, MN 55104
Mr. Peterson:

Ohio State Life Insurance Company
Attn: Harold I. Phillian
471 E. Broad Street
Columbus, OH 43215
Mr. Phillian:

Orion Group, Inc.
Law Division
9 Farm Springs Dr.
Farmington, CT 06032
Sir:

Howard McDowell, I-5
Pennsylvania Life Insurance Company
3130 Wilshire Blvd.
Santa Monica, CA 90406
Mr. McDowell:

Roger A. Peterson
Peterson, Engberg & Peterson
700 Title Insurance Bldg.
Minneapolis, MN 55401
Mr. Peterson:

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
345 Cedar Building, Suite 800
St. Paul, MN 55101
Mr. Popovich:

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

Sirs:

Celeste B. Relyea, Dir. of St. Affairs
Professional Insurance Agents
400 N. Washington St.
Alexandria, VA 22314
Ms. Relyea:

Bruce A. Poulsen, V.P. & Counsel
Prudential Insurance Co. of America
8th Fl., P.O. Box 1143

Mr. Jackson:

Charles A. Kroeger
QSS, Inc.
P.O. Box 838
Faribault, MN 55021
Mr. Kroeger:

James M. Shamberger, Vice President
Reinsurance Association of America
1025 Connecticut Ave., Suite 512
Washington, D.C. 20036
Mr. Shamberger:

John P. Flaten
Rider, Bennett, Egan & Arundel
2500 First Bank Pl. W.
Minneapolis, MN 55402
Mr. Flaten:

Richard B. Allyn
Robins, Zelle, Larson & Kaplan
33 S. Fifth St.
Minneapolis, MN 55402
Mr. Allyn:

Bernard Rosenberg
Robins, Zelle, Larson & Kaplan
33 S. Fifth St.
Minneapolis, MN 55402
Mr. Rosenberg:

W. J. Hay
St. Paul Companies, Inc.
385 Washington Street
St. Paul, MN 55102
Mr. Hay:

Kernel L. Armbruster, Gen. Counsel
St. Paul Fire & Marine Ins. Co.
385 Washington St.
St. Paul, MN 55102
Mr. Armbruster:

Jim Schloner
7733 W. 24th St.
Minneapolis, MN 55426

Mr. Schloner:

Kevin J. Nolan, Atty.
Securities Industry Association
120 Broadway
New York, NY 10271
Mr. Nolan:

Cezar M. Froelich, Esq.
Shefsky, Saitlin & Froelich, Ltd.
444 N. Michigan Ave., Suite 2300
Chicago, IL 60611
Mr. Froelich:

Stan Bass
Snyder, Larsen & Peters
2636 Portland Avenue

Mr. Bass:

Archibald Spencer
4040 IDS Center
Minneapolis, MN 55402

Mr. Spencer:

John Albrightson
Suite 220
400 North Robert Street
St. Paul, MN 55101
Mr. Albrightson:

Dominic J. Sposeto
Dominic Sposeto & Associates
3916 Chowen Ave. S.
Minneapolis, MN 55410
Mr. Sposeto:

David A. Peterson
State Bond & Mortgage Company
100 North Minnesota Street
New Ulm, MN 56073
Mr. Peterson:

Charles F. Happach, Treas. & Gen. Mgr.
State Capitol Credit Union
95 Sherburne
St. Paul, MN 55103
Mr. Happach:

A. Edward Hunter, Asst. Director
State Planning Agency
101 Capitol Square Building
St. Paul, MN 55101
Mr. Hunter:

Mary Stanton, Staff Assoc./Fin.
State University System
555 Park St., Suite 230
St. Paul, MN 55103
Ms. Stanton:

Gary Gandrud
Stolpestad, Brown & Smith
2000 North Central Tower
St. Paul, MN 55101
Mr. Gandrud:

Robert E. Swift, Vice President
Title Insurance Company of MN
400 Second Avenue South
Minneapolis, MN 55401
Mr. Swift:

Union Fidelity Life Insurance Co.
Union Fidelity Office Park
Trevose, PA 19049
Attn: Edward G. Farmer, Jr., V.P.
Mr. Farmer:

Jerome Scheibl, Vice President
Wausau Insurance Group
2000 Westwood Dr.

Mr. Scheidt:

Workers Comp. Reinsurance Assoc.
900 Minnesota Mutual Life Center
400 North Robert Street
St. Paul, MN 55101
Sir:

Timothy L. Tucker
Consumer Credit Insurance Association
307 North Michigan Avenue
Chicago, IL 60601
Mr. Tucker:

Debby Ellingwood
North Central Association of Credit Unions
S-239 Griggs Midway Building
1821 University Avenue
St. Paul, Minnesota 55104
Ms. Ellingwood

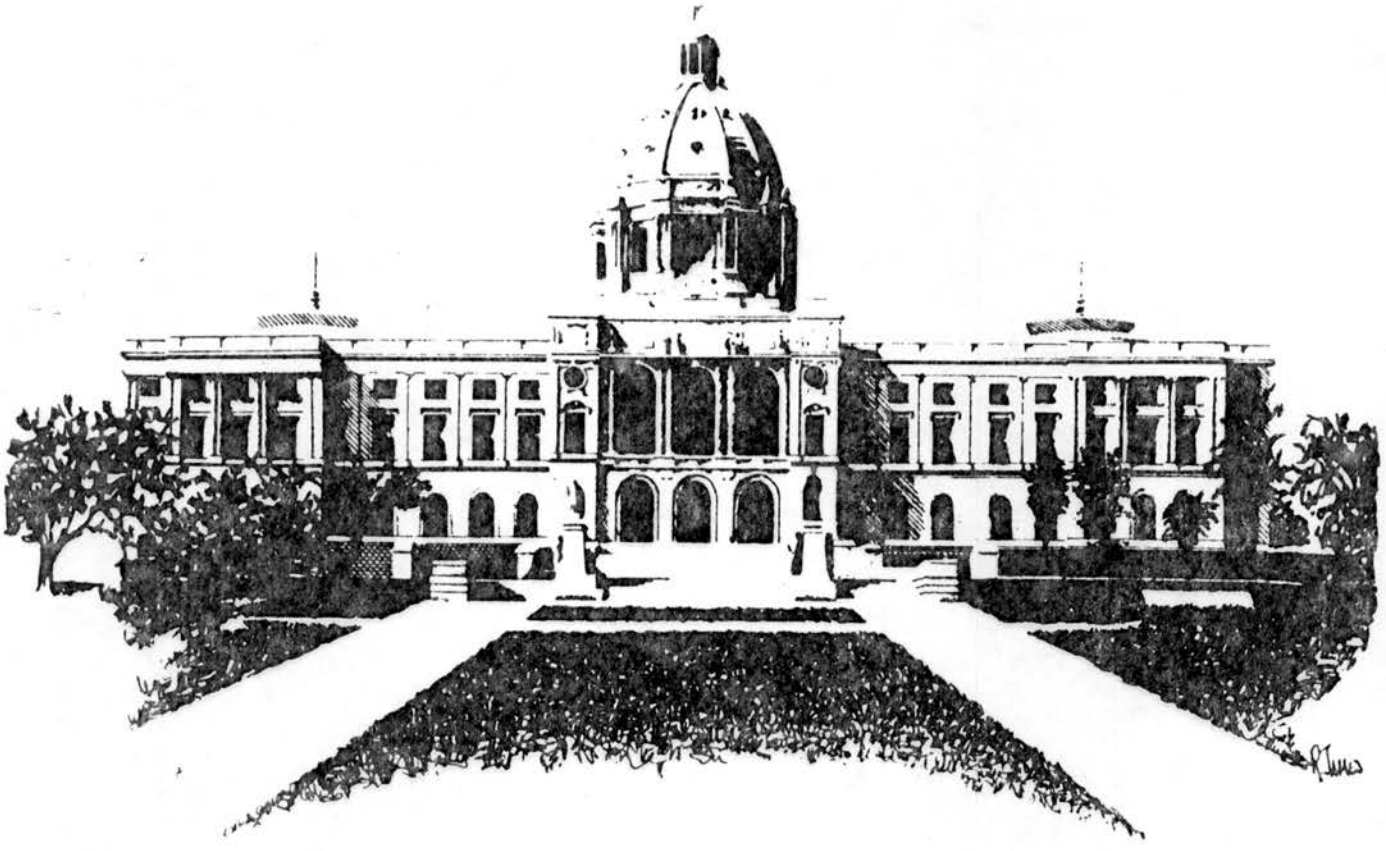
H. Allen Carver, Regional Director
National Credit Union Administration
230 South Dearborn, Suite 3346
Chicago, Illinois 60604
Mr. Carver

Cort C. Holten
Chestnut & Brooks, Attorneys
900 Norwest Midland Building
Minneapolis, Minnesota 55401
Mr. Holten

Nancy Asher
Chestnut & Brooks
900 Norwest Midland Building
Minneapolis, MN 55401
Ms. Asher

STATE REGISTER

STATE OF MINNESOTA



VOLUME 9, NUMBER 19

November 5, 1984

Pages 941-1012

CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Issues 14-19, inclusive 944

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 14-19, inclusive 945

PROPOSED RULES

Commerce Department
Proposed Rules Governing Political Subdivision Self-Insurance Pools 946
Proposed Rules Relating to Nonrenewal of Homeowners Insurance 956
Withdrawal of Proposed Rules Relating to Nonrenewal of Homeowner Insurance 960

Commerce Department
Financial Examinations Division
Proposed Rules Relating to the Operating of Commercial Banks 960

Energy and Economic Development Department
Proposed Emergency Rules Governing Energy Financial Assistance 967

Human Services Department
Long Term Care Rates Management
Proposed Emergency Rules Governing Rates for Intermediate Care Facilities for the Mentally Retarded 980

Pollution Control Agency
Proposed Rules Governing Manifests for Transportation of Hazardous Wastes 985

ADOPTED RULES

Agriculture Department
Agronomy Services Division
Adopted Amendments to Rules Governing Pesticides 989

Commerce Department
Adopted Rules Governing Employee Health and Disability Joint Self-Insurance 989

Education State Board
Education Department
Operations Division
Adopted Rules Governing Required Three-Year and Four-Year Senior Secondary School Curriculum Offerings 989

Energy and Economic Development
Adopted Rules Governing Tax Credit Certification 990

Higher Education Coordinating Board
Adopted Rules Governing the State Scholarships and Grants-in-Aid Dependency Standards 991

Public Utilities Commission
Adopted Rules Relating to Cogeneration and Small Power Production 993

Waste Management Board
Adopted Rules Governing the Hazardous Waste Reduction Grants Program 994

OFFICIAL NOTICES

Corrections Department
Notice of Amended Statement of Need and Reasonableness for Proposed Rules Governing Adult Halfway Houses 995
Notice of Amended Statement of Need and Reasonableness for Proposed Rules Governing Group Foster Homes 995
Notice of Meeting of Minnesota Task Force on Sexual Exploitation by Counselors and Therapists 995

Energy and Economic Development Department
Energy and Economic Development Authority
Public Hearing on Proposed Project and the Issuance of Bonds Under Minnesota Statutes, Section 116M.01 to Section 116M.13, Inclusive—Chas. A. Bernick, Incorporated 995
Public Hearing on Proposed Project and the Issuance of Bonds Under Minnesota Statutes, Section 116M.01 to Section 116M.13, Inclusive—Computer Controlled Machines of Minnesota, Incorporated 996
Public Hearing on Proposed Project and the Issuance of Bonds Under Minnesota Statutes, Section 116M.01 to Section 116M.13, Inclusive—Litchfield Woolen Mills Co. Incorporated 997
Public Hearing on Proposed Project and the Issuance of Bonds Under Minnesota Statutes, Section 116M.01 to Section 116M.13, Inclusive—Metro Mold and Design, Incorporated 998

Finance Department
Notice of Maximum Interest Rate for Municipal Obligations, November, 1984 998

Metropolitan Council
Public Hearing on Amendments to the Housing Chapter of the Metropolitan Development Guide 999

Secretary of State Office
Outside Opinion Sought Regarding Proposed Rules Relating to Uniform Commercial Code Standard Forms Including the Impact of the Rules on Small Businesses 1000

STATE CONTRACTS

Administration Department
Procurement Division
Commodities Contracts and Requisitions Currently Open for Bidding 1000

Administration Department
Information Services Bureau
Contract Available for Technical Writing Services 1001

Energy and Economic Development Department
Energy Division
Request for Proposals for Evaluation of Performance of the HVAC System in the St. Paul Retrofit House 1002

SUPREME COURT

Decisions of the Supreme Court Filed Friday, October 26, 1984 1003
Order Filed October 18, 1984 1004

Subp. 2. Waiver. Monetary penalties will not be levied if the commissioner determines that the nonrenewal notice was based on a good faith judgment supported by evidence that was in the possession of the insurer at the time of the sending of the nonrenewal notice, or if the nonrenewal was subject to the waiver of penalty provisions in part 2880.0300.

Subp. 3. Additional penalties. Nothing contained in parts 2880.0050 to 2880.0800 prohibits the commissioner of commerce from applying additional penalties or remedies as may be imposed under Minnesota Statutes, chapter 72A.

Department of Commerce

Withdrawal of Proposed Rules Relating to Nonrenewal of Homeowner Insurance

Notice is hereby given that the Proposed Rules Relating to Nonrenewal of Homeowners Insurance published in the *State Register* on Monday, October 8, 1984 at 9 S.R. 721 to 9 S.R. 724 are hereby withdrawn. New prepared rules will be published in their stead.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce
Financial Examinations Division

Proposed Rules Relating to the Operation of Commercial Banks

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Commissioner of Commerce proposes to adopt amendments to the above rules without a public hearing. The Commissioner has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21 to 14.28. The amendments including repeal of certain rules are needed to respond to changes already made in state and federal law relating to banking and with particular attention to removing burdensome or unnecessary requirements.

Persons interested in these rules shall have 30 days after publication in the *State Register* to submit comments in support of or in opposition to the proposed amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Commissioner and do not result in a substantial change to the proposed language.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. §§ 14.14 to 14.20, and a notice of the public hearing will be published in the *State Register*.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

David A. Shern, Deputy Commissioner
Division of Financial Examinations
Department of Commerce
500 Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-2135

Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

Authority for the adoption of these rules is contained in Minn. Stat. § 46.01, subdivision 2. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and which identifies the data and information relied upon to support the proposed amendments has been prepared and is available from the Deputy Commissioner upon request.

Upon adoption of the final rules without a public hearing, the proposed amendments, this notice, the statement of need and reasonableness, all written comments reviewed, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to revise a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Deputy Commissioner. Notice of the date of submission of the proposed rules to the Attorney General for review will be mailed to any person requesting to receive the notice. Copies of this notice and the proposed rules are available and may be obtained by contacting Linda Phillips, at the Department of Commerce, 500 Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101, (612) 297-2548.

A copy of the proposed rules is attached to this notice.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2675.0200 FINANCIAL STATEMENTS.

~~All unsecured loans of $500 or more in banks of less than $1,000,000 in deposits and unsecured loans of $1,000 or more in banks of $1,000,000 or more of deposits shall be supported by~~ Signed, current financial statements of the borrowers, endorsers, or guarantors~~. Such current financial information is also~~ are required on loans which the commissioner or ~~his~~ an examiner ~~considers~~ determines to be inadequately secured ~~or those which are secured by a chattel mortgage on farm livestock and/or machinery~~. ~~Such~~ Financial statements ~~shall be~~ are considered current when renewed at least annually ~~as long as such loans remain unpaid at such amounts~~.

2675.0300 DELINQUENT LOANS.

Subpart 1. When delinquent. ~~Any note, including a real estate mortgage note, in the absence of a properly executed extension, will be considered past due the next day after maturity, unless subsequent interest has been received, in which case the date to which interest has been paid becomes the maturity date. If that date has gone by, the entire note becomes "B" paper, except that after six months it becomes "A" paper.~~ For the purposes of the report of examination of banks, loans, leases, and unplanned overdrafts are considered delinquent and are separated into two distinct groupings as follows:

A. "A" paper consists of all loans and leases which are six months past their maturity, or on which interest or principal is due and unpaid for six months or more, including unplanned overdrafts.

B. "B" paper consists of all other loans and leases which are 30 days, but less than six months past their maturity, or on which interest or principal is due and unpaid for a period of 30 days, but less than six months including unplanned overdrafts. An installment loan will not be considered overdue until at least two monthly payments are due. The same will apply to real estate mortgage loans, term loans, or any other loans payable on regular monthly installments of principal and/or interest.

Subp. 2. Installment loans Examples of "A" paper and "B" paper. ~~All notes due on a monthly installment basis are allowed 30 days grace and neither the principal nor payment is considered as past due, if any payment is less than 30 days overdue. However, in the event that a payment runs over 30 days delinquent, the whole principal balance becomes past due and subject to "B" classification, except that if such delinquency runs six months or more, it becomes subject to "A" classification. Interest payments will have no effect to change classification described above.~~ The following examples will illustrate the applications to "A" paper and "B" paper:

A. Single payment notes: Note dated January 2, 1984, due July 2, 1984, with interest to be paid at maturity. If unpaid, the note becomes "B" paper at close of business August 2, 1984, and "A" paper at close of business January 2, 1985.

B. Demand notes: Note dated January 2, 1984, written "due on demand." Interest will be considered to be due every six months, if not otherwise indicated in the body of the note. If interest is unpaid, this note becomes "B" paper at the close of business January 2, 1985.

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C. Installment notes: Note dated January 2, 1984, to be paid in monthly installments beginning February 2, 1984. Allowing one month grace, if the installment due on February 2, 1984, is unpaid, the balance of this note will become "B" paper at the close of business March 2, 1984, and "A" paper at the close of business on August 2, 1984.

Subp. 3. ~~Demand notes~~ Apportionment. ~~Demand notes are considered current if no longer than six months have elapsed since the date to which interest was previously paid. Such notes are considered to mature exactly six months from such a date and become past due one day thereafter, unless subsequent interest is received.~~ The overdue figure shall include the total dollar balance of the lease or loan that is not current.

For examination purposes, past due loans that are in a nonaccrual status or that are renegotiated troubled debt are to be apportioned to "A" paper or "B" paper as appropriate.

2675.0901 REAL ESTATE LOANS-DOCUMENTATION.

Each real estate secured loan file shall include the following documentation and evidence where the loan is in an amount over $7,500 or not otherwise exempt from the definition of real estate in Minnesota Statutes, section 48.19, subdivision 4:

A. An attorney's opinion, a title insurance policy, or, in the case of Torrens title property, the mortgagee's duplicate certificate of title with memorial of the bank's mortgage thereon is required on all real estate loans which shall describe the status of fee title, the validity of the bank's lien, and the position of the lien.

B. Evidence of adequate insurance coverage with loss payable clause payable to the bank shall be required for mortgages on improved property.

Written binders of insurance are acceptable evidence of insurance. No bank shall refuse to accept a binder tendered at the time of closing as evidence of any insurance coverage required as a condition of a loan agreement if the binder conforms with usual and customary conditions as to designation of loss payee and mortgagor.

C. Real estate appraisal reports are required for each mortgage. The appraisal and the reasonableness of its accuracy is the responsibility of the appraisal committee. The appraisal report and its acceptance by the appraisal committee shall be made part of the mortgage file.

2675.1100 BOND INVESTMENT RECORDS.

During the period in which such investment is carried on a bank's books, it shall be required that original invoices of bond purchases and sales be retained as a part of the records of a bank; a record be maintained of all securities bought and sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where pledged or deposited for safekeeping; ~~and~~ all municipal and corporation bonds owned by a bank be supported by full credit information at the time of purchase; and every sale and every purchase will be considered a separate transaction and trades, switches and securities received under debt readjustment, as well as new purchases, must meet the requirements of these parts.

2675.1110 ELIGIBLE SECURITIES.

An obligation of indebtedness which may be purchased for its own account by a state bank, in order to come within the classification of eligible securities within the meaning of this part, must be a marketable obligation. It must be salable under ordinary circumstances with reasonable promptness at a fair value; and with respect to the particular security, there must be present one or more of the following characteristics:

A. a public distribution of the securities must have been provided for or made in a manner to protect or insure the marketability of the issue; or~~,~~

B. other existing securities of the obligor must have such a public distribution as to protect or insure the marketability of the issue under consideration; or~~,~~

C. in the case of eligible securities for which a public distribution as set forth in item A or B cannot be so provided, or so made, and which are issued by established commercial or industrial businesses or enterprises, that can demonstrate the ability to service such securities, the debt evidenced thereby must mature not later than ~~ten~~ 20 years after the date of issuance of the security and must be of such sound value or so secured as reasonably to assure its payments~~;~~ ~~and such securities must, by their terms, provide for the amortization of the debt evidenced thereby so that at least 75 percent of the principal will be extinguished by the maturity date by substantial periodic payments. Provided, that no amortization need be required for the period of the first year after the date of issuance of such securities~~.

2675.1130 INVESTMENT QUALITIES.

Securities, in order to be eligible for purchase by state banks, must be in the form of bonds, notes, and/or debentures, and must be of recognized investment quality. Eligible securities are those which are included among the four highest ratings of the rating services, and nonrated securities of equivalent value~~, the latter to be determined by the bond department of the Banking Division~~. With regard to the ratings, the following items shall apply:

A. to C. [Unchanged.]

2675.1140 HOLDING BONDS ON PAR OR FACE VALUE.

The statutory limitation on the amount of the eligible securities of any one obligor or maker which may be held by the bank, not otherwise exempted by Minnesota Statutes, section 48.24, subdivision 6, is to be determined on the basis of the par or face value of the securities, and not on their book value.

2675.1150 ~~WHEN~~ PURCHASE ~~PRICE MAY EXCEED PAR~~ OF ASSET AT A PREMIUM OR DISCOUNT.

~~Subpart 1. Purchase. Purchase of an eligible security at a price exceeding par is prohibited, unless the bank shall:~~

~~A. charge off the premium when the securities are placed on the books; or~~

~~B. provide, for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or~~

~~C. set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under item B.~~

~~Subp. 2. Interest and commissions. Accrued interest paid on securities must be charged to interest received. Bond commissions and all costs of sales or purchases must be charged to expense.~~

When assets are purchased at a premium or discount, a bank:

A. shall charge off the premium when the asset is placed on the books; or, provide for the regular amortization of the premium pursuant to generally accepted accounting principles; and

B. may provide for the regular accretion of the discount pursuant to generally accepted accounting principles.

2675.1180 FOREIGN BORROWERS SECURITIES.

Purchase of securities of foreign borrowers, whether private, corporate, or governmental, is prohibited with the exception of:

A. [Unchanged.]

B. bonds of the International Bank for Reconstruction and Development, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ~~ten~~ 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the International Bank for Reconstruction and Development only by banks, trust companies, and savings banks;

C. bonds of the Inter-American Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ~~ten~~ 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the Inter-American Development Bank only by banks, trust companies, and savings banks; ~~and~~

D. bonds of the Asian Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed ~~ten~~ 20 percent of its capital and of its actual surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the Asian Development Bank only by banks, trust companies, and savings banks; and

E. bonds of the African Development Bank, which are payable in dollars of the United States; provided however, that the total par value of such bonds held by any bank or trust company shall never exceed 20 percent of its capital and of its actual

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surplus fund; provided further, that this part is intended to permit limited purchase of the bonds of the African Development Bank only by banks, trust companies, and savings banks.

2675.2000 BANKS SELLING WITH REPURCHASE AGREEMENT.

As to repurchase agreements accompanying sales of securities, it is permissible for the bank selling securities to another to agree that the bank shall have an option or right to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement, but in no case in excess of the market value at the time of repurchase.

Except for securities which are the direct obligation of, or obligations that are fully guaranteed as to principal and interest by, the United States government or an agency thereof, it is not permissible for the bank selling securities to another to agree that the purchaser shall have the right or the option to require the bank to repurchase said securities at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement have the right or option to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement.

2675.2050 PURCHASE OF NONELIGIBLE SECURITIES PROHIBITED; DISPOSITION; EXCEPTIONS.

The purchase of securities other than eligible securities as defined in part 2675.1110 is prohibited. Any such purchase will be considered a violation of this part and the commissioner ~~of banks, in his discretion,~~ will require that any ~~such~~ noneligible security so purchased be disposed of within a reasonable length of time. No bank shall be permitted to purchase securities of business or municipal corporations that shall have undergone debt readjustment until 12 months shall have elapsed since the effective date of the readjustment. Such securities, if purchased, must also be disposed of. However, the purchase of railroad equipment trust obligations which are not in default either as to principal or interest, or both, and which are considered to be of eligible quality shall not be prohibited.

2675.2100 CASH ITEMS.

A daily record shall be maintained of all cash items for anything other than currency or coin being held over until the following day's business and not in the process of being forwarded for collection or being returned to endorsers. No checks shall be held in a bank's cash account to avoid the showing of overdrafts. ~~These daily records shall be retained for a period of at least two years.~~

2675.2110 BANKING HOUSE.

~~All new investments in banking quarters must be approved by the commissioner of banks, subject to statutory requirements, whether or not a fee interest is involved, with the exception that subsequent expenditures for improvements or remodeling need not require such approval, provided that the total such charges to this account will not increase such investments to a point where the total will exceed 40 percent of a bank's capital and surplus accounts.~~

A. Investment for banking house and premises requires no prior written approval of the commissioner pursuant to Minnesota Statutes, section 47.10, unless:

(1) the investment is in nonadjacent property, or

(2) the total investment exceeds 50 percent of the bank's capital and paid-in surplus.

B. In determining the total investment in banking premises, the net book value for land, buildings, real estate for future use, leasehold improvements, and leases capitalized according to financial accounting standard board practices are to be aggregated.

C. A bank shall maintain documentation to reflect that investments in banking premises are depreciated or amortized pursuant to generally accepted accounting principles. The documentation shall disclose the period of time the assets are expected to remain on the books, and the accepted practice used to consistently assign the cost and write down the value.

D. Investment in nonadjacent real estate to be used for future banking premises not utilized as intended within five years shall be considered other real estate unless definite plans for utilization are in process and extended time is approved by the commissioner.

E. Prior to December 31, 1985, a bank may, without obtaining approval, restate the net book value of its banking premises to reflect the original cost less any prior write down required under generally accepted accounting principles. Adequate documentation shall be maintained to substantiate any restatement of banking premises. Alternatively, a bank not restating the value of banking premises may write down the remaining net book value pursuant to generally accepted accounting principles.

2675.2130 FURNITURE AND FIXTURES, PERSONAL PROPERTY, AUTOMOBILES, AND EQUIPMENT.

Purchases capitalized in this account shall be amortized ~~at the minimum rate of ten percent annually~~ as required by generally accepted accounting principles, ~~with such exceptions~~ or a greater amount as may be ~~made~~ approved in writing by the commissioner ~~of banks. Each such annual charge shall be based on the remaining book value at the end of each year~~ Furniture and fixtures, personal property, automobiles, and equipment used in the conduct of banking business may be acquired by purchase or lease without obtaining prior approval of the commissioner unless the seller or lessor has an existing direct or indirect interest in the management or ownership of the acquiring bank.

2675.2140 LEASEHOLD INVESTMENT AMORTIZATION.

~~A~~ Leasehold ~~investment which has been approved by the commissioner of banks~~ investments shall be amortized ~~over the period of the lease~~ as required by generally accepted accounting principles. Leasehold investments receiving prior approval pursuant to Minnesota Statutes, section 47.10, subdivision 3, are subject to further prior approval of renegotiated and amended terms. If there is an optional clause in such lease for an additional period to be covered thereby, this shall serve to extend the amortization period to such extent. ~~In no event, however, shall the rate of amortization be less than five percent or less than four percent if the total of a bank's investment in banking quarters be more than 40 percent of its capital and surplus accounts.~~

2675.2170 OTHER REAL ESTATE.

Other real estate:

A. Any real estate acquired or owned by a bank ~~through foreclosure; conveyed to a bank as satisfaction of a debt previously contracted, or acquired by a bank in any legal manner in satisfaction of debts previously contracted~~ (1) pursuant to Minnesota Statutes, section 48.21, clauses (2) to (5); (2) not used in the business resulting from relocation of the principal office, or closing of a detached facility; or (3) abandonment of plans to use real estate acquired for future expansion, shall be designated as "other real estate." The property acquired pursuant to (1) shall be so designated from the date upon which the bank actually acquires title. Property owned pursuant to subitems (2) and (3) shall be so designated from the date the determination is made to divert or abandon as actual operating bank premises.

B. "Other real estate" ~~cannot~~ shall not be entered upon the books of a bank at an amount greater than the balance of the principal amount of the indebtedness at the time of acquisition or the remaining book value if owned. In any case, the book value of other real estate shall never exceed the estimated fair market value of the property. The fair market value shall be determined by an appraisal prepared by an independent qualified appraiser within 30 days of acquisition. The appraisal shall be made part of the other real estate file.

C. ~~A chargeoff of ten percent of the original amount at which the "other real estate" was placed on the books shall be made annually at the close of each calendar year. The chargeoff for the first calendar year of ownership shall be an amount to be arrived at by using the same percentage to the full annual chargeoff requirements as the number of months investment has been on the books is to a 12 month period~~ Reasonable attempts shall be made to dispose of other real estate by sale. The other real estate file shall be documented with disposal attempts. In no case, is depreciation required on other real estate, but it shall be removed from the books within five years after acquisition.

D. "Other real estate" sold on contract for deed ~~must~~ may be carried as ~~"other real estate" until at least 25 percent of the purchase price has been paid in cash, after which it may be transferred to loans and discounts~~ a loan at the lesser of the principal balance due on the contract, or at its present book value. Loss on sale of "other real estate" shall be recognized in the period the sale occurs. Gains on sale of other real estate shall be either accreted ratably on the same basis as repayment, or may be deferred until title is transferred to the buyer.

E. ~~It is required that a bank have an abstract of title, continued to show title in the bank on each item of "other real estate." Insurance should be obtained where necessary and taxes must be kept current if the "other real estate" is carried as an asset.~~

~~Bank must also have an attorney's opinion or equivalent evidence to show the status of its ownership as to other possible existing liens against each property~~ "Other real estate" shall be documented with an attorney's opinion or equivalent evidence

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

to reflect title and all encumbrances. Adequate property and liability insurance shall be carried, and taxes shall be kept current.

2675.2200 CHARGED OFF ASSETS; DUAL CONTROL.

Subpart 1. Record. A complete record of charged off assets shall be maintained on which all recoveries shall be shown. This record shall also cite authority of directors with regard to any debts that have been compromised, and include signed compromise agreements, if it is possible to obtain them.

The original records of charged off assets shall be maintained under dual control to effect any entry subsequent to the board's charge off resolution.

Subp. 2. and 3. [See repealer.]

2675.2220 ADDITIONAL COMMON STOCK SALES.

Any bank which increases its common capital account by means of the sale of additional common stock need not carry such funds in any other bank but may carry them on its own books among demand liabilities and furnishing appropriate certificate to the commissioner ~~of banks~~ as to the total paid in.

2675.2240 DIVIDENDS.

The dividend period for the purpose of declaring dividends in accordance with ~~the provisions of~~ Minnesota Statutes, section 48.09 shall be the period commencing on January 1 and ending as of the close of business December 31 of each calendar year and the net ~~profits~~ income for each such period shall be determined from the ~~annual earnings and dividends reports~~ consolidated report of income of each bank.

The ~~Division of Banking~~ Department of Commerce will supply each bank with forms to be completed with information called for ~~by such~~. The forms ~~and returned~~ must be mailed or delivered to the commissioner ~~of banks~~ within ten days of the date of declaration of any dividend and at least 15 days prior to the proposed payment date of any dividend. The forms shall contain a statement by the commissioner ~~of banks~~ providing that if certain requirements as set forth therein are met, the bank may pay a cash dividend or dividends without specific approval of the commissioner ~~of banks~~ in the year succeeding the dividend period in such amount or amounts as will not reduce the bank's capital, surplus, undivided profits, and reserves below such requirements. Except as provided in the preceding sentence, no bank or trust compaany shall pay a cash dividend to its stockholders until written approval for ~~such~~ the dividend has been obtained from the commissioner ~~of banks~~.

~~The Division of Banking will supply forms to each bank which shall, within ten days of the date of declaration of any dividend, report to the commissioner of banks the date of declaration, the rate and amount of the dividend, and the date on which such dividend is payable~~ Declared dividends shall be deducted from undivided profits and carried on the books as another liability entitled "dividends payable." The other liability account shall be reversed upon payment or nonapproval by the commissioner.

2675.2246 CERTIFICATE OF DEPOSIT OF OTHER ~~BANKS~~ FINANCIAL INSTITUTIONS.

~~Where a bank incurs a direct liability to another bank by an issuance of a certificate of deposit, such must be carried on its books as "bills payable."~~

Where a bank makes a direct investment in a certificate of deposit of another ~~bank~~ financial institution, such investment shall not exceed its legal lending limit as provided in Minnesota Statutes, section 48.24 ~~and shall also be carried under "other assets."~~; however, this limitation shall apply only to that portion, if any, of the investment which is not insured by an agency of the United States.

2675.2250 OVERDRAFTS; OFFICERS OR EMPLOYEES.

~~Overdrafts:~~

~~A. All checks which are to be honored by a bank shall be charged to the proper account on the same or next business day after receipt.~~

~~B. Checks which are not paid because of causing overdrafts shall be returned to the proper endorser before the close of the next business day after receipt.~~

~~C. Such checks as have been referred to in item B shall at no time be carried as cash items, beyond midnight of the next business day after receipt, but returned to respective endorsers, excepting in instances where checks are cashed over the counter and there is no opportunity to return them to the endorser.~~

~~D.~~ No overdraft shall be permitted to an officer or employee of a bank with the exception of those which occur in the

ordinary course of posting and are reimbursed during the same or following business day. Overdrafts originating and disposed of in this manner shall not be construed as being in violation of Minnesota Statutes, section 48.08.

2675.2420 ~~INSURANCE COMMISSION~~ OTHER BUSINESS; EXPENSE REIMBURSEMENT AGREEMENTS.

If an officer of a bank is acting as an insurance agent ~~and such~~, acting to effect transactions in securities or the business of an insurance agency or securities broker-dealer not owned by the bank is being conducted on the banking premises, there must be an arrangement as to allocating overhead expenses or as to distribution of net earnings and ~~to~~ be included in an appropriate board resolution. The allocations may include the credit insurance income required to be turned over to the bank pursuant to Minnesota Statutes, section 47.016, or commissions.

2675.2500 DISPLAY AND REPLACEMENT COPIES.

Every bank shall display its bank charter in a prominent place in the lobby. In case of destruction or misplacement of the charter, the ~~Division of Banking~~ commissioner will supply a duplicate, upon application, ~~without~~ at the cost set out in Minnesota Statutes, section 46.131, subdivision 10.

REPEALER. Minnesota Rules, parts 2675.0700; 2675.0800; 2675.0900; 2675.0910; 2675.0920; 2675.0930; 2675.0940; 2675.0950; 2675.1160; 2675.2010; 2675.2020; 2675.2030; 2675.2060; 2675.2070; 2675.2080; 2675.2090; 2675.2120; 2675.2150; 2675.2160; 2675.2190; 2675.2200, subparts 2 and 3; 2675.2230; 2675.2290; and 2675.2410 are repealed.

Department of Energy and Economic Development

Proposed Emergency Rules Governing Energy Financial Assistance

Notice of Intent to Adopt Emergency Rules and Request for Public Comment

Notice is hereby given that the Minnesota Department of Energy and Economic Development is proposing to adopt emergency rules for the Energy Loan Insurance Program and the Energy Development Loan Program. The agency is authorized by Minnesota Statutes 116J.91 Subdivision 8 (1983 Supp) and 116J.91 Subdivision 4 (1983 Supp as amended Minnesota Laws 1984 Chapter 583 Section 17) to adopt emergency rules for the Energy Loan Insurance Program and the Energy Development Loan Program.

All interested parties have 25 days from the day of publication of this notice in the *State Register* to submit written comments to the agency on the proposed emergency rules. With publication of this notice in the November 5, 1984 *State Register*, written comments must be received by the agency no later than 4:30 p.m. on November 30, 1984. Written comments should be sent to:

Kathryn Hahne
Energy Finance Division
Department of Energy & Economic Development
900 American Center Building
150 East Kellogg Blvd.
St. Paul, Minnesota 55101
Telephone: (612) 297-1391

Please be advised that the proposed emergency rules may be modified as a result of the comments received. Any written material received by the agency will become part of the record in this matter.

The proposed emergency rules with any modifications adopted by the agency, will be submitted to the Attorney General for review as to form and legality after close of the comment period. Persons wishing to be informed of the date of submission of the proposed emergency rules to the Attorney General should notify the agency of such desire at the address given above. The Attorney General has ten working days to approve or disapprove the rules.

The emergency rules will be effective five working days following approval of the rules by the Attorney General. It is the agency's intent to keep the rules in effect for a period of 180 days upon publication of a separate notice to such effect.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Amendments to the Rules Concerning the Operation of Commercial Banks

Findings of Fact and Conclusions Pertaining to Public Comments

The proposed rules as fully published November 5, 1984, resulted in the following Findings of Fact:

No requests for public hearing were received; however, written comments were submitted seeking clarification in three areas. It is reasonable and proper to accept these requests for non-substantive clarification and modify the proposed amendments to the rules as follows:

Part 2675.0901, Real Estate Loans Documentation Page 3, line 11, to insert "or" to clarify that the documentation required regarding abstract property and Torrens property may be satisfied in the alternative. Only one item of those recited need be in evidence. p.2

Page 3, line 12, to substitute "a" for the more specific word "mortgagee's", in describing the duplicate certificate of title where there is Torrens property. This is to provide acceptance of the "owners" duplicate as an alternative and not require that a mortgagee's duplicate be issued. p.2

Part 2675.2170, Other Real Estate Page 11, lines 27 through 36 and page 12, lines 1 and 2, to reinstate omitted pre-existing language in the rule. No change or restatement of the existing language is needed. This retains the clarification that the rule only applies as to the requirement to provide evidence of insurance and current tax payments on the real estate owned if the property is carried as an asset on the bank's books. p.9

Conclusion:

These non-substantive changes are responsive to the concerns of the commentors and are consistent with the purpose, need and reasonableness of the rules as originally proposed to be amended and should be adopted.

Michael A. Hatch
Commissioner of Commerce

Dated: December 13, 1984

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
FINANCIAL EXAMINATIONS DIVISION

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES CONCERNING THE OPERATION OF COMMERCIAL BANKS

STATEMENT OF NEED AND REASONABLENESS OF PROPOSED AMENDMENTS

STATEMENT OF AUTHORITY

Minn. Stat. § 46.01, subdivision 2 (1982) as amended, provides that the Commissioner of Commerce (hereinafter "Commissioner") has the power to promulgate rules as necessary to administer or execute the laws relative to financial institutions subject to the Commissioner's supervision and examination. Commercial banks are organized pursuant to Minn. Stat. Chs. 45, 47, 48 and 300 and are subject to the constant supervision and examination by the Commissioner as directed as Minn. Stat. § 46.04. The above-captioned amendments are proposed by the Commissioner pursuant to this authority.

On August 15, 1983, the Commissioner published Notice of Intent to Solicit outside opinion regarding the proposed amendments. (8 S.R. 248)

FACTS ESTABLISHING NEED AND REASONABLENESS

As more specifically stated below, the proposed amendments are needed in order to remove conflicts and possible sources of confusion in existing rules due to recent and material changes in law and practices governing and directing the day to day operation of Minnesota's 544 state-chartered banks. In large part these proposed amendments are responsive to the current and justifiable trend to deregulation of the financial services industry which includes all forms of depository financial instiți-

tutions. Commercial banks are among the most closely regulated industries. Depending upon the charter, state or national, its membership in the Federal Reserve, its insurance of accounts by the Federal Deposit Insurance Corporation, or holding company affiliations a bank may be subject to regulatory control by five federal agencies in addition to the Department of Commerce. The U.S. Congress has mandated a reduction in the bulk and specifity of regulations through its Financial Regulations Simplifications and Paperwork Reduction Acts of 1980, among others, including the most significant deregulation effect with the establishment of the Depository Institutions Deregulation Committee in 1980 under the Depository Institutions Deregulation and Monatory Control Act of 1980. It is important that state banks benefit fully from this deregulation effort and that state regulations are not duplicative, conflicting or unnecessarilly restrictive, so as to unduly limit state chartered banks either by sheer weight of regulatory compliance, or inhibiting them from equal competive advantages with Federal banks in the restructured financial services market.

It has become clear through the efforts of this regulatory improvement project of revising all existing bank rules, that statutory law is often simply restated in rule or that either changes in that law or legitimate developments in the financial institutions market require repeal or significant modification of rules of long standing. This process has, in addition to being thorough and timely, relied on the basic premise that the safety and soundness of depository institutions is protected in the public interest primarily through a rigorous program of on-site examinations and statistical monitoring for an appraisal of conditions in terms of asset quality and management capability. Formal regulatory control in the form of the Minnesota Code of Agency Regulations is intended to establish a framework or prescribe the strict parameters where necessary, and not to manage day to day operational judgement. Many of the existing rules imposed close, often judgemental,

direction on what has grown to become widely available and changing areas for alternative action without jeopardizing the safety and soundness necessary to financial institutions in the public interest.

The following rules as amended include changes to accomplish the:

-Elimination of rules restating generally accepted safe-sound banking practices and accounting principles.

-Elimination of rules simply restating statutory provisions.

-Elimination or modification of rules where inconsistent with current statutory provisions.

-Recognition of current policy positions for consistency between various and often competing types of financial institutions.

-Consistency with July 1, 1983 effective reorganization of the Department of Commerce under Ch. 289, 1983 Session Laws.

2675.0200 (BD 1) Loans - Financial Statements is an existing rule relating to loan credit files requiring a signed financial statement to justify all unsecured advances above a stated amount in relation to the size of each bank. The specific triggering amounts are outdated in this long standing rule as demoninations of risk and bank size relative to today's credit underwriting and unsecured lending practices. The rule should be repealed as it prescribes unnecessarily strict requirements and triggers potentially excessive administrative costs at the levels stated. Restating these levels on an overall basis for banks, even at what may represent current levels of practice, is an unwarranted usurpation of individual well-run bank policy-making responsibility at the board level.

One aspect of the rule is valid and reasonable for supervisory purposes. Upon examination any unsecured amount which leads to the adverse classification of credit should be justification for an examination directive clearly requiring that a

properly signed financial statement be obtained to support the credit decision. This is a logical fulfillment of the purposes of the safety and soundness examination in terms well known and customary practice in bank credit administration. What constitutes a current financial statement is clarified.

This requirement logically carries out the intention of Minn. Stat. § 46.04, Subd. 2, which requires the examiner (e.g. commissioner) to inspect and verify bank assets to determine with reasonable certainty that the values are correctly carried on its books. The method of verification are those "which the commissioner may determine to be adequate....". Minn. Stat. § 46.01, Subd. 2, provides the authority for such rule promulgation.

2675.0300 (BD 2) Loans - Delinquent Loans is an existing rule prescribing classes of loans in default based upon increasing degrees of non-performance of their contractual terms. This rule is long standing and remains reasonably accurate and consistent with current examination methods, yet is ackwardly written, resulting in confusion in some cases. This review of the rules provides the opportunity to clarify the language consistent with the Federal Deposit Insurance Corporation (FDIC) directive for examination and periodic reporting purposes without substantual change in the existing comparative quantative factors or statistical trend results. The state and FDIC share the examination of over 500 state chartered insured banks and utilize a common examination report format.

The substitute language recommended is taken from the Federal Deposit Insurance Corporation Examination Manual currently in use and includes elucidating examples to foster consistent reporting compliance results. This rule is reasonable and needed to provide both the industry and the commissioner with a consistent measure of one aspect of asset quality through the examination authority in Minn. Stat. § 46.04, Subd. 1, and periodic financial and statistical reports obtained under

Minn. Stat. § 48.48, Subd. 1, in cooperation with the federal regulatory counterparts. Minn. Stat. § 46.01, Subd. 2, provides the authority for such promulgation.

2675.0950 (BD 7) Second Mortgages is an existing rule proposed to be repealed. The rule was necessitated by enactment of Minn. Stat. § 48.19, which precluded junior real estate liens as security for a bank loan. The rule clarified the difference between taking junior lien as additional collateral on loans previously contracted and the prohibition against further advances unless a first lien equivalent is maintained by the bank.

The rule should be repealed as the underlying statute has been amended to allow loans to be secured by junior liens on real estate. Effective April 24, 1980, Ch. 599, 1980 Session Laws completed the revision of exceptions to the prohibition to junior liens which rendered this rule inconsistent. Minn. Stat. § 46.01, Subd. 2, provides the authority for such repeal procedure.

2675.0700 (BD 8) Permanent Endorsements is a long standing rule prescribing documentation specifying rights in indirect credit instruments purchased or discounted to a bank. This rule should be repealed as current commercial practices have developed to the point where such assignments are commonly recognized and practiced.

2675.0800 (BD 9) Lease Financing is an existing rule prohibiting investments for acquisition of personal property by a bank to be used in connection with a subsequent customer lease agreement. Effective in 1975 the legislature has redefined public policy authorizing such lease financing by banks. As amended, Minn. Stat. § 48.152 is inconsistent and rule should be repealed.

2675.0901 (BD 10) Real Estate Loans-Documentation is a long standing rule imposing policy standards for the documentation of loans secured by real estate mortgages. Since its promulgation the legislature has authorized second or junior lien real

estate lending (see comments to rule 2675.0950) and documentation has been influenced by secondary market requirements and alternative forms of evidence of title in Minnesota. Therefore it is necessary and reasonable to simplify mandatory requirements. Also, a reasonable dollar threshold of $7,500 (also adopted for similar rule for credit union file requirements) assumes loan risk underwriting will rely on character, capacity and credit rather than real estate values in liquidation. This rule will continue to be heavily relied upon as the standard in examination and supervision of a substantial involvement of bank loan assets in larger real estate credits. This revision brings rule into conformity with current market documentation standards and removes excess requirements.

2675.1100 (BD 11) Bond Investments Records is an existing rule which is a necessary and intregal part of the record keeping standards for bank investment transactions. It also consolidates language clarifying and preventing aggregating or netting out securities transactions. Rule paragraph (D) operates to assure the recognition of gains and losses each time ownership of a security changes involving the bank and is a restatement of rule 2675.2020, which is proposed to be repealed.

2675.1110 (BD 12) Eligible Securities is an existing rule which qualifies securities purchased as eligible for bank investment based upon marketability. Sub-paragraph (C) relating to maturity as an element of marketability is proposed to be amended to extend the maturity standards from the historical 10 years to 20 years. This change is needed to reasonably permit banks to purchase real estate mortgage backed securities which represent safe, sound, marketable securities based on recent developments in the private placement market. Also, the requirement that 75% of the principal be amortized over the term of the security is arbitrary and inflexable in this rapidly changing market. These provisions should be deleted.

2675.1130 (BD 14) Investment Qualities is an existing rule which establishes standards for eligible investments in securities by banks in terms of recognized, published rating services. The only needed change in this rule is to remove the reference to the "Bond Department of the Banking Division" which is no longer an operating division and which is inconsistent within the recent reorganization of the Department of Commerce. Clearly the determination of equivalent value will be made by the bank and examined for consistency with the standards of this rule. No predetermined listing of eligible, non-rated securities is comtemplated by the agency and therefore it must be concluded that the rule permits a prudent judgement to be made by the bank to be reviewed in the examination process.

2675.2030 (BD 15) Banks Not to Participate in Marketing is an existing rule which establishes an absolute prohibition against a bank acting as principal underwriting agent in the marketing of corporate securities. It is proposed that the rule be repealed in anticipation of potential deregulation at the Federal level which could create a competitive disadvantage for state banks. Present statute does not speak directly to this issue and it is recognized as a public policy issue which has grown in potential controversy and should be determined in the legislature not by administrative rule.

2675.1140 (BD 16) Holding Bonds on Par or Face Value is an existing rule which should be retained to establish the liability due to the bank upon purchase of a security as the par or face value. It is necessary however to clarify the statutory authority referred to in the application of this rule. The lending limit Minn. Stat. § 48.24, controls the maximum exposure of such an obligation and also contains pertinent exclusions as referenced in the amendment to the rule.

2675.2050 (BD 17) Purchase of Non-Eligible Securities Disposition, Exceptions is an existing rule operating in connection with BDs 12 and 14, which define eligible securities. BD 17 clearly prohibits the purchase of securities not within the

eligibility criteria in BD 12 and 14. However in the event ineligible securities are discovered in a bank, the commissioner may determine a reasonable time for their disposal. The rule should be amended to remove the discretion in disposing of non-eligible securites which must be disposed of in a reasonable period of time under control of the Commissioner. References to commmissioner of banks is deleted consistent with the reorganization under the commissioner of commerce.

2675.1150 (BD 18) Purchased of Asset at a Premium or Discount is an existing rule establishing the proper treatment for booking securities by a bank and to avoid variations in accounting treatment. However, the language is simplified and clarifies which procedure is mandatory as in the case of charge off of a purchase premium.

2675.1180 (BD 21) Foreign Borrowers Securities is an existing rule that prescribes safe and sound limits to a bank's exposure in foreign securities by type and amount. The maximum amount is amended to coincide with the current statutory limit on liabilities to a bank which attaches to similar investments under Minn. Stat. § 48.24. Also, investments in the African Development Bank is added consistent with laws of Minnesota for 1984, Chapter 382, which added these bonds to Minn. Stat. § 50.14 as eligible investments to which the 20% limit now applies.

2675.2000 (BD 23) Banks Selling with Repurchase Agreement is an existing rule which provides that the sale of a banks' securities may contain agreements for conditional repurchase. It is necessary to amend the rule to make it consistent with the language change in 1982 Session Laws, Chapter 473 and Minn. Stat. § 48.16. The change is to provide for the use of "retail purchase agreements" in U.S. Government securities common to financial institutions and now legislatively authorized. One important characteristic is that the purchaser has the right to require the bank to repurchase the security or portion thereof at a time agreed and price negotiated when sold. This is prohibited for other types of assets under the existing rule and law.

2675.2010 (BD 24) Default Bonds is an existing rule which provides that the commissioner has authority to order bonds in default to be written down in value to market or charged off if worthless in the established market. The rule is unnecessary to require the commissioner to proceed by lawful order when his examination authority in Minn. Stat. § 46.04 provides more timely and appropriate authority to determine that asset values are correctly carried on a bank's books. The examination and supervisory procedure is more responsive than requiring an order in each case which could significantly expose a bank and its activities to public view or unduly delay a proper supervisory relationship into the courts or administrative hearing procedure. This rule should be repealed.

2675.2020 (BD 25) Each Sale and Purchase Separate Transaction is an existing rule providing for an accurate record of securities transactions without risk of comingling or netting out against other transactions. It is a reasonable and proper rule relating to accounting and daily closing required of banks and is repealed but restated in consolidation with rule 2675.1100, which also directly deals with account entry procedure. This is not a repeal but a repositioning for simplicity and continuity.

2675.2060 (BD 26) Procedure for Banks Holding Prohibited Securites like rule 2675.2050, this is an existing rule which was transitional in connection with the promulgation of eligible securities classifications. This rule should be repealed so as not to indirectly sanction the purchase of prohibited securities which are then arguably justified until the divestive procedure is complete (See 2675.2050 comments). The commissioner has sufficient authority in law to accomplish a prompt and necessary remedy to such unsafe and unsound activities. See Minn. Stat. §§ 46.24 to 46.33, Cease and Desist Powers.

2675.2070 (BD 27) Securities Classifications is an existing rule which states an examination procedure to categorize assets in securities by rigid group. It is unnecessary and inflexable to apply these specific categories to identify securities for examination comment. Current examination practices no longer use this system. This rule should be repealed.

2675.2080 (BD 28) Appraisal Principles for Classifications is an existing rule which states specific examination procedure for appraising the quality and value of securities. Current examination procedures used in coordination with the Federal Deposit Insurance Corporation and the Federal Reserve Board use a system of appraisal by substandard, doubtful and loss categories. This is more consistent, well-documented and uses market values to determine book value in extreme cases of illiquidity and other problem circumstances than this rule. This rule should be repealed.

2675.2090 (BD 29) Problem Banks is an existing rule which, when operating in connection with rule 2675.2080, provided specific descriptive conditions for absolute mark-to-market appraisals. There are more current and consistent conditions commonly used in state and federal regulatory systems of examination which should apply. This rule is outdated, unnecessary and should be repealed.

2675.2100 (BD 30) Cash Items is an existing rule which addresses the requirement of maintaining adequate and complete day-to-day audit trail of unprocessed cash items. The requirement that these daily records must be kept for two years is an unnecessary burden even if computerized. It is customary for banks to formulate reasonable retention and destruction schedules for such records on an annual basis. The strict two year requirement should be deleted.

2675.2110 (BD 31) Banking House is an existing rule limits the bank's investment in brick and mortar. The rule requires amendment to be consistent with 1982 legislative changes to Minn. Stat. § 47.10. The rule clarifies the elements in booking invest-

ments in property and improvements to carry out the intent of the law in practical language. The changes primarily deal with the increase in a bank's discretionary investment authority of from 40 to 50 percent under the statutory amendments and provides for consistent application of generally accepted accounting principles.

2675.2120 (BD 32) Banking Premises is an existing rule which prescribed the specific manner in which the investment in banking property was to be depreciated on its books. The 1982 statutory changes to Minn. Stat. § 47.10 referred to in the discussion of BD 31, also made generally accepted accounting principles the rule for accounting treatment of depreciating fixed property used as banking house. Therefore this rule is inconsistent with current law and should be repealed. Any reference to statutorily accepted principles is incorporated in the amended rule 2675.2110 and not deleted by the repeal of this rule.

2675.2130 (BD 33) Furniture and Fixtures, Personal Property, Automobiles and Equipment is an existing rule which had required a bank to write off assets in furniture and fixtures at a 10% per annum rate. This rigid standard for accounting for depreciation is revised to allow application of generally accepted accounting principles. This is consistent with accounting for fixed property cited in Minn. Stat. § 47.10, Subd. 2, rule 2675.2110 and 2675.2140 for leasehold improvements. In the event a greater amount or rate of write down is determined as appropriate, the exception must be approved in writing by the commissioner.

Also, a provision is added describing furniture, fixtures and other personal property acquired by a bank by purchase or lease as included in transactions not requiring written prior approval by the commissioner unless involving an insider seller or lessor. This is consistent with Minn. Stat. § 47.10, Subd. 3 and other leases of property and improvements and incorporates for simplification and consistency the provision relating to automobiles from rule 2675.2120, which will be repealed.

2675.2140 (BD 34) Leasehold Investment, Amortization is an existing rule which prescribes the rate of amortization of property and improvement leases. It is revised to be consistent with the 1982 amendments to Minn. Stat. § 47.10 and acknowledges generally accepted accounting practices. The rule is revised to clarify that the prior written approval requirement for such leases involving insider leasors will apply to subsequently renegotiated or amended leases unless the original approved lease contains an option to be unilaterally exercised by the bank.

2675.2150 (BD 35) Contracts for Deed is an existing rule which prescribed the specific documentation on existing contracts for deed taken to secure a loan. The variations experienced in such transactions made a rule impractical unless it is expanded to potentially address many combinations of prior interests. With the passage of Ch. 342, 1983 Session Laws, Minn. Stat. § 507.235 was enacted requiring filing of all contracts for deed on or after June 1, 1984. While the language does not specify assignments, this law makes subpart (a) of rule 2675.2150 unnecessary. As to the remainder of the rule, it is wise to remove the question of "eligibility" for a bank to make a loan secured by a contract for deed. Rather it is more pertinent that subject bank demonstrate that each loan is a safe, sound loan regardless of the nature of the security. The examination process is sufficient to make this quality determination and review documentation. The rule should be repealed.

2675.2120 (BD 36) Investment in Automobiles is an existing rule which prescribes the accounting treatment for bank autos. This rule is unnecessary as its provisions are incorporated in the amendments to rule 2675.2130.

2675.2250 (BD 37) Overdrafts is an existing rule prescribing the handling for checks when presented at a bank. With the exception of subpart (D) this procedure is a matter of law set out in Article 4 of the Uniform Commercial Code with adequate specificity to render this rule paragraphs (A) through (C) unnecessary. The

provisions of para. (D) are not addressed in the Uniform Commercial Code and remain a matter of concern by the commissioner and add clarity to the application of Minn. Stat. § 48.08. Para. (D) should be retained, the preceeding provisions should be deleted.

2675.2170 (BD 38) Other Real Estate is an existing rule which defines the asset "other real estate" and how it is to be carried on the records of a bank. The rule is amended to remove unnecessary language and provide consistency with the existing language in Minn. Stat. § 48.21. Specific reference is made to law and addresses specific situations occurring in connection with bank premises and detached facility relocations, which became available since the original promulgation of this long-standing rule. All of the property acquired or retained by a bank under the conditions described are considered to be "Other Real Estate" and require special accounting treatment consistent with the asset quality requirement of a bank asset.

The book values allowed in the rule subpart (B) are more accurate and reasonably described to include the remaining book value if it is an abandoned former bank premises or detached facility. The amended rule provides for current appraisals to be made on each property and the adjustment of book value to an amount not greater than the current appraisal value.

With the current appraisal in file, the requirement in para. (C) to write off the other real estate asset at a fixed annual rate of 10% is eliminated as unnecessarily arbitrary and also inconsistent with national bank requirements. In its place, the rule requires a record of action by the bank to dispose of the property within 5 years when it would be completely written off and no longer carried as an asset in any amount.

The mandatory limitations in para. (D) regarding the convertion of other real estate sold on contract for deed to a loan asset are eliminated. The amended rule provides that the book value of the loan shall be the lesser of the balance on

the contract or the book value established under para. (C) and need no longer be carried as other real estate. Accounting for gains and losses based on this value are given specific reasonable alternatives consistent with generally acceptable accounting principles.

The file documentation requirements in para. (E) are amended to remove the necessity of an abstract as long as an attorney's opinion or other evidence of title is in file and available for examination.

Overall, the rule is rewritten to provide consistency with current law, to apply accounting treatment similar to national banks, to remove unnecessary requirements and to provide reasonable alternatives consistent with current banking practices.

2675.2190 (BD 40) FHA Premiums is an existing rule of very narrow scope requiring that premiums paid for FHA loan be written off as a current expense when the loan is closed. This rule should be repealed as it singles out a procedure no longer prevalent and in an area in which generally accepted accounting principles are sufficient.

2675.2200 (BD 41) Charged Off Assets; Dual Control is an existing rule prescribing the handling of assets removed from the bank's books due to charge off action by the board. A portion of the rule, subpart 3, has historically required that the listing of these non-ledger assets shall actually be maintained by the examiner. This is an inappropriate and often untimely involvement of the commissioner in record keeping. These records are also maintained by the bank under subpart 1. This will provide the necessary dual control integrity to these bank records and by repeal of subpart 3a removes the examiner from creating bank records.

2675.2220 (BD 43) Additional Common Stock Sales is an existing rule which only requires deletion of commissioner of "banks" to be consistent with the July 1983 reorganization.

2675.2230 (BD 44) Capital Debentures is an existing rule which restates Minn. Stat. § 48.62. It is an unnecessary duplication and contains an unconsistent statement of the inclusions of debentures in overall capital for capital adequacy purposes. Because such debt instruments do not provide a source of reserves for payment of losses, this rule is inconsistent with current capital adequacy policy and should be repealed.

2675.2240 (BD 45) Dividends is an existing rule which adds specifity to the procedures in Minn. Stat. § 48.09 in terms of the reporting and financial standards to qualify for a bank's discretionary dividend payment authority or application where prior written approval is required. The amendments are to bring terminology up to date with current report form language. It is also is amended to consolidate language for purposes of internal continuity, simplicity and consistency with the current policy on form submission deadlines. The requirement is clarified that once a dividend is declared, the notification form prescribed by the commissioner must be sent in, whether approval is necessary or not, within 10 days of the declaration to provide a minimum reasonable period of time for office review before the dividend is scheduled to be paid. For example, if a dividend is declared on January 10, 1984 from 1983 earnings, the notification form must be mailed (post marked) to the commissioner by January 21 and the dividend not scheduled to be paid until at least February 5. This affords time for the commissioner to review all notifications and respond in writing appropriately where written approval is necessary.

The consolidation language provides appropriate accounting entry directions for posting dividends when declared and segregation until paid or disapproved of the amount declared.

2675.2246 (BD 46) Certificate of Deposit of Other Financial Institutions is an existing rule prescribing the accounting treatment for time deposits issued to other banks. These directions are in conflict with the requirements of the Report of Condition now in use jointly with the Federal Deposit Insurance Corporation and should be repealed.

Subsequent remaining language also conflicts with current report of condition requirements and the accounting for time deposits in other banks as an "Other Asset" should be repealed.

In connection with such deposits in other banks, the lending limit in Minn. Stat. § 48.24 applies. It is reasonable to make an exception from this limit for the amounts invested in certificates of deposits of other institutions which are insured by an agency of the Federal government, usually the first $100,000. Such deposits are made notonly in banksinsured by the Federal Deposit Insurance Corporation but also in savings associations insured by the Federal Savings and Loan Insurance Corporation and in credit unions insured by the National Credit Union Administration.

2675.2290 (BD 50) Accounting by Service Corporations is an existing rule which repeats the requirements found in Minn. Stat. § 48.89, Subd. 5, and should be repealed as unnecessary and redundant.

2675.2410 (BD 53) Minimum Coverage is an existing rule developed from a concensus of banking industry experience many years ago. These industry guidelines are outdated and the subject of more recent surveys through 1982. The operations of banks have become exposed to various risks beyond blanket fidelity coverage, making any rigid rule impractical. Also, the surveys and examination results reveal the responsible position already inherent in bank directors bond determinations. The exhaustive scheduling of basic, blanket bond dollar limits in relation to a banks deposit size should be repealed and remanded to the board as stated in Minn. Stat. § 48.12 and BD 52. This action is consistent with the nature of the requirements for

national banks and by the Federal Deposit Insurance Corporation. The Bank Insurance Survey, 1982, by the Insurance and Protection Division of the American Bankers Association, contains several pertinent results regarding minimum amounts of Bankers Blanket Bond Coverage.

1) "The ABA does not recommend any specific amounts of underlying coverage (that is basic coverage to qualify for excess coverage). What constitutes adequate limits can best be determined by the bankers and underwriters."

2) The minimum amount of underlying bankers blanket bond coverage for banks with up to $7,500,000 in deposits is $250,000 in order to qualify for excess fidelity coverage.

3) The favored range of coverage for banks with less than $750,000 in deposits was $50,000 to $250,000. No banks surveyed within this group had less than $50,000 blanket bond coverage.

There is reasonable evidence to conclude and require as a minimum standard for a new and developing bank that $50,000 in blanket bond coverage be carried.

It is unnecessary to provide regulatory guidelines for minimum fidelity insurance coverage for newly organized banks as it is customary practice for the commissioner to prescribe minimum bond coverage in the order granting a charter or authorizing the opening of a new bank.

2675.2420 (BD 54) Other Business; Expense Reimbursement Agreements is an existing rule requiring the business being conducted on the bank premises by insurance agents pay their share of occupancy costs. Not only are officers acting as insurance agents, but full service insurance agencies and discount brokerage offices are operated on bank premises. This rule is amended to clarify standards for non-bank owned activity for sharing occupancy costs.

Minn. Stat. § 47.016 was enacted in 1983, requiring the payment of credit insurance commissions earned by agents offering bank loan related insurance to the bank. Any distribution of earnings or allocation of overhead expense may include this income in compliance with this rule. If an officer offers credit insurance as agent relative to a bank loan, the commission, while mandated to be paid over to the bank, still constitutes renumerations to the bank contemplated by this rule.

2675.2500 (BD 55) Display and Replacement Copies is an existing rule providing that a bank's charter document must be displayed in the bank's lobby area. In addition, a replacement charter is to be provided at no cost by the commissioner. Fiscal responsibility dictates that the cost of such replacement should not be borne by the general assessment on all banks but targeted to the individual bank. The fee enacted in Minn. Stat. § 46.131, Subd. 10, of $25 for miscellaneous administrative actions upon application, should reasonably apply in this case also.

CONCLUSION

For the reasons stated above, it is in the best interests of the commerical banks in Minnesota and those consumers utilizing their services to remove the confusion and conflicts with existing law and outdated provision in existing rule. Furthermore, these amendments are deemed noncontroversial and offers positive impact on small business constituting banks under our supervision and control. Time is of the essence as referenced amended laws and deregulation on Federal level has been in final effect in some instances for many months and years. It is believed to be clear that the proposed amendments reasonably effectuate the above stated need.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Amendments to the Rules Concerning the Operations of Commercial Banks

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Gregory P. Huwe , Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Gregory P. Huwe

Special Assistant Attorney General

Dated: December 13, 1984

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Amendments to the Rules Concerning the Operations of Commercial Banks

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. § 14.26:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, December 13, 1984, for review as to form and legality. Pursuant to Minn. Stat. § 14.26, the Attorney General will approve or disapprove the rules within 14 calendar days after receipt. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, (612) 296-7030.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Linda Phillips, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101.

Michael A. Hatch
Commissioner of Commerce