

1.1 moves to amend H.F. No. 4289, the first engrossment, as follows:

1.2 Page 31, after line 5, insert:

1.3 **"ARTICLE 3**

1.4 **COMMERCE**

1.5 Section 1. Minnesota Statutes 2016, section 46.04, is amended by adding a subdivision
1.6 to read:

1.7 Subd. 5. **Scheduling conference and order.** (a) For purposes of this subdivision
1.8 "financial institution" means any of the entities referred to in subdivision 1 or 2.

1.9 (b) Notwithstanding any other law to the contrary, the examination of a financial
1.10 institution governed by this chapter must comply with this subdivision.

1.11 (c) At least 30 days prior to an examination under this chapter, the commissioner must
1.12 hold a scheduling conference with the financial institution.

1.13 (d) A scheduling conference and order is not required under this section if the financial
1.14 institution waives its right to a scheduling conference and order.

1.15 (e) At the scheduling conference, the commissioner must provide the financial institution
1.16 with the following:

1.17 (1) the justification for the examination and the regulatory issues the examination will
1.18 address;

1.19 (2) the information that must be produced by the financial institution and the timing for
1.20 its production in accordance with the requirements of paragraph (g);

1.21 (3) the estimated length of the examination, subject to the requirements of paragraph
1.22 (n);

1.23 (4) what type of examiners will be used;

- 2.1 (5) a budget for the exam including:
- 2.2 (i) the daily or hourly rates for the examiners that will be involved in the examination;
- 2.3 (ii) the estimated travel, lodging, meal, and other expenses of the examiners; and
- 2.4 (iii) the estimated administrative and supply costs directly associated with the
- 2.5 examination; and
- 2.6 (6) an explanation of the invoicing process and the process for resolving billing disputes.
- 2.7 (f) Within 15 days following the scheduling conference or as otherwise agreed to by the
- 2.8 commissioner and the financial institution, the commissioner must issue a scheduling order
- 2.9 that includes the information required by paragraph (e), based on the discussion at the
- 2.10 scheduling conference. The commissioner and financial institution must follow the terms
- 2.11 of the scheduling order. To amend a scheduling order there must be a supplemental
- 2.12 scheduling conference that complies with paragraph (e) and a supplemental scheduling
- 2.13 order that complies with this paragraph, unless otherwise agreed upon by the commissioner
- 2.14 and the financial institution.
- 2.15 (g) Any information requested from a financial institution by the commissioner must:
- 2.16 (1) be limited to matters relevant to the issues the examination will address;
- 2.17 (2) provide the financial institution with a reasonable period of time to respond to the
- 2.18 request, but not less than 30 days from the receipt of the request; and
- 2.19 (3) be reasonable in relation to the burden or expense of gathering the requested
- 2.20 information and the needs of the examination.
- 2.21 (h) In making an information request, the commissioner must consider whether the
- 2.22 information being requested is obtainable from some other source that is more convenient,
- 2.23 less burdensome, or less expensive for the financial institution.
- 2.24 (i) A financial institution can extend the time period by which a response to an
- 2.25 information request from the commissioner is due by up to 30 days upon giving notice of
- 2.26 the extension to the commissioner. The commissioner may extend any time period by which
- 2.27 information is due relating to an examination.
- 2.28 (j) Unless required to preserve evidence, the commissioner, department, and examiners:
- 2.29 (1) may not appear at a financial institution unannounced to conduct the examination;
- 2.30 and

3.1 (2) may not be present at a financial institution outside of normal hours without the
3.2 financial institution's written consent.

3.3 (k) If a statement is taken by the commissioner from a person under oath, the person
3.4 must first be informed of the following:

3.5 (1) the scope of the proposed statement;

3.6 (2) whether the person is the subject of an examination; and

3.7 (3) that the person may be represented by legal counsel during the taking of the statement.

3.8 (l) If a statement is taken by the commissioner from a person under oath and the statement
3.9 is recorded, the person must be provided with a transcript or recording of the statement
3.10 within 30 days of requesting it from the commissioner.

3.11 (m) All bills for examination costs being charged to a financial institution pursuant to
3.12 paragraph (e), must:

3.13 (1) be itemized and, with respect to examiner billings, contain activity detail on a quarterly
3.14 hourly basis by an individual examiner and disclose the applicable hourly billing rates,
3.15 together with per-charge detail for related travel or other expenses; and

3.16 (2) provide a due date no less than 30 days from receipt of the bill.

3.17 (n) An examination must not exceed 18 months from the date the commissioner receives
3.18 the financial institution's first submission pursuant to a scheduling order, unless:

3.19 (1) the commissioner determines that there has been a material lack of cooperation by
3.20 the financial institution;

3.21 (2) the examination is a multistate examination; or

3.22 (3) the commissioner determines that additional time is necessary to complete the
3.23 examination and the commissioner notifies the financial institution in writing of the reasons
3.24 why the examination requires additional time.

3.25 (o) A financial institution aggrieved by any decision or action of the commissioner under
3.26 this subdivision may, within 21 days after that decision or action, make a written request
3.27 to the commissioner for a hearing to determine whether the decision or action complies
3.28 with the requirements of this subdivision. The commissioner shall hear the party within 21
3.29 days after receipt of the request and shall give not less than ten days' written notice of the
3.30 time and place of the hearing. Within 15 days after the hearing, the commissioner shall
3.31 affirm, reverse, or modify the previous action and specify the reasons for that decision or

4.1 action in writing. The effective date of the commissioner's action or decision may be
4.2 suspended or postponed pending the completion of the hearing before the commissioner.

4.3 (p) Nothing contained in this section requires the observance at any hearing of formal
4.4 rules of pleading or evidence.

4.5 (q) An order or decision of the commissioner is a final decision subject to appeal in
4.6 accordance with chapter 14.

4.7 (r) Time used to complete a hearing and appeal under this subdivision must not be
4.8 counted toward the time frame for completion of an examination under paragraph (n).

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment and
4.10 applies to examinations in process or beginning on or after that date. The commissioner of
4.11 commerce and financial institution, unless waived by the financial institution in accordance
4.12 with paragraph (d), must arrange a scheduling conference as soon as is practicable if the
4.13 requirements of paragraph (c) cannot be met due to the examination being in process on the
4.14 effective date."

4.15 Renumber the sections in sequence and correct the internal references

4.16 Amend the title accordingly