

A bill for an act

relating to commerce; regulating various licensees and other entities; modifying definitions, informational requirements, continuing education requirements, information reporting requirements, and notice requirements; making various housekeeping, technical, and clarifying changes; regulating securities; reorganizing and modifying various provisions relating to real estate brokers, salespersons, and closing agents; modifying the membership requirements of, and appointment authority to, the real estate appraiser advisory board; regulating certain workers' compensation self-insurers; amending Minnesota Statutes 2008, sections 45.0112; 60A.031, subdivision 4; 60A.084; 60A.204; 60A.36, by adding a subdivision; 60K.31, subdivision 10; 61A.092, subdivision 3; 62A.046, subdivision 6, by adding a subdivision; 62A.17, subdivision 5; 62A.3099, subdivision 17; 62A.65, subdivision 2; 62E.02, subdivision 15; 62E.14, subdivision 4c; 62L.05, subdivision 4; 62S.24, subdivision 8; 62S.266, subdivision 4; 62S.29, subdivision 1; 72A.08, subdivision 4; 72A.12, subdivision 4; 72A.20, subdivisions 10, 36, 37; 72A.492, subdivision 2; 72A.51, subdivision 2; 72B.01; 72B.08, subdivision 8; 79A.03, subdivision 8; 79A.06, subdivision 5; 79A.21, subdivision 3; 80A.41; 80A.46; 80A.65, subdivision 6; 82.17, subdivision 15, by adding subdivisions; 82.19; 82.21, subdivision 2; 82.24, subdivision 3; 82.29, subdivisions 4, 5, 8; 82.31, subdivisions 1, 2; 82.33, subdivisions 1, 2, by adding a subdivision; 82.34, subdivisions 1, 2, 4, 5, 13; 82.39; 82.41, subdivisions 1, 2, by adding a subdivision; 82.45, subdivision 3, by adding subdivisions; 82.48, subdivisions 2, 3; 82B.05, as amended; 82B.06; 82B.14; 326.3382, subdivision 3; 326B.33, subdivision 16; 326B.56, subdivision 2; 326B.86, subdivision 2; 326B.921, subdivision 6; 327B.04, subdivision 4; 332.34; 340A.409, subdivision 1; Minnesota Statutes 2009 Supplement, sections 45.027, subdivision 1; 45.30, subdivision 4; 60A.39, subdivisions 1, 4, 5; 60A.9572, subdivision 6; 60K.361; 62A.3099, subdivision 18; 65A.29, subdivision 13; 72B.03, subdivision 2; 72B.045, subdivision 1; 72B.06; 82.31, subdivision 4; 82.32; 326B.46, subdivision 2; Laws 2007, chapter 147, article 12, section 14; proposing coding for new law in Minnesota Statutes, chapters 82; 332; repealing Minnesota Statutes 2008, sections 72B.04; 82.19, subdivision 3; 82.22, subdivisions 1, 6, 7, 8, 9; 82.31, subdivision 6; 82.34, subdivision 16; 82.41, subdivisions 3, 7; 332.31, subdivision 7; 332.335; Minnesota Statutes 2009 Supplement, sections 65B.133, subdivision 3; 72B.02, subdivision 11.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

2.1 Section 1. Minnesota Statutes 2008, section 45.0112, is amended to read:

2.2 **45.0112 STREET AND E-MAIL ADDRESSES REQUIRED.**

2.3 Licensees or applicants for licenses issued by the commissioner shall provide to the  
2.4 commissioner a residence telephone number, a street address where the licensee actually  
2.5 resides, ~~and~~ a street address where the licensee's business is physically located, and a  
2.6 current e-mail address for business use. ~~A post office box address is not sufficient to~~  
2.7 ~~satisfy this requirement.~~ The individual shall notify the department of any change in street  
2.8 address, e-mail address for business use, or residence telephone number within ten days.

2.9 Sec. 2. Minnesota Statutes 2009 Supplement, section 45.027, subdivision 1, is  
2.10 amended to read:

2.11 Subdivision 1. **General powers.** In connection with the duties and responsibilities  
2.12 entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner  
2.13 of commerce may:

2.14 (1) make public or private investigations within or without this state as the  
2.15 commissioner considers necessary to determine whether any person has violated or is  
2.16 about to violate any law, rule, or order related to the duties and responsibilities entrusted  
2.17 to the commissioner;

2.18 (2) require or permit any person to file a statement in writing, under oath or otherwise  
2.19 as the commissioner determines, as to all the facts and circumstances concerning the  
2.20 matter being investigated;

2.21 (3) hold hearings, upon reasonable notice, in respect to any matter arising out of the  
2.22 duties and responsibilities entrusted to the commissioner;

2.23 (4) conduct investigations and hold hearings for the purpose of compiling  
2.24 information related to the duties and responsibilities entrusted to the commissioner;

2.25 (5) examine the books, accounts, records, and files of every licensee, and of every  
2.26 person who is engaged in any activity regulated; the commissioner or a designated  
2.27 representative shall have free access during normal business hours to the offices and  
2.28 places of business of the person, and to all books, accounts, papers, records, files, safes,  
2.29 and vaults maintained in the place of business;

2.30 (6) publish information which is contained in any order issued by the commissioner;

2.31 (7) require any person subject to duties and responsibilities entrusted to the  
2.32 commissioner, to report all sales or transactions that are regulated. The reports must  
2.33 be made within ten days after the commissioner has ordered the report. The report is  
2.34 accessible only to the respondent and other governmental agencies unless otherwise  
2.35 ordered by a court of competent jurisdiction; and

3.1 (8) assess a ~~licensee~~ natural person or entity subject to the jurisdiction of the  
3.2 commissioner the necessary expenses of the investigation performed by the department  
3.3 when an investigation is made by order of the commissioner. The cost of the investigation  
3.4 shall be determined by the commissioner and is based on the salary cost of investigators  
3.5 or assistants and at an average rate per day or fraction thereof so as to provide for the  
3.6 total cost of the investigation. All money collected must be deposited into the general  
3.7 fund. A natural person licensed under chapter 60K or 82 shall not be charged costs of  
3.8 an investigation if the investigation results in no finding of a violation. This clause  
3.9 does not apply to a natural person or entity already subject to the assessment provisions  
3.10 of sections 60A.03 and 60A.031.

3.11 Sec. 3. Minnesota Statutes 2009 Supplement, section 45.30, subdivision 4, is amended  
3.12 to read:

3.13 Subd. 4. **Credit earned.** (a) Upon completion of approved courses, students must  
3.14 earn one hour of continuing education credit for each hour approved by the commissioner.  
3.15 Continuing education courses must be attended in their entirety in order to receive credit  
3.16 for the number of approved hours.

3.17 (b) Qualified instructors will earn three hours of continuing education credit for  
3.18 each classroom hour of approved instruction that they deliver (1) independently, or (2)  
3.19 as part of a team presentation in a course of two hours or less, if they attend the course  
3.20 in its entirety. For licensees other than appraisers, no more than half of the continuing  
3.21 education hours required for renewal of a license may be earned as a qualified instructor at  
3.22 the rate of three hours of continuing education credit for each classroom hour of approved  
3.23 instruction. For licensed appraisers, no more than one-half of the continuing education  
3.24 hours required for renewal of a license may be earned as a qualified instructor. No credit  
3.25 will be earned if the licensee has previously obtained credit for the same course as either  
3.26 a student or instructor during the same licensing period.

3.27 (c) A licensee must not receive credit for more than eight hours of continuing  
3.28 education in one day.

3.29 Sec. 4. Minnesota Statutes 2008, section 60A.031, subdivision 4, is amended to read:

3.30 Subd. 4. **Examination report; foreign and domestic companies.** (a) The  
3.31 commissioner shall make a full and true report of every examination conducted pursuant  
3.32 to this chapter, which shall include (1) a statement of findings of fact relating to the  
3.33 financial status and other matters ascertained from the books, papers, records, documents,  
3.34 and other evidence obtained by investigation and examination or ascertained from

4.1 the testimony of officers, agents, or other persons examined under oath concerning the  
4.2 business, affairs, assets, obligations, ability to fulfill obligations, and compliance with  
4.3 all the provisions of the law of the company, applicant, organization, or person subject  
4.4 to this chapter and (2) a summary of important points noted in the report, conclusions,  
4.5 recommendations and suggestions as may reasonably be warranted from the facts so  
4.6 ascertained in the examinations. The report of examination shall be verified by the oath  
4.7 of the examiner in charge thereof, and shall be prima facie evidence in any action or  
4.8 proceedings in the name of the state against the company, applicant, organization, or  
4.9 person upon the facts stated therein.

4.10 (b) No later than 60 days following completion of the examination, the examiner  
4.11 in charge shall file with the department a verified written report of examination under  
4.12 oath. Upon receipt of the verified report, the department shall transmit the report to the  
4.13 company examined, together with a notice which provides the company examined with a  
4.14 reasonable opportunity of not more than 30 days to make a written submission or rebuttal  
4.15 with respect to matters contained in the examination report.

4.16 (c) Within 30 days of the end of the period allowed for the receipt of written  
4.17 submissions or rebuttals, the commissioner shall fully consider and review the report,  
4.18 together with the written submissions or rebuttals and the relevant portions of the  
4.19 examiner's workpapers and enter an order:

4.20 (1) adopting the examination report as filed or with modification or corrections. If  
4.21 the examination report reveals that the company is operating in violation of any law, rule,  
4.22 or prior order of the commissioner, the commissioner may order the company to take any  
4.23 action the commissioner considers necessary and appropriate to cure the violation;

4.24 (2) rejecting the examination report with directions to the examiners to reopen the  
4.25 examination for purposes of obtaining additional data, documentation, or information,  
4.26 and refile the report as required under paragraph (b); or

4.27 (3) calling for an investigatory hearing with no less than 20 days' notice to the  
4.28 company for purposes of obtaining additional documentation, data, information, and  
4.29 testimony.

4.30 (d)(1) All orders entered under paragraph (c), clause (1), must be accompanied by  
4.31 findings and conclusions resulting from the commissioner's consideration and review of  
4.32 the examination report, relevant examiner workpapers, and any written submissions or  
4.33 rebuttals. The order is a final administrative decision and may be appealed as provided  
4.34 under chapter 14. The order must be served upon the company by certified mail, together  
4.35 with a copy of the adopted examination report. Within 30 days of the issuance of the

5.1 adopted report, the company shall file affidavits executed by each of its directors stating  
5.2 under oath that they have received a copy of the adopted report and related orders.

5.3 (2) A hearing conducted under paragraph (c), clause (3), by the commissioner or  
5.4 authorized representative, must be conducted as a nonadversarial confidential investigatory  
5.5 proceeding as necessary for the resolution of inconsistencies, discrepancies, or disputed  
5.6 issues apparent upon the face of the filed examination report or raised by or as a result of  
5.7 the commissioner's review of relevant workpapers or by the written submission or rebuttal  
5.8 of the company. Within 20 days of the conclusion of the hearing, the commissioner shall  
5.9 enter an order as required under paragraph (c), clause (1).

5.10 (3) The commissioner shall not appoint an examiner as an authorized representative  
5.11 to conduct the hearing. The hearing must proceed expeditiously. Discovery by the  
5.12 company is limited to the examiner's workpapers which tend to substantiate assertions in a  
5.13 written submission or rebuttal. The commissioner or the commissioner's representative  
5.14 may issue subpoenas for the attendance of witnesses or the production of documents  
5.15 considered relevant to the investigation whether under the control of the department, the  
5.16 company, or other persons. The documents produced must be included in the record.  
5.17 Testimony taken by the commissioner or the commissioner's representative must be under  
5.18 oath and preserved for the record.

5.19 This section does not require the department to disclose information or records  
5.20 which would indicate or show the existence or content of an investigation or activity of a  
5.21 criminal justice agency.

5.22 (4) The hearing must proceed with the commissioner or the commissioner's  
5.23 representative posing questions to the persons subpoenaed. Thereafter, the company and  
5.24 the department may present testimony relevant to the investigation. Cross-examination  
5.25 may be conducted only by the commissioner or the commissioner's representative. The  
5.26 company and the department shall be permitted to make closing statements and may  
5.27 be represented by counsel of their choice.

5.28 (e)(1) Upon the adoption of the examination report under paragraph (c), clause (1),  
5.29 the commissioner shall continue to hold the content of the examination report as private  
5.30 and confidential information for a period of 30 days except as otherwise provided in  
5.31 paragraph (b). Thereafter, the commissioner may open the report for public inspection if a  
5.32 court of competent jurisdiction has not stayed its publication.

5.33 (2) Nothing contained in this subdivision prevents or shall be construed as  
5.34 prohibiting the commissioner from disclosing the content of an examination report,  
5.35 preliminary examination report or results, or any matter relating to the reports, to the  
5.36 Commerce Department or the insurance department of another state or country, or to law

6.1 enforcement officials of this or another state or agency of the federal government at any  
6.2 time, if the agency or office receiving the report or matters relating to the report agrees in  
6.3 writing to hold it confidential and in a manner consistent with this subdivision.

6.4 (3) If the commissioner determines that regulatory action is appropriate as a result of  
6.5 an examination, the commissioner may initiate proceedings or actions as provided by law.

6.6 (f) All working papers, recorded information, documents and copies thereof  
6.7 produced by, obtained by, or disclosed to the commissioner or any other person in the  
6.8 course of an examination made under this subdivision, or in the course of market analysis,  
6.9 must be given confidential treatment and are not subject to subpoena and may not be made  
6.10 public by the commissioner or any other person, except to the extent provided in paragraph  
6.11 (e). Access may also be granted to the National Association of Insurance Commissioners  
6.12 (NAIC), the National Association of Securities Dealers Financial Industry Regulatory  
6.13 Authority, and any national securities association registered under the Securities Exchange  
6.14 Act of 1934. The parties must agree in writing prior to receiving the information to  
6.15 provide to it the same confidential treatment as required by this section, unless the prior  
6.16 written consent of the company to which it pertains has been obtained. For purposes of  
6.17 this section, "market analysis" means a process whereby market conduct surveillance  
6.18 personnel collect and analyze information from filed schedules, surveys, required reports,  
6.19 such as the NAIC Market Conduct Annual Statement, or other sources in order to develop  
6.20 a baseline profile of an insurer, review the operation or activity of an insurer, or to  
6.21 identify patterns or practices of insurers licensed to do business in this state that deviate  
6.22 significantly from the norm or that may pose a potential risk to the insurance consumer.

6.23 Sec. 5. Minnesota Statutes 2008, section 60A.084, is amended to read:

6.24 **60A.084 NOTIFICATION ON GROUP POLICIES.**

6.25 An employer providing life or health benefits may not change benefits, limit  
6.26 coverage, or otherwise restrict participation until the certificate holder or enrollee has  
6.27 been notified of any changes, limitations, or restrictions. Notice in a format which  
6.28 meets the requirements of the ~~Employee Retirement Income Security Act, United States~~  
6.29 ~~Code Annotated, title 29, sections 1001 to 1461, United States Department of Labor~~ is  
6.30 satisfactory for compliance with this section.

6.31 Sec. 6. Minnesota Statutes 2008, section 60A.204, is amended to read:

6.32 **60A.204 ~~ADDITIONAL CHARGES AND FEES AND COMMISSIONS.~~**

6.33 ~~Subdivision 1. Placement fees. A surplus lines licensee may charge, in addition to~~  
6.34 ~~the premium charged by an eligible or ineligible surplus lines insurer, a fee to cover the~~

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7.1 ~~cost incurred in the placement of the policy which exceeds \$25, but only to the extent that~~  
7.2 ~~the actual additional cost incurred for services performed by persons or entities unrelated~~  
7.3 ~~to the licensee exceeds that amount.~~

7.4 ~~Subd. 2. **Regulation of fees.** A surplus lines licensee may charge a fee charged~~  
7.5 ~~pursuant to subdivision 1 shall and commission, in addition to the premium, that is not be~~  
7.6 ~~excessive or discriminatory. The licensee shall maintain complete documentation of all~~  
7.7 ~~fees and commissions charged. Those fees shall not be included as part of the premium for~~  
7.8 ~~purposes of the computation of the premium taxes.~~

7.9 ~~Subd. 3. **Commission charges.** Notwithstanding the provisions of subdivision 1, a~~  
7.10 ~~licensee may add a commission charge if the insurer quotes a rate net of commission and~~  
7.11 ~~the commission is not excessive or discriminatory.~~

7.12 Sec. 7. Minnesota Statutes 2008, section 60A.36, is amended by adding a subdivision  
7.13 to read:

7.14 Subd. 2a. **Third-party notices.** An insurer shall provide notice to a third party if:

7.15 (1) the policyholder has, separately from the certificate, notified the insurer of the  
7.16 identity of the third party; and

7.17 (2) the third party is a licensing authority authorized by statute to receive the notice or  
7.18 a state, city, or county governmental unit on whose behalf the insured is providing services.

7.19 Sec. 8. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 1, is  
7.20 amended to read:

7.21 Subdivision 1. **Issuance.** A licensed insurer or insurance producer may provide to a  
7.22 third party a certificate of insurance which documents insurance coverage. ~~The purpose of~~  
7.23 For the purposes of this chapter, a certificate of insurance is to provide a document that  
7.24 provides evidence of property or liability insurance coverage and the amount of insurance  
7.25 issued, and does not convey any contractual rights to the certificate holder.

7.26 Sec. 9. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 4, is  
7.27 amended to read:

7.28 Subd. 4. **Cancellation notice.** A certificate provided to a third party must not  
7.29 provide for notice of cancellation that exceeds the statutory notice of cancellation provided  
7.30 to the policyholder or a period of notice specified in the policy.

7.31 Sec. 10. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 5, is  
7.32 amended to read:

8.1 Subd. 5. **Filing.** An insurer not using the standard ACORD or ISO form "Certificate  
8.2 of Insurance" shall file with the commissioner, prior to its use, ~~the form of certificate or~~  
8.3 ~~memorandum of insurance coverage that will be used~~ a similar alternative "Certificate  
8.4 of Insurance" covering the same information for use by the insurer. Filed forms may not  
8.5 be amended at the request of a third party.

8.6 **EFFECTIVE DATE.** This section is effective January 1, 2011.

8.7 Sec. 11. Minnesota Statutes 2009 Supplement, section 60A.9572, subdivision 6,  
8.8 is amended to read:

8.9 Subd. 6. **Disclosures.** The applicant shall provide information on forms required  
8.10 by the commissioner. The commissioner shall have authority, at any time, to require  
8.11 the applicant to fully disclose the identity of all stockholders who hold more than ten  
8.12 percent of the shares of the company, partners, officers, members, and employees, and  
8.13 the commissioner may, in the exercise of the commissioner's discretion, refuse to issue a  
8.14 license in the name of a legal entity if not satisfied that any officer, employee, stockholder,  
8.15 partner, or member of the legal entity who may materially influence the applicant's  
8.16 conduct meets the standards of sections 60A.957 to 60A.9585.

8.17 Sec. 12. Minnesota Statutes 2008, section 60K.31, subdivision 10, is amended to read:

8.18 Subd. 10. **Limited lines insurance.** "Limited lines insurance" means those lines  
8.19 of insurance defined in section 60K.38, subdivision 1, paragraph (c), or any other line of  
8.20 insurance that the commissioner considers necessary to recognize for the purposes of  
8.21 complying with section 60K.39, subdivision ~~5~~ 6.

8.22 Sec. 13. Minnesota Statutes 2009 Supplement, section 60K.361, is amended to read:

8.23 **60K.361 INSURANCE EDUCATION.**

8.24 (a) Prelicense education must consist of 20 hours of education per line of authority.

8.25 (b) The ~~first ten hours~~ course must ~~be include~~ an introduction to insurance and  
8.26 insurance-related concepts covering all of the major lines of authority except variable life  
8.27 and variable annuities. The course must consist of the following:

8.28 (1) rules, regulations, and law;

8.29 (2) basic fundamentals of insurance;

8.30 (3) property:

8.31 (i) types of policies;

8.32 (ii) policy provisions;



- 9.1 (iii) perils, exclusions, deductibles, and liability; and
- 9.2 (iv) evaluating needs;
- 9.3 (4) casualty:
- 9.4 (i) types of policies;
- 9.5 (ii) policy provisions;
- 9.6 (iii) perils, exclusions, deductibles, and liability; and
- 9.7 (iv) evaluating needs;
- 9.8 (5) life:
- 9.9 (i) types of policies;
- 9.10 (ii) policy provisions; and
- 9.11 (iii) group insurance; and
- 9.12 (6) accident and health:
- 9.13 (i) types of policies;
- 9.14 (ii) policy provisions; and
- 9.15 (iii) group insurance.
- 9.16 (c) ~~The second ten hours of insurance prelicense education must be composed of~~
- 9.17 ~~Courses that cover a specific major line of authority and consist of~~ must include the
- 9.18 following:
- 9.19 (1) life:
- 9.20 (i) types of life insurance policies; and
- 9.21 (ii) Minnesota laws, rules, and regulations pertinent to life insurance;
- 9.22 (2) accident and health:
- 9.23 (i) types of health insurance policies; and
- 9.24 (ii) Minnesota laws, rules, and regulations pertinent to accident and health insurance;
- 9.25 (3) property:
- 9.26 (i) personal lines;
- 9.27 (ii) commercial lines; and
- 9.28 (iii) Minnesota laws, rules, and regulations pertinent to property insurance.
- 9.29 (4) casualty:
- 9.30 (i) personal lines;
- 9.31 (ii) commercial lines; and
- 9.32 (iii) Minnesota laws, rules, and regulations pertinent to casualty insurance; and
- 9.33 (5) personal lines:
- 9.34 (i) types of property/casualty personal lines insurance policies; and
- 9.35 (ii) Minnesota laws, rules, and regulations pertinent to property/casualty personal
- 9.36 lines insurance.

10.1 **EFFECTIVE DATE.** This section is effective July 1, 2010.

10.2 Sec. 14. Minnesota Statutes 2008, section 61A.092, subdivision 3, is amended to read:

10.3 Subd. 3. **Notice of options.** Upon termination of or layoff from employment  
10.4 of a covered employee, the employer shall inform the employee within 14 days after  
10.5 termination or layoff of:

10.6 (1) the employee's right to elect to continue the coverage;

10.7 (2) the amount the employee must pay monthly to the employer to retain the  
10.8 coverage;

10.9 (3) the manner in which and the office of the employer to which the payment to  
10.10 the employer must be made; and

10.11 (4) the time by which the payments to the employer must be made to retain coverage.

10.12 The employee has 60 days within which to elect coverage. The 60-day period shall  
10.13 begin to run on the date coverage would otherwise terminate or on the date upon which  
10.14 notice of the right to coverage is received, whichever is later.

10.15 If the covered employee or covered dependent dies during the 60-day election period  
10.16 and before the covered employee makes an election to continue or reject continuation,  
10.17 then the covered employee will be considered to have elected continuation of coverage.  
10.18 The beneficiary previously selected by the former employee or covered dependent would  
10.19 then be entitled to a death benefit equal to the amount of insurance that could have been  
10.20 continued less any unpaid premium owing as of the date of death.

10.21 Notice must be in writing and sent by first class mail to the employee's last known  
10.22 address which the employee has provided to the employer.

10.23 A notice in substantially the following form is sufficient: "As a terminated or laid  
10.24 off employee, the law authorizes you to maintain your group insurance benefits, in an  
10.25 amount equal to the amount of insurance in effect on the date you terminated or were laid  
10.26 off from employment, for a period of up to 18 months. To do so, you must notify your  
10.27 former employer within 60 days of your receipt of this notice that you intend to retain this  
10.28 coverage and must make a monthly payment of \$..... at ..... by the ..... of  
10.29 each month."

10.30 Sec. 15. Minnesota Statutes 2008, section 62A.046, subdivision 6, is amended to read:

10.31 Subd. 6. **Coordination of benefits.** Insurers, vendors of risk management  
10.32 services, nonprofit health service plan corporations, fraternal, and health maintenance  
10.33 organizations may coordinate benefits to prohibit greater than 100 percent coverage when  
10.34 an insured, subscriber, or enrollee is covered by both an individual and a group contract

11.1 providing coverage for hospital and medical treatment or expenses. Benefits coordinated  
11.2 under this paragraph must provide for 100 percent coverage of an insured, subscriber,  
11.3 or enrollee. To the extent appropriate, all coordination of benefits provisions currently  
11.4 applicable by law or rule to insurers, vendors of risk management services, nonprofit  
11.5 health service plan corporations, fraternal, and health maintenance organizations, shall  
11.6 apply to coordination of benefits between individual and group contracts, ~~except that the~~  
11.7 ~~group contract shall always be the primary plan.~~ Notwithstanding the definition of "plan"  
11.8 in Minnesota Rules, part 2742.0200, subpart 2, and in Minnesota Rules, part 4685.0910,  
11.9 subpart 7, an individual contract must coordinate benefits with a group contract under this  
11.10 subdivision consistent with applicable coordination of benefit rules. When a covered  
11.11 person's other coverage is Medicare or TRICARE, a health plan company must determine  
11.12 primacy and coordinate benefits in accordance with the Medicare Secondary Payor or  
11.13 TRICARE provisions of federal law. This paragraph does not apply to specified accident,  
11.14 hospital indemnity, specified disease, or other limited benefit insurance policies.

11.15 Sec. 16. Minnesota Statutes 2008, section 62A.046, is amended by adding a  
11.16 subdivision to read:

11.17 Subd. 7. **High-deductible health plans.** If a health carrier is advised by a covered  
11.18 person that all health plans covering the person are high-deductible health plans and  
11.19 the person intends to contribute to a health savings account established in accordance  
11.20 with section 223 of the Internal Revenue Code of 1986, the primary high-deductible  
11.21 health plan's deductible is not an allowable expense, except for any health care expense  
11.22 incurred that may not be subject to the deductible as described in section 223(c)(2)(C) of  
11.23 the Internal Revenue Code of 1986.

11.24 Sec. 17. Minnesota Statutes 2008, section 62A.17, subdivision 5, is amended to read:

11.25 Subd. 5. **Notice of options.** Upon the termination of or lay off from employment of  
11.26 an eligible employee, the employer shall inform the employee within ~~ten~~ 14 days after  
11.27 termination or lay off of:

11.28 ~~(a)~~ (1) the right to elect to continue the coverage;

11.29 ~~(b)~~ (2) the amount the employee must pay monthly to the employer to retain the  
11.30 coverage;

11.31 ~~(c)~~ (3) the manner in which and the office of the employer to which the payment to  
11.32 the employer must be made; and

11.33 ~~(d)~~ (4) the time by which the payments to the employer must be made to retain  
11.34 coverage.

12.1 If the policy, contract, or health care plan is administered by a trust, the employer is  
12.2 relieved of the obligation imposed by clauses ~~(a)~~ (1) to ~~(d)~~ (4). The trust shall inform the  
12.3 employee of the information required by clauses ~~(a)~~ (1) to ~~(d)~~ (4).

12.4 The employee shall have 60 days within which to elect coverage. The 60-day period  
12.5 shall begin to run on the date plan coverage would otherwise terminate or on the date upon  
12.6 which notice of the right to coverage is received, whichever is later.

12.7 Notice must be in writing and sent by first class mail to the employee's last known  
12.8 address which the employee has provided the employer or trust.

12.9 A notice in substantially the following form shall be sufficient: "As a terminated or  
12.10 laid off employee, the law authorizes you to maintain your group medical insurance for  
12.11 a period of up to 18 months. To do so you must notify your former employer within 60  
12.12 days of your receipt of this notice that you intend to retain this coverage and must make a  
12.13 monthly payment of \$..... to ..... at ..... by the ..... of each month."

12.14 Sec. 18. Minnesota Statutes 2008, section 62A.3099, subdivision 17, is amended to  
12.15 read:

12.16 Subd. 17. **Medicare-related coverage.** "Medicare-related coverage" means a  
12.17 policy, contract, or certificate issued as a supplement to Medicare, regulated under  
12.18 sections 62A.3099 to 62A.44, including Medicare select coverage; policies, contracts,  
12.19 or certificates that supplement Medicare issued by health maintenance organizations; or  
12.20 policies, contracts, or certificates governed by section 1833 (known as "~~cost~~" or "HCPP"  
12.21 contracts) or 1876 (known as "~~TEFRA~~" or "~~risk~~" "Cost" contracts) of the federal Social  
12.22 Security Act, United States Code, title 42, section 1395, et seq., as amended; or Section  
12.23 4001 of the Balanced Budget Act of 1997 (BBA)(Public Law 105-33), Sections 1851 to  
12.24 1859 of the Social Security Act establishing Part C of the Medicare program, known as  
12.25 the "Medicare Advantage program."

12.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.27 Sec. 19. Minnesota Statutes 2009 Supplement, section 62A.3099, subdivision 18,  
12.28 is amended to read:

12.29 Subd. 18. **Medicare supplement policy or certificate.** "Medicare supplement  
12.30 policy or certificate" means a group or individual policy of accident and sickness insurance  
12.31 or a subscriber contract of hospital and medical service associations or health maintenance  
12.32 organizations, other than those policies or certificates covered by section ~~1833~~ 1876 of the  
12.33 federal Social Security Act, United States Code, title 42, section 1395, et seq., or an issued  
12.34 policy under a demonstration project specified under amendments to the federal Social

13.1 Security Act, which is advertised, marketed, or designed primarily as a supplement to  
13.2 reimbursements under Medicare for the hospital, medical, or surgical expenses of persons  
13.3 eligible for Medicare or as a supplement to Medicare Advantage plans established under  
13.4 Medicare Part C. "Medicare supplement policy" does not include Medicare Advantage  
13.5 plans established under Medicare Part C, outpatient prescription drug plans established  
13.6 under Medicare Part D, ~~or~~ any health care prepayment plan that provides benefits under an  
13.7 agreement under section 1833(a)(1)(A) of the Social Security Act, or any policy issued to  
13.8 an employer or employers or to the trustee of a fund established by an employer where  
13.9 only employees or retirees, and dependents of employees or retirees, are eligible for  
13.10 coverage, or any policy issued to a labor union or similar employee organization.

13.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

13.12 Sec. 20. Minnesota Statutes 2008, section 62A.65, subdivision 2, is amended to read:

13.13 Subd. 2. **Guaranteed renewal.** No individual health plan may be offered, sold,  
13.14 issued, or renewed to a Minnesota resident unless the health plan provides that the plan  
13.15 is guaranteed renewable at a premium rate that does not take into account the claims  
13.16 experience or any change in the health status of any covered person that occurred after  
13.17 the initial issuance of the health plan to the person. The premium rate upon renewal  
13.18 must also otherwise comply with this section. A health carrier must not refuse to renew  
13.19 an individual health plan ~~prior to enrollment in Medicare Parts A and B~~, except for  
13.20 nonpayment of premiums, fraud, or misrepresentation.

13.21 Sec. 21. Minnesota Statutes 2008, section 62E.02, subdivision 15, is amended to read:

13.22 Subd. 15. **Medicare.** "Medicare" means ~~part A and part B of the United States~~  
13.23 ~~Social Security Act, title XVIII, as amended, United States Code, title 42, sections 1394, et~~  
13.24 ~~seq.~~ the Health Insurance for the Aged Act, title XVIII of the Social Security Amendments  
13.25 of 1965, United States Code, title 42, sections 1395 to 1395hhh, as amended, or title I,  
13.26 part I, of Public Law 89-97, as amended.

13.27 Sec. 22. Minnesota Statutes 2008, section 62E.14, subdivision 4c, is amended to read:

13.28 Subd. 4c. **Waiver of preexisting conditions for persons whose coverage is**  
13.29 **terminated or who exceed the maximum lifetime benefit.** (a) A Minnesota resident  
13.30 may enroll in the comprehensive health plan with a waiver of the preexisting condition  
13.31 limitation described in subdivision 3 if that persons's application for coverage is received  
13.32 by the writing carrier no later than 90 days after termination of prior coverage and if the  
13.33 termination is for reasons other than fraud or nonpayment of premiums.

14.1 For purposes of this paragraph, termination of prior coverage includes exceeding the  
14.2 maximum lifetime benefit of existing coverage.

14.3 Coverage in the comprehensive health plan is effective on the date of termination  
14.4 of prior coverage. The availability of conversion rights does not affect a person's rights  
14.5 under this paragraph.

14.6 This section does not apply to prior coverage provided under policies designed  
14.7 primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense  
14.8 incurred basis, or policies providing only accident coverage.

14.9 (b) An eligible individual, as defined under the Health Insurance Portability and  
14.10 Accountability Act (HIPAA), United States Code, chapter 42, section 300gg-41(b) may  
14.11 enroll in the comprehensive health insurance plan with a waiver of the preexisting  
14.12 condition limitation described in subdivision 3 and a waiver of the evidence of rejection or  
14.13 similar events described in subdivision 1, clause (c). The eligible individual must apply  
14.14 for enrollment under this paragraph by submitting a substantially complete application  
14.15 that is received by the writing carrier no later than 63 days after termination of prior  
14.16 coverage, and coverage under the comprehensive health insurance plan is effective as  
14.17 of the date of receipt of the complete application. The six-month durational residency  
14.18 requirement provided in section 62E.02, subdivision 13, does not apply with respect to  
14.19 eligibility for enrollment under this paragraph, but the applicant must be a Minnesota  
14.20 resident as of the date that the application was received by the writing carrier. A person's  
14.21 eligibility to enroll under this paragraph does not affect the person's eligibility to enroll  
14.22 under any other provision.

14.23 (c) A qualifying individual, as defined in the Internal Revenue Code of 1986, section  
14.24 35(e)(2)(B), who is eligible under the Federal Trade Act of 2002 for the ~~credit~~ Health  
14.25 Coverage Tax Credit (HCTC) for health insurance costs under the Internal Revenue Code  
14.26 of 1986, section 35, may enroll in the comprehensive health insurance plan with a waiver  
14.27 of the preexisting condition limitation described in subdivision 3, and without presenting  
14.28 evidence of rejection or similar requirements described in subdivision 1, paragraph (c).  
14.29 The six-month durational residency requirement provided in section 62E.02, subdivision  
14.30 13, does not apply with respect to eligibility for enrollment under this paragraph, but the  
14.31 applicant must be a Minnesota resident as of the date of application. A person's eligibility  
14.32 to enroll under this paragraph does not affect the person's eligibility to enroll under any  
14.33 other provision. This paragraph is intended solely to meet the minimum requirements  
14.34 necessary to qualify the comprehensive health insurance plan as qualified health coverage  
14.35 under the Internal Revenue Code of 1986, section 35(e)(2).

15.1 Sec. 23. Minnesota Statutes 2008, section 62L.05, subdivision 4, is amended to read:

15.2 Subd. 4. **Benefits.** The medical services and supplies listed in this subdivision are  
15.3 the benefits that must be covered by the small employer plans described in subdivisions  
15.4 2 and 3. Benefits under this subdivision may be provided through the managed care  
15.5 procedures practiced by health carriers:

15.6 (1) inpatient and outpatient hospital services, excluding services provided for the  
15.7 diagnosis, care, or treatment of chemical dependency or a mental illness or condition,  
15.8 other than those conditions specified in clauses (10), and (11), ~~and (12)~~. The health  
15.9 care services required to be covered under this clause must also be covered if rendered  
15.10 in a nonhospital environment, on the same basis as coverage provided for those same  
15.11 treatments or services if rendered in a hospital, provided, however, that this sentence must  
15.12 not be interpreted as expanding the types or extent of services covered;

15.13 (2) physician, chiropractor, and nurse practitioner services for the diagnosis or  
15.14 treatment of illnesses, injuries, or conditions;

15.15 (3) diagnostic x-rays and laboratory tests;

15.16 (4) ground transportation provided by a licensed ambulance service to the nearest  
15.17 facility qualified to treat the condition, or as otherwise required by the health carrier;

15.18 (5) services of a home health agency if the services qualify as reimbursable services  
15.19 under Medicare;

15.20 (6) services of a private duty registered nurse if medically necessary, as determined  
15.21 by the health carrier;

15.22 (7) the rental or purchase, as appropriate, of durable medical equipment, other than  
15.23 eyeglasses and hearing aids, unless coverage is required under section 62Q.675;

15.24 (8) child health supervision services up to age 18, as defined in section 62A.047;

15.25 (9) maternity and prenatal care services, as defined in sections 62A.041 and 62A.047;

15.26 (10) inpatient hospital and outpatient services for the diagnosis and treatment of  
15.27 certain mental illnesses or conditions, as defined by the International Classification of  
15.28 Diseases-Clinical Modification (ICD-9-CM), seventh edition (1990) and as classified  
15.29 as ICD-9 codes 295 to 299; and

15.30 ~~(11) ten hours per year of outpatient mental health diagnosis or treatment for~~  
15.31 ~~illnesses or conditions not described in clause (10);~~

15.32 ~~(12) 60 hours per year of outpatient treatment of chemical dependency; and~~

15.33 ~~(13)~~ (11) 50 percent of eligible charges for prescription drugs, up to a separate  
15.34 annual maximum out-of-pocket expense of \$1,000 per individual for prescription drugs,  
15.35 and 100 percent of eligible charges thereafter.

16.1 Sec. 24. Minnesota Statutes 2008, section 62S.24, subdivision 8, is amended to read:

16.2 Subd. 8. **Exchange for long-term care partnership policy; addition of policy**  
16.3 **rider.** (a) ~~If authorized by federal law or a federal waiver is granted~~ With respect to the  
16.4 long-term care partnership program referenced in section 256B.0571, issuers of long-term  
16.5 care policies may voluntarily exchange a current long-term care insurance policy for a  
16.6 long-term care partnership policy that meets the requirements of Public Law 109-171,  
16.7 section 6021, after the effective date of the state plan amendment implementing the  
16.8 partnership program in this state. The exchange may be in the form of: (1) an amendment  
16.9 or rider; or (2) a disclosure statement indicating that the coverage is now partnership  
16.10 qualified.

16.11 (b) ~~If authorized by federal law or a federal waiver is granted~~ With respect to the  
16.12 long-term care partnership program referenced in section 256B.0571, ~~allowing to allow an~~  
16.13 existing long-term care insurance policy to qualify as a partnership policy by addition of a  
16.14 policy rider or amendment or disclosure statement, the issuer of the policy is authorized to  
16.15 add the rider or amendment or disclosure statement to the policy after the effective date of  
16.16 the state plan amendment implementing the partnership program in this state.

16.17 (c) The commissioner, in cooperation with the commissioner of human services,  
16.18 shall pursue any federal law changes or waivers necessary to allow the implementation  
16.19 of paragraphs (a) and (b).

16.20 Sec. 25. Minnesota Statutes 2008, section 62S.266, subdivision 4, is amended to read:

16.21 Subd. 4. **Contingent benefit upon lapse.** (a) After rejection of the offer required  
16.22 under subdivision 2, for individual and group policies without nonforfeiture benefits  
16.23 issued after July 1, 2001, the insurer shall provide a contingent benefit upon lapse.

16.24 (b) If a group policyholder elects to make the nonforfeiture benefit an option to  
16.25 the certificate holder, a certificate shall provide either the nonforfeiture benefit or the  
16.26 contingent benefit upon lapse.

16.27 (c) The contingent benefit on lapse must be triggered every time an insurer increases  
16.28 the premium rates to a level which results in a cumulative increase of the annual premium  
16.29 equal to or exceeding the percentage of the insured's initial annual premium based on  
16.30 the insured's issue age provided in this paragraph, and the policy or certificate lapses  
16.31 within 120 days of the due date of the premium increase. Unless otherwise required,  
16.32 policyholders shall be notified at least 30 days prior to the due date of the premium  
16.33 reflecting the rate increase.



17.1	Triggers for a Substantial Premium Increase	
17.2	Issue Age	Percent Increase Over Initial Premium
17.4	29 and Under	200
17.5	30-34	190
17.6	35-39	170
17.7	40-44	150
17.8	45-49	130
17.9	50-54	110
17.10	55-59	90
17.11	60	70
17.12	61	66
17.13	62	62
17.14	63	58
17.15	64	54
17.16	65	50
17.17	66	48
17.18	67	46
17.19	68	44
17.20	69	42
17.21	70	40
17.22	71	38
17.23	72	36
17.24	73	34
17.25	74	32
17.26	75	30
17.27	76	28
17.28	77	26
17.29	78	24
17.30	79	22
17.31	80	20
17.32	81	19
17.33	82	18
17.34	83	17
17.35	84	16
17.36	85	15
17.37	86	14
17.38	87	13
17.39	88	12
17.40	89	11
17.41	90 and over	10

17.42 (d) A contingent benefit on lapse must also be triggered for policies with a fixed  
 17.43 or limited premium paying period every time an insurer increases the premium rates to a

18.1 level that results in a cumulative increase of the annual premium equal to or exceeding the  
18.2 percentage of the insured's initial annual premium set forth below based on the insured's  
18.3 issue age, the policy or certificate lapses within 120 days of the due date of the premium  
18.4 so increased, and the ratio in paragraph ~~(e)~~ (f), clause (2), is 40 percent or more. Unless  
18.5 otherwise required, policyholders shall be notified at least 30 days prior to the due date of  
18.6 the premium reflecting the rate increase.

18.7 Triggers for a Substantial Premium Increase

18.8	Issue Age	Percent Increase Over Initial Premium
18.9	Under 65	50%
18.10	65-80	30%
18.11	Over 80	10%

18.12 This provision shall be in addition to the contingent benefit provided by paragraph  
18.13 (c) and where both are triggered, the benefit provided must be at the option of the insured.

18.14 (e) On or before the effective date of a substantial premium increase as defined in  
18.15 paragraph (c), the insurer shall:

18.16 (1) offer to reduce policy benefits provided by the current coverage without the  
18.17 requirement of additional underwriting so that required premium payments are not  
18.18 increased;

18.19 (2) offer to convert the coverage to a paid-up status with a shortened benefit period  
18.20 according to the terms of subdivision 5. This option may be elected at any time during the  
18.21 120-day period referenced in paragraph (c); and

18.22 (3) notify the policyholder or certificate holder that a default or lapse at any time  
18.23 during the 120-day period referenced in paragraph (c) is deemed to be the election of  
18.24 the offer to convert in clause (2).

18.25 (f) On or before the effective date of a substantial premium increase as defined in  
18.26 paragraph (d), the insurer shall:

18.27 (1) offer to reduce policy benefits provided by the current coverage without the  
18.28 requirement of additional underwriting so that required premium payments are not  
18.29 increased;

18.30 (2) offer to convert the coverage to a paid-up status where the amount payable for  
18.31 each benefit is 90 percent of the amount payable in effect immediately prior to lapse times  
18.32 the ratio of the number of completed months of paid premiums divided by the number of  
18.33 months in the premium paying period. This option may be elected at any time during the  
18.34 120-day period referenced in paragraph (d); and

18.35 (3) notify the policyholder or certificate holder that a default or lapse at any time  
18.36 during the 120-day period referenced in paragraph (d) shall be deemed to be the election  
18.37 of the offer to convert in clause (2) if the ratio is 40 percent or more.

19.1 Sec. 26. Minnesota Statutes 2008, section 62S.29, subdivision 1, is amended to read:

19.2 Subdivision 1. **Requirements.** An insurer or other entity marketing long-term care  
19.3 insurance coverage in this state, directly or through its producers, shall:

19.4 (1) establish marketing procedures and agent training requirements to assure that  
19.5 any marketing activities, including any comparison of policies by its agents or other  
19.6 producers, are fair and accurate;

19.7 (2) establish marketing procedures to assure excessive insurance is not sold or issued;

19.8 (3) display prominently by type, stamp, or other appropriate means, on the first page  
19.9 of the outline of coverage and policy, the following:

19.10 "Notice to buyer: This policy may not cover all of the costs associated with  
19.11 long-term care incurred by the buyer during the period of coverage. The buyer is advised  
19.12 to review carefully all policy limitations.";

19.13 (4) provide copies of the disclosure forms required in section 62S.081, subdivision  
19.14 4, to the applicant;

19.15 (5) inquire and otherwise make every reasonable effort to identify whether a  
19.16 prospective applicant or enrollee for long-term care insurance already has long-term care  
19.17 insurance and the types and amounts of the insurance;

19.18 (6) establish auditable procedures for verifying compliance with this subdivision;

19.19 (7) if applicable, provide written notice to the prospective policyholder and  
19.20 certificate holder, at solicitation, that a senior insurance counseling program approved by  
19.21 the commissioner, the Senior LinkAge Line, is available and the name, address, and  
19.22 telephone number of the program;

19.23 (8) use the terms "noncancelable" or "level premium" only when the policy or  
19.24 certificate conforms to section 62S.14; and

19.25 (9) provide an explanation of contingent benefit upon lapse provided for in section  
19.26 62S.266.

19.27 Sec. 27. Minnesota Statutes 2009 Supplement, section 65A.29, subdivision 13, is  
19.28 amended to read:

19.29 Subd. 13. **Notice of possible cancellation.** (a) A written notice must be provided  
19.30 to all applicants for homeowners' insurance, at the time the application is submitted,  
19.31 containing the following language in bold print: "THE INSURER MAY ELECT  
19.32 TO CANCEL COVERAGE AT ANY TIME DURING THE FIRST ~~60~~ 59 DAYS  
19.33 FOLLOWING ISSUANCE OF THE COVERAGE FOR ANY REASON WHICH IS  
19.34 NOT SPECIFICALLY PROHIBITED BY STATUTE."

20.1 (b) If the insurer provides the notice on the insurer's Web site, the insurer or agent  
20.2 may advise the applicant orally or in writing of its availability for review on the insurer's  
20.3 Web site in lieu of providing a written notice, if the insurer advises the applicant of the  
20.4 availability of a written notice upon the applicant's request. The insurer shall provide the  
20.5 notice in writing if requested by the applicant. An oral notice shall be presumed delivered  
20.6 if the agent or insurer makes a contemporaneous notation in the applicant's record of  
20.7 the notice having been delivered or if the insurer or agent retains an audio recording of  
20.8 the notification provided to the applicant.

20.9 Sec. 28. Minnesota Statutes 2008, section 72A.08, subdivision 4, is amended to read:

20.10 Subd. 4. **Exceptions.** (a) The provisions of this section shall not apply to any policy  
20.11 procured by officers, agents, subagents, employees, intermediaries, or representatives  
20.12 wholly and solely upon property of which they are, respectively, the owner at the time of  
20.13 procuring the policy, where the officers, agents, subagents, employees, intermediaries, or  
20.14 representatives are, and have been for more than six months prior to the issuing of the  
20.15 policy, regularly employed by, or connected with, the company or association issuing the  
20.16 policy; and any life insurance company doing business in this state may issue industrial  
20.17 policies of life or endowment insurance, with or without annuities, with special rates of  
20.18 premiums less than the usual rates of premiums for these policies, to members of labor  
20.19 organizations, credit unions, lodges, beneficial societies, or similar organizations, or  
20.20 employees of one employer, who, through their secretary or employer, may take out  
20.21 insurance in an aggregate of not less than 50 members and pay their premiums through  
20.22 the secretary or employer.

20.23 (b) A promotional advertising item of \$25 or less or a gift of \$25 or less per year  
20.24 is not a rebate if the receipt of the item or gift is not conditioned upon purchase of an  
20.25 insurance policy or product.

20.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

20.27 Sec. 29. Minnesota Statutes 2008, section 72A.12, subdivision 4, is amended to read:

20.28 Subd. 4. **Discrimination; rebates.** (a) No life insurance company doing business in  
20.29 this state shall make or permit any distinction or discrimination in favor of individuals  
20.30 between insureds of the same class and equal expectation of life in the amount or  
20.31 payment of premiums or rates charged for policies of life or endowment insurance,  
20.32 or in the dividends or other benefits payable thereon, or in any other of the terms and  
20.33 conditions of the contracts it makes; nor shall any such company or agent thereof make  
20.34 any contract of insurance or agreement as to such contract other than as plainly expressed

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21.1 in the policy issued thereon; nor shall any such company or any officer, agent, solicitor,  
21.2 or representative thereof pay, allow or give, or offer to pay, allow or give, directly or  
21.3 indirectly, as inducement to insurance, any rebate of premium payable on the policy, or  
21.4 any special favor or advantage in the dividends or other benefits to accrue thereon or any  
21.5 paid employment or contract for services of any kind, or any valuable consideration or  
21.6 inducement whatever not specified in the policy contract of insurance.

21.7 Any violation of the provisions of this subdivision shall be a misdemeanor and  
21.8 punishable as such.

21.9 (b) A promotional advertising item of \$25 or less or a gift of \$25 or less per year  
21.10 is not a rebate if the receipt of the item or gift is not conditioned upon purchase of an  
21.11 insurance policy or product.

21.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

21.13 Sec. 30. Minnesota Statutes 2008, section 72A.20, subdivision 10, is amended to read:

21.14 Subd. 10. **Rebates.** (a) Except as otherwise expressly provided by law, knowingly  
21.15 permitting or offering to make or making any contract of life insurance, annuity, or  
21.16 accident and health insurance, or agreement as to such contract, other than as plainly  
21.17 expressed in the contract issued thereon, or paying or allowing or giving, or offering to  
21.18 pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity, any  
21.19 rebate of premiums payable on the contract, or any special favor or advantage in the  
21.20 dividends or other benefits thereon, or any valuable consideration or inducement whatever  
21.21 not specified in the contract; or giving or selling or purchasing, or offering to give, sell,  
21.22 or purchase, as inducement to such insurance or annuity, or in connection therewith,  
21.23 any stocks, bonds, or other securities of any insurance company or other corporation,  
21.24 association, or partnership, or any dividends or profits accrued thereon, or anything  
21.25 of value whatsoever not specified in the contract, shall constitute an unfair method of  
21.26 competition and an unfair and deceptive act or practice.

21.27 (b) A promotional advertising item of \$25 or less or a gift of \$25 or less per year  
21.28 is not a rebate if the receipt of the item or gift is not conditioned upon purchase of an  
21.29 insurance policy or product.

21.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

21.31 Sec. 31. Minnesota Statutes 2008, section 72A.20, subdivision 36, is amended to read:

21.32 Subd. 36. **Limitations on the use of credit information.** (a) No insurer or group of  
21.33 affiliated insurers may reject, cancel, or nonrenew a policy of private passenger motor

22.1 vehicle insurance as defined under section 65B.01 or a policy of homeowner's insurance  
22.2 as defined under section 65A.27, for any person in whole or in part on the basis of credit  
22.3 information, including a credit reporting product known as a "credit score" or "insurance  
22.4 score," without consideration and inclusion of any other applicable underwriting factor.

22.5 (b) If credit information, credit scoring, or insurance scoring is to be used in  
22.6 underwriting, the insurer must disclose to the consumer that credit information will be  
22.7 obtained and used as part of the insurance underwriting process.

22.8 (c) Insurance inquiries and non-consumer-initiated inquiries must not be used as part  
22.9 of the credit scoring or insurance scoring process.

22.10 (d) If a credit score, insurance score, or other credit information relating to a  
22.11 consumer, with respect to the types of insurance referred to in paragraph (a), is adversely  
22.12 impacted or cannot be generated because of the absence of a credit history, the insurer  
22.13 must exclude the use of credit as a factor in the decision to reject, cancel, or nonrenew.

22.14 (e) Insurers must upon the request of a policyholder reevaluate the policyholder's  
22.15 score. Any change in premium resulting from the reevaluation must be effective upon  
22.16 the renewal of the policy. An insurer is not required to reevaluate a policyholder's score  
22.17 pursuant to this paragraph more than twice in any given calendar year.

22.18 (f) Insurers must upon request of the applicant or policyholder provide reasonable  
22.19 underwriting exceptions based upon prior credit histories for persons whose credit  
22.20 information is unduly influenced by expenses related to a catastrophic injury or illness,  
22.21 temporary loss of employment, or the death of an immediate family member. The insurer  
22.22 may require reasonable documentation of these events prior to granting an exception.

22.23 (g) A credit scoring or insurance scoring methodology must not be used by an  
22.24 insurer if the credit scoring or insurance scoring methodology incorporates the gender,  
22.25 race, nationality, or religion of an insured or applicant.

22.26 (h) Insurers that employ a credit scoring or insurance scoring system in underwriting  
22.27 of coverage described in paragraph (a) must have on file with the commissioner:

22.28 (1) the insurer's credit scoring or insurance scoring methodology; and

22.29 (2) information that supports the insurer's use of a credit score or insurance score as  
22.30 an underwriting criterion.

22.31 (i) Insurers described in paragraph ~~(g)~~ (h) shall file the required information with the  
22.32 commissioner within 120 days of August 1, 2002, or prior to implementation of a credit  
22.33 scoring or insurance scoring system by the insurer, if that date is later.

22.34 (j) Information provided by, or on behalf of, an insurer to the commissioner under  
22.35 this subdivision is trade secret information under section 13.37.

23.1 Sec. 32. Minnesota Statutes 2008, section 72A.20, subdivision 37, is amended to read:

23.2 Subd. 37. **Electronic transmission of required information.** (a) A health carrier,  
23.3 as defined in section 62A.011, subdivision 2, is not in violation of this chapter for  
23.4 electronically transmitting or electronically making available information otherwise  
23.5 required to be delivered in writing under chapters 62A to 62Q and 72A to an enrollee as  
23.6 defined in section 62Q.01, subdivision 2a, or to a health plan as defined in paragraph (b),  
23.7 and with the requirements of those chapters if the following conditions are met:

23.8 (1) the health carrier informs the group policyholder or the enrollee or both that  
23.9 electronic transmission or access is available and, at the discretion of the health carrier, the  
23.10 enrollee is given one of the following options:

23.11 (i) electronic transmission or access will occur only if the group policyholder or the  
23.12 enrollee or both affirmatively requests to the health carrier that the required information  
23.13 be electronically transmitted or available and a record of that request is retained by the  
23.14 health carrier; or

23.15 (ii) electronic transmission or access will automatically occur if the group  
23.16 policyholder or the enrollee or both has not opted out of that manner of transmission by  
23.17 request to the health carrier and requested that the information be provided in writing. If  
23.18 the group policyholder or the enrollee or both opts out of electronic transmission, a record  
23.19 of that request must be retained by the health carrier;

23.20 (2) the group policyholder or the enrollee or both is allowed to withdraw the request  
23.21 at any time;

23.22 (3) if the information transmitted electronically contains individually identifiable  
23.23 data, it must be transmitted to a secured mailbox. If the information made available  
23.24 electronically contains individually identifiable data, it must be made available at a  
23.25 password-protected secured Web site;

23.26 (4) the group policyholder or the enrollee or both is provided a customer service  
23.27 number on the enrollee's member card that may be called to request a written copy of  
23.28 the document; and

23.29 (5) the electronic transmission or electronic availability meets all other requirements  
23.30 of this chapter including, but not limited to, size of the typeface and any required time  
23.31 frames for distribution.

23.32 (b) For the purpose of this section, "health plan" means a health plan as defined  
23.33 in section 62A.011 or a policy of accident and sickness insurance as defined in section  
23.34 62A.01.

23.35 Sec. 33. Minnesota Statutes 2008, section 72A.492, subdivision 2, is amended to read:

24.1 Subd. 2. **Covered persons.** The rights granted by sections 72A.49 to 72A.505  
24.2 extend to:

24.3 ~~(1) a person who is a resident of this state and is the subject of information collected,~~  
24.4 ~~received, or maintained in connection with an insurance transaction; and~~

24.5 ~~(2) a person who is a resident of this state and engages in or seeks to engage in~~  
24.6 ~~an insurance transaction.~~

24.7 Sec. 34. Minnesota Statutes 2008, section 72A.51, subdivision 2, is amended to read:

24.8 Subd. 2. **Return of policy or contract; notice.** Any individual person may cancel  
24.9 an individual policy of insurance against loss or damage by reason of the sickness of the  
24.10 assured or the assured's dependents, a nonprofit health service plan contract providing  
24.11 benefits for hospital, surgical and medical care, a health maintenance organization  
24.12 subscriber contract, or a policy of insurance authorized by section 60A.06, subdivision 1,  
24.13 clause (4), except Medicare-related coverage as defined in section 62A.3099, subdivision  
24.14 17, and long-term care insurance as defined in section 62S.01, subdivision 18, by  
24.15 returning the policy or contract and by giving written notice of cancellation any time  
24.16 before midnight of the tenth day following the date of purchase. Notice of cancellation  
24.17 may be given personally or by mail. The policy or contract may be returned personally or  
24.18 by mail. If by mail, the notice or return of the policy or contract is effective upon being  
24.19 postmarked, properly addressed and postage prepaid.

24.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

24.21 Sec. 35. Minnesota Statutes 2008, section 72B.01, is amended to read:

24.22 **72B.01 PURPOSE AND SCOPE.**

24.23 It is the purpose of sections 72B.01 to 72B.14 to provide high quality service to  
24.24 insureds and insurance claimants in the state of Minnesota by providing for well trained  
24.25 adjusters and persons engaged in soliciting business for adjusters, who are qualified to deal  
24.26 with the public in the interest of a fair resolution of insurance claims. ~~Sections 72B.01 to~~  
24.27 ~~72B.14 shall apply to all adjusters, and adjusters' solicitors, except as specifically stated to~~  
24.28 ~~the contrary; but nothing in sections 72B.01 to 72B.14 shall apply to:~~

24.29 ~~(a) An attorney at law who is licensed or otherwise allowed to practice law in this~~  
24.30 ~~state and who does not hold out to be an adjuster, or adjuster's solicitor.~~

24.31 ~~(b) A licensed agent of an authorized insurer who adjusts losses for such insurer~~  
24.32 ~~solely under policies issued by the agent or the agent's agency or on which the agent is the~~  
24.33 ~~agent of record, provided the agent receives no extra compensation for such services.~~



25.1 ~~(c) Personnel of township mutual companies.~~

25.2 ~~(d) Adjusters for crop hail and farm windstorm damage claims who are on the staff~~  
25.3 ~~of companies covering such risks.~~

25.4 ~~(e) Persons who process life insurance annuity contract or accident and health~~  
25.5 ~~insurance claims.~~

25.6 ~~(f) Persons processing or adjusting wet marine or inland transportation claims or~~  
25.7 ~~losses.~~

25.8 Sec. 36. Minnesota Statutes 2009 Supplement, section 72B.03, subdivision 2, is  
25.9 amended to read:

25.10 Subd. 2. **Classes of licenses.** (a) Unless denied licensure pursuant to section 72B.08,  
25.11 persons who have met the requirements of section ~~72B.04~~ 72B.041 must be issued an  
25.12 adjuster license. There shall be four classes of licenses, as follows:

25.13 (1) independent adjuster's license;

25.14 (2) public adjuster's license;

25.15 (3) public adjuster solicitor's license; and

25.16 (4) crop hail adjuster's license.

25.17 (b) An independent adjuster and a public adjuster may qualify for a license in one or  
25.18 more of the following lines of authority:

25.19 (1) property and casualty; or

25.20 (2) workers' compensation; or

25.21 (3) crop.

25.22 (c) Any person holding a license pursuant to this section is not required to hold any  
25.23 other independent adjuster, public adjuster, insurance, or self-insurance administrator  
25.24 license in this state pursuant to section 60A.23, subdivision 8, or any other provision,  
25.25 provided that the person does not act as an adjuster with respect to life, health, or annuity  
25.26 insurance, other than disability insurance.

25.27 (d) An adjuster license remains in effect unless probated, suspended, revoked, or  
25.28 refused as long as the fee set forth in section ~~72B.04, subdivision 10~~ 72B.041, subdivision  
25.29 9, is paid and all other requirements for license renewal are met by the due date, otherwise,  
25.30 the license expires.

25.31 (e) An adjuster whose license expires may, within 12 months of the renewal date,  
25.32 be reissued an adjuster license upon receipt of the renewal request, as prescribed by the  
25.33 commissioner; however, a penalty in the amount of double the unpaid renewal fee is  
25.34 required to reissue the expired license.

26.1 (f) An adjuster who is unable to comply with license renewal procedures and  
26.2 requirements due to military service, long-term medical disability, or some other  
26.3 extenuating circumstance may request a waiver of same and a waiver of any examination  
26.4 requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

26.5 (g) An adjuster is subject to sections 72A.17 to 72A.32.

26.6 (h) The adjuster must inform the commissioner by any means acceptable of any  
26.7 change in resident or business addresses for the home state or in legal name within 30  
26.8 days of the change.

26.9 (i) The license must contain the licensee's name, address, and personal identification  
26.10 number; the dates of issuance and expiration; and any other information the commissioner  
26.11 deems necessary.

26.12 (j) In order to assist in the performance of the commissioner's duties, the  
26.13 commissioner may contract with nongovernmental entities, including the National  
26.14 Association of Insurance Commissioners, its affiliates, or its subsidiaries, to perform any  
26.15 ministerial functions related to licensing that the commissioner may deem appropriate,  
26.16 including the collection of fees and data.

26.17 Sec. 37. Minnesota Statutes 2009 Supplement, section 72B.045, subdivision 1, is  
26.18 amended to read:

26.19 Subdivision 1. **Requirement.** An individual who holds an independent or public  
26.20 adjuster license and who is not exempt under this section must satisfactorily complete  
26.21 a minimum of 24 hours of continuing education courses, of which three hours must  
26.22 be in ethics, reported to the commissioner on a biennial basis in conjunction with the  
26.23 individual's license renewal cycle.

26.24 Sec. 38. Minnesota Statutes 2009 Supplement, section 72B.06, is amended to read:

26.25 **72B.06 CATASTROPHE OR EMERGENCY SITUATIONS.**

26.26 (a) ~~In the event of a declared catastrophe or the occurrence of an emergency~~  
26.27 ~~situation,~~ For purposes of this chapter, a catastrophe exists when, due to a specific,  
26.28 infrequent, and sudden natural or man-made disaster or phenomenon, there have arisen  
26.29 losses to property in Minnesota that are covered by insurance, and the losses are so  
26.30 numerous and severe that resolution of claims related to such covered property losses will  
26.31 not occur expeditiously without the licensing of emergency independent adjusters due to  
26.32 the magnitude of the catastrophic damage. A failure of claims to be resolved expeditiously  
26.33 shall exist upon an insurer's filing with the department a written statement that one of the  
26.34 following conditions exists: (1) the insurer expects to incur at least 500 claims as a result

27.1 of the event; or (2) the magnitude of the event is expected to generate twice the mean  
27.2 number of claims for one month for the affected area. Such written statement may be  
27.3 sent electronically to the commissioner. An insurer must notify the commissioner via an  
27.4 application for registration of each individual independent adjuster not already licensed in  
27.5 the state where the catastrophe has been declared or an emergency situation has occurred  
27.6 Minnesota, that will act as an emergency independent adjuster on behalf of the insurer  
27.7 pursuant to paragraph (b).

27.8 (b) A person who is otherwise qualified to adjust claims, but not already licensed in  
27.9 ~~the state where the catastrophe has been declared or an emergency situation has occurred~~  
27.10 Minnesota, may act as an emergency independent adjuster and adjust claims, if, within  
27.11 five days of deployment to adjust claims arising from the ~~declared catastrophe or the~~  
27.12 ~~occurrence of an emergency situation~~, the insurer or the independent adjuster's employer,  
27.13 in the notification required by paragraph (a), notifies the commissioner by providing the  
27.14 following information in a format prescribed by the commissioner:

27.15 (1) the name of the individual;

27.16 (2) the Social Security number of the individual;

27.17 (3) the name of the insurer the independent adjuster will represent;

27.18 (4) the effective date of the contract between the insurer and independent adjuster or  
27.19 the independent adjuster's employer;

27.20 (5) the catastrophe, ~~emergency situation,~~ or loss control number;

27.21 (6) the catastrophe ~~or emergency situation event~~ name; and

27.22 (7) other information the commissioner deems necessary.

27.23 (c) An emergency independent adjuster's license or registration remains in force for  
27.24 ~~the period of time established by the commissioner~~ 180 days; such license or registration  
27.25 shall be effective for all catastrophes described in paragraph (a), clauses (1) and (2). Such  
27.26 license or registration may be extended for 180 days.

27.27 The commissioner may summarily suspend or revoke the right of any person  
27.28 adjusting in this state under the authority of this section to continue to adjust in this state,  
27.29 if the commissioner finds that that person has engaged in any of the practices forbidden  
27.30 to a licensed adjuster under sections 72B.01 to 72B.14. Notice of such suspension or  
27.31 revocation may be given personally or by mail sent to the temporary address stated in the  
27.32 registration and to the insurer or independent adjusting firm company who submitted the  
27.33 independent adjuster information.

27.34 Sec. 39. Minnesota Statutes 2008, section 72B.08, subdivision 8, is amended to read:

28.1 Subd. 8. **Bond.** In the case of any licensee or permit holder who has had a license or  
28.2 permit suspended or revoked or whose license renewal has been prohibited by a lawful  
28.3 order of the commissioner, the commissioner may condition the issuance of a new license  
28.4 on the filing of a surety bond in an amount not to exceed \$10,000, made and conditioned in  
28.5 accordance with the requirements of section ~~72B.04, subdivision 4~~ 72B.041, subdivision  
28.6 3, relating to public adjusters' bonds. Nothing in this subdivision shall reduce or alter the  
28.7 bonding requirements for a public adjuster.

28.8 Sec. 40. Minnesota Statutes 2008, section 79A.03, subdivision 8, is amended to read:

28.9 Subd. 8. **Processing application.** The commissioner shall grant or deny the group's  
28.10 application to self-insure within 60 days after a complete application has been filed,  
28.11 provided that the time may be extended for an additional 30 days upon 15 days' prior  
28.12 notice to the applicant. The commissioner shall grant approval for self-insurance upon  
28.13 a determination that the financial ability of the self-insurer's group is sufficient to fulfill  
28.14 all joint and several obligations of the member companies that may arise under chapter  
28.15 176 or this chapter; the gross annual premium of the group members is at least ~~\$300,000~~  
28.16 150 percent of the WCRA minimum retention in effect at the time of the application; the  
28.17 group has established a fund pursuant to Minnesota Rules, parts 2780.4100 to 2780.5000;  
28.18 the group has contracted with a licensed workers' compensation service company to  
28.19 administer its program; and the required securities or surety bond shall be on deposit prior  
28.20 to the effective date of coverage for any member. Approval shall be effective until revoked  
28.21 by order of the commissioner or until the employer members of the group become insured.

28.22 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to  
28.23 applications processed on or after that date, but not to self-insured groups existing as of  
28.24 that date.

28.25 Sec. 41. Minnesota Statutes 2008, section 79A.06, subdivision 5, is amended to read:

28.26 Subd. 5. **Private employers who have ceased to be self-insured.** (a) Private  
28.27 employers who have ceased to be private self-insurers shall discharge their continuing  
28.28 obligations to secure the payment of compensation which is accrued during the period of  
28.29 self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance  
28.30 with all of the following obligations of current certificate holders:

28.31 (1) Filing reports with the commissioner to carry out the requirements of this chapter;

28.32 (2) Depositing and maintaining a security deposit for accrued liability for the  
28.33 payment of any compensation which may become due, pursuant to chapter 176. However,  
28.34 if a private employer who has ceased to be a private self-insurer purchases an insurance

29.1 policy from an insurer authorized to transact workers' compensation insurance in this state  
29.2 which provides coverage of all claims for compensation arising out of injuries occurring  
29.3 during the entire period the employer was self-insured, whether or not reported during  
29.4 that period, the policy will:

29.5 (i) discharge the obligation of the employer to maintain a security deposit for the  
29.6 payment of the claims covered under the policy;

29.7 (ii) discharge any obligation which the self-insurers' security fund has or may have  
29.8 for payment of all claims for compensation arising out of injuries occurring during the  
29.9 period the employer was self-insured, whether or not reported during that period; and

29.10 (iii) discharge the obligations of the employer to pay any future assessments to  
29.11 the self-insurers' security fund; provided, however, that a member that terminates its  
29.12 self-insurance authority on or after August 1, 2010, shall be liable for an assessment under  
29.13 paragraph (b). The actuarial opinion shall not take into consideration any transfer of the  
29.14 member's liabilities to an insurance policy if the member obtains a replacement policy as  
29.15 described in this subdivision within one year of the date of terminating its self-insurance.

29.16 A private employer who has ceased to be a private self-insurer may instead buy an  
29.17 insurance policy described above, except that it covers only a portion of the period of time  
29.18 during which the private employer was self-insured; purchase of such a policy discharges  
29.19 any obligation that the self-insurers' security fund has or may have for payment of all  
29.20 claims for compensation arising out of injuries occurring during the period for which the  
29.21 policy provides coverage, whether or not reported during that period.

29.22 A policy described in this clause may not be issued by an insurer unless it has  
29.23 previously been approved as to form and substance by the commissioner; and

29.24 (3) Paying within 30 days all assessments of which notice is sent by the security  
29.25 fund, for a period of seven years from the last day its certificate of self-insurance was in  
29.26 effect. Thereafter, the private employer who has ceased to be a private self-insurer may  
29.27 either: (i) continue to pay within 30 days all assessments of which notice is sent by the  
29.28 security fund until it has no incurred liabilities for the payment of compensation arising  
29.29 out of injuries during the period of self-insurance; or (ii) pay the security fund a cash  
29.30 payment equal to four percent of the net present value of all remaining incurred liabilities  
29.31 for the payment of compensation under sections 176.101 and 176.111 as certified by a  
29.32 member of the casualty actuarial society. Assessments shall be based on the benefits paid  
29.33 by the employer during the calendar year immediately preceding the calendar year in  
29.34 which the employer's right to self-insure is terminated or withdrawn.

29.35 (b) With respect to a self-insurer who terminates its self-insurance authority after  
29.36 April 1, 1998, that member shall obtain and file with the commissioner an actuarial

30.1 opinion of its outstanding liabilities as determined by an associate or fellow of the  
30.2 Casualty Actuarial Society within 120 days of the date of its termination. If the actuarial  
30.3 opinion is not timely filed, the self-insurers' security fund may, at its discretion, engage  
30.4 the services of an actuary for this purpose. The expense of this actuarial opinion must  
30.5 be assessed against and be the obligation of the self-insurer. The commissioner may  
30.6 issue a certificate of default against the self-insurer for failure to pay this assessment  
30.7 to the self-insurers' security fund as provided by section 79A.04, subdivision 9. The  
30.8 opinion ~~must separate liability for indemnity benefits from liability from medical benefits,~~  
30.9 ~~and must~~ may discount ~~each~~ each liabilities up to four percent per annum to net present  
30.10 value. Within ~~30~~ 60 days after notification of approval of the actuarial opinion by the  
30.11 commissioner, the exiting member shall pay to the security fund an amount ~~equal to 120~~  
30.12 ~~percent of that discounted outstanding indemnity liability, multiplied by the greater of the~~  
30.13 ~~average annualized assessment rate since inception of the security fund or the annual~~  
30.14 ~~rate at the time of the most recent assessment before termination~~ determined as follows:  
30.15 a percentage will be determined by dividing the security fund's members' deficit as  
30.16 determined by the most recent audited financial statement of the security fund by the total  
30.17 actuarial liability of all members of the security fund as calculated by the commissioner  
30.18 within 30 days of the exit date of the member. This quotient will then be multiplied by  
30.19 that exiting member's total future liability as contained in the exiting member's actuarial  
30.20 opinion. If the payment is not made within 30 days of the notification, interest on it at the  
30.21 rate prescribed by section 549.09 must be paid by the former member to the security fund  
30.22 until the principal amount is paid in full.

30.23 (c) A former member who terminated its self-insurance authority before April 1,  
30.24 1998, who has paid assessments to the self-insurers' security fund for seven years, and  
30.25 whose annualized assessment is \$15,000 or less, may buy out of its outstanding liabilities  
30.26 to the self-insurers' security fund by an amount calculated as follows: 1.35 multiplied by  
30.27 the indemnity case reserves at the time of the calculation, multiplied by the then current  
30.28 self-insurers' security fund annualized assessment rate.

30.29 (d) A former member who terminated its self-insurance authority before April 1,  
30.30 1998, and who is paying assessments within the first seven years after ceasing to be  
30.31 self-insured under paragraph (a), clause (3), may elect to buy out its outstanding liabilities  
30.32 to the self-insurers' security fund by obtaining and filing with the commissioner an  
30.33 actuarial opinion of its outstanding liabilities as determined by an associate or fellow of  
30.34 the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits  
30.35 from liability for medical benefits, and must discount each up to four percent per annum to  
30.36 net present value. Within 30 days after notification of approval of the actuarial opinion

31.1 by the commissioner, the member shall pay to the security fund an amount equal to 120  
31.2 percent of that discounted outstanding indemnity liability, multiplied by the greater of the  
31.3 average annualized assessment rate since inception of the security fund or the annual rate  
31.4 at the time of the most recent assessment.

31.5 (e) A former member who has paid the security fund according to paragraphs (b) to  
31.6 (d) and subsequently receives authority from the commissioner to again self-insure shall be  
31.7 assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries  
31.8 that occurred after the former member received authority to self-insure again; provided  
31.9 that the member furnishes verified data regarding those benefits to the security fund.

31.10 (f) In addition to proceedings to establish liabilities and penalties otherwise  
31.11 provided, a failure to comply may be the subject of a proceeding before the commissioner.  
31.12 An appeal from the commissioner's determination may be taken pursuant to the contested  
31.13 case procedures of chapter 14 within 30 days of the commissioner's written determination.

31.14 Any current or past member of the self-insurers' security fund is subject to service of  
31.15 process on any claim arising out of chapter 176 or this chapter in the manner provided by  
31.16 section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure  
31.17 to the private self-insured employer shall be deemed to be the agreement that any process  
31.18 which is served in accordance with this section shall be of the same legal force and effect  
31.19 as if served personally within this state.

31.20 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to  
31.21 terminations of self-insurance authority that become effective on or after that date.

31.22 Sec. 42. Minnesota Statutes 2008, section 79A.21, subdivision 3, is amended to read:

31.23 Subd. 3. **Approval.** The commissioner shall approve an application for  
31.24 self-insurance upon a determination that all of the following conditions are met:

31.25 (1) a completed application and all required documents have been submitted to  
31.26 the commissioner;

31.27 (2) the financial ability of the commercial self-insurance group is sufficient to fulfill  
31.28 all obligations that may arise under this chapter or chapter 176;

31.29 (3) the annual premium of the commercial self-insurance group to be charged to  
31.30 initial members is at least ~~\$400,000~~ 150 percent of the WCRA minimum retention in  
31.31 effect at the time of the application;

31.32 (4) the commercial self-insurance group has contracted with a service company to  
31.33 administer its program; and

31.34 (5) the required securities or surety bond shall be on deposit prior to the effective  
31.35 date of coverage for the commercial self-insurance group.

32.1 EFFECTIVE DATE. This section is effective August 1, 2010, and applies to  
32.2 applications processed on or after that date, but not to self-insured groups existing as of  
32.3 that date.

32.4 Sec. 43. Minnesota Statutes 2008, section 80A.41, is amended to read:

32.5 **80A.41 SECTION 102; DEFINITIONS.**

32.6 In this chapter, unless the context otherwise requires:

32.7 (1) "Accredited investor" means an accredited investor as the term is defined in Rule  
32.8 501(a) of Regulation D adopted pursuant to the Securities Act of 1933.

32.9 (2) "Administrator" means the commissioner of commerce.

32.10 (3) "Agent" means an individual, other than a broker-dealer, who represents a  
32.11 broker-dealer in effecting or attempting to effect purchases or sales of securities or  
32.12 represents an issuer in effecting or attempting to effect purchases or sales of the issuer's  
32.13 securities. But a partner, officer, or director of a broker-dealer or issuer, or an individual  
32.14 having a similar status or performing similar functions is an agent only if the individual  
32.15 otherwise comes within the term. The term does not include an individual excluded by  
32.16 rule adopted or order issued under this chapter.

32.17 (4) "Bank" means:

32.18 (A) a banking institution organized under the laws of the United States;

32.19 (B) a member bank of the Federal Reserve System;

32.20 (C) any other banking institution, whether incorporated or not, doing business  
32.21 under the laws of a state or of the United States, a substantial portion of the business  
32.22 of which consists of receiving deposits or exercising fiduciary powers similar to those  
32.23 permitted to be exercised by national banks under the authority of the Comptroller of the  
32.24 Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which  
32.25 is supervised and examined by a state or federal agency having supervision over banks,  
32.26 and which is not operated for the purpose of evading this chapter; and

32.27 (D) a receiver, conservator, or other liquidating agent of any institution or firm  
32.28 included in subparagraph (A), (B), or (C).

32.29 (5) "Broker-dealer" means a person engaged in the business of effecting transactions  
32.30 in securities for the account of others or for the person's own account. The term does  
32.31 not include:

32.32 (A) an agent;

32.33 (B) an issuer;

32.34 (C) a depository institution; provided such activities are conducted in accordance  
32.35 with such rules as may be adopted by the administrator;



33.1 (D) an international banking institution; or

33.2 (E) a person excluded by rule adopted or order issued under this chapter.

33.3 (6) "Depository institution" means:

33.4 (A) a bank; or

33.5 (B) a savings institution, trust company, credit union, or similar institution that  
33.6 is organized or chartered under the laws of a state or of the United States, authorized  
33.7 to receive deposits, and supervised and examined by an official or agency of a state or  
33.8 the United States if its deposits or share accounts are insured to the maximum amount  
33.9 authorized by statute by the Federal Deposit Insurance Corporation, the National Credit  
33.10 Union Share Insurance Fund, or a successor authorized by federal law. The term does  
33.11 not include:

33.12 (i) an insurance company or other organization primarily engaged in the business  
33.13 of insurance;

33.14 (ii) a Morris Plan bank; or

33.15 (iii) an industrial loan company that is not an "insured depository institution" as  
33.16 defined in section 3(c)(2) of the Federal Deposit Insurance Act, United States Code, title  
33.17 12, section 1813(c)(2), or any successor federal statute.

33.18 (7) "Federal covered investment adviser" means a person registered under the  
33.19 Investment Advisers Act of 1940.

33.20 (8) "Federal covered security" means a security that is, or upon completion of a  
33.21 transaction will be, a covered security under Section 18(b) of the Securities Act of 1933  
33.22 (15 U.S.C. Section 77r(b)) or rules or regulations adopted pursuant to that provision.

33.23 (9) "Filing" means the receipt under this chapter of a record by the administrator or  
33.24 a designee of the administrator.

33.25 (10) "Fraud," "deceit," and "defraud" are not limited to common law deceit.

33.26 (11) "Guaranteed" means guaranteed as to payment of all principal and all interest.

33.27 (12) "Institutional investor" means any of the following, whether acting for itself or  
33.28 for others in a fiduciary capacity:

33.29 (A) a depository institution or international banking institution;

33.30 (B) an insurance company;

33.31 (C) a separate account of an insurance company;

33.32 (D) an investment company as defined in the Investment Company Act of 1940;

33.33 (E) a broker-dealer registered under the Securities Exchange Act of 1934;

33.34 (F) an employee pension, profit-sharing, or benefit plan if the plan has total assets  
33.35 in excess of \$10,000,000 or its investment decisions are made by a named fiduciary, as  
33.36 defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer

34.1 registered under the Securities Exchange Act of 1934, an investment adviser registered  
34.2 or exempt from registration under the Investment Advisers Act of 1940, an investment  
34.3 adviser registered under this chapter, a depository institution, or an insurance company;

34.4 (G) a plan established and maintained by a state, a political subdivision of a state, or  
34.5 an agency or instrumentality of a state or a political subdivision of a state for the benefit  
34.6 of its employees, if the plan has total assets in excess of \$10,000,000 or its investment  
34.7 decisions are made by a duly designated public official or by a named fiduciary, as  
34.8 defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer  
34.9 registered under the Securities Exchange Act of 1934, an investment adviser registered  
34.10 or exempt from registration under the Investment Advisers Act of 1940, an investment  
34.11 adviser registered under this chapter, a depository institution, or an insurance company;

34.12 (H) a trust, if it has total assets in excess of \$10,000,000, its trustee is a depository  
34.13 institution, and its participants are exclusively plans of the types identified in subparagraph  
34.14 (F) or (G), regardless of the size of their assets, except a trust that includes as participants  
34.15 self-directed individual retirement accounts or similar self-directed plans;

34.16 (I) an organization described in Section 501(c)(3) of the Internal Revenue Code (26  
34.17 U.S.C. Section 501(c)(3)), corporation, Massachusetts trust or similar business trust,  
34.18 limited liability company, or partnership, not formed for the specific purpose of acquiring  
34.19 the securities offered, with total assets in excess of \$10,000,000;

34.20 (J) a small business investment company licensed by the Small Business  
34.21 Administration under Section 301(c) of the Small Business Investment Act of 1958 (15  
34.22 U.S.C. Section 681(c)) with total assets in excess of \$10,000,000;

34.23 (K) a private business development company as defined in Section 202(a)(22) of  
34.24 the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22)) with total assets  
34.25 in excess of \$10,000,000;

34.26 (L) a federal covered investment adviser acting for its own account;

34.27 (M) a "qualified institutional buyer" as defined in Rule 144A(a)(1), other than Rule  
34.28 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A);

34.29 (N) a "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted  
34.30 under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6);

34.31 (O) any other person, other than an individual, of institutional character with total  
34.32 assets in excess of \$10,000,000 not organized for the specific purpose of evading this  
34.33 chapter; or

34.34 (P) any other person specified by rule adopted or order issued under this chapter;

34.35 (13) "Insurance company" means a company organized as an insurance company  
34.36 whose primary business is writing insurance or reinsuring risks underwritten by insurance

35.1 companies and which is subject to supervision by the insurance commissioner or a similar  
35.2 official or agency of a state.

35.3 (14) "Insured" means insured as to payment of all principal and all interest.

35.4 (15) "International banking institution" means an international financial institution  
35.5 of which the United States is a member and whose securities are exempt from registration  
35.6 under the Securities Act of 1933.

35.7 (16) "Investment adviser" means a person that, for compensation, engages in the  
35.8 business of advising others, either directly or through publications or writings, as to the  
35.9 value of securities or the advisability of investing in, purchasing, or selling securities or  
35.10 that, for compensation and as a part of a regular business, issues or promulgates analyses  
35.11 or reports concerning securities. The term includes a financial planner or other person  
35.12 that, as an integral component of other financially related services, provides investment  
35.13 advice to others for compensation as part of a business or that holds itself out as providing  
35.14 investment advice to others for compensation. The term does not include:

35.15 (A) an investment adviser representative;

35.16 (B) a lawyer, accountant, engineer, or teacher whose performance of investment  
35.17 advice is solely incidental to the practice of the person's profession;

35.18 (C) a broker-dealer or its agents whose performance of investment advice is solely  
35.19 incidental to the conduct of business as a broker-dealer and that does not receive special  
35.20 compensation for the investment advice;

35.21 (D) a publisher of a bona fide newspaper, news magazine, or business or financial  
35.22 publication of general and regular circulation;

35.23 (E) a federal covered investment adviser;

35.24 (F) a bank or savings institution;

35.25 (G) any other person that is excluded by the Investment Advisers Act of 1940 from  
35.26 the definition of investment adviser; or

35.27 (H) any other person excluded by rule adopted or order issued under this chapter.

35.28 (17) "Investment adviser representative" means an individual employed by or  
35.29 associated with an investment adviser or federal covered investment adviser and who  
35.30 makes any recommendations or otherwise gives investment advice regarding securities,  
35.31 manages accounts or portfolios of clients, determines which recommendation or advice  
35.32 regarding securities should be given, provides investment advice or holds herself or  
35.33 himself out as providing investment advice, receives compensation to solicit, offer, or  
35.34 negotiate for the sale of or for selling investment advice, or supervises employees who  
35.35 perform any of the foregoing. The term does not include an individual who:

35.36 (A) performs only clerical or ministerial acts;

36.1 (B) is an agent whose performance of investment advice is solely incidental to  
36.2 the individual acting as an agent and who does not receive special compensation for  
36.3 investment advisory services;

36.4 (C) is employed by or associated with a federal covered investment adviser, unless  
36.5 the individual has a "place of business" in this state as that term is defined by rule adopted  
36.6 under Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a)  
36.7 and is

36.8 (i) an "investment adviser representative" as that term is defined by rule adopted  
36.9 under Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a); or

36.10 (ii) not a "supervised person" as that term is defined in Section 202(a)(25) of the  
36.11 Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(25)); or

36.12 (D) is excluded by rule adopted or order issued under this chapter.

36.13 (18) "Issuer" means a person that issues or proposes to issue a security, subject to  
36.14 the following:

36.15 (A) The issuer of a voting trust certificate, collateral trust certificate, certificate of  
36.16 deposit for a security, or share in an investment company without a board of directors or  
36.17 individuals performing similar functions is the person performing the acts and assuming  
36.18 the duties of depositor or manager pursuant to the trust or other agreement or instrument  
36.19 under which the security is issued.

36.20 (B) The issuer of an equipment trust certificate or similar security serving the same  
36.21 purpose is the person by which the property is or will be used or to which the property  
36.22 or equipment is or will be leased or conditionally sold or that is otherwise contractually  
36.23 responsible for assuring payment of the certificate.

36.24 (C) The issuer of a fractional undivided interest in an oil, gas, or other mineral lease  
36.25 or in payments out of production under a lease, right, or royalty is the owner of an interest  
36.26 in the lease or in payments out of production under a lease, right, or royalty, whether  
36.27 whole or fractional, that creates fractional interests for the purpose of sale.

36.28 (19) "Nonissuer transaction" or "nonissuer distribution" means a transaction or  
36.29 distribution not directly or indirectly for the benefit of the issuer.

36.30 (20) "Offer to purchase" includes an attempt or offer to obtain, or solicitation of an  
36.31 offer to sell, a security or interest in a security for value. The term does not include a  
36.32 tender offer that is subject to Section 14(d) of the Securities Exchange Act of 1934 (15  
36.33 U.S.C. Section 78n(d)).

36.34 (21) "Person" means an individual; corporation; business trust; estate; trust;  
36.35 partnership; limited liability company; association; joint venture; government;

37.1 governmental subdivision, agency, or instrumentality; public corporation; or any other  
37.2 legal or commercial entity.

37.3 (22) "Place of business" of a broker-dealer, an investment adviser, or a federal  
37.4 covered investment adviser means:

37.5 (A) an office at which the broker-dealer, investment adviser, or federal covered  
37.6 investment adviser regularly provides brokerage or investment advice or solicits, meets  
37.7 with, or otherwise communicates with customers or clients; or

37.8 (B) any other location that is held out to the general public as a location at which  
37.9 the broker-dealer, investment adviser, or federal covered investment adviser provides  
37.10 brokerage or investment advice or solicits, meets with, or otherwise communicates with  
37.11 customers or clients.

37.12 (23) "Predecessor Act" means Minnesota Statutes 2002, sections 80A.01 to 80A.31.

37.13 (24) "Price amendment" means the amendment to a registration statement filed under  
37.14 the Securities Act of 1933 or, if an amendment is not filed, the prospectus or prospectus  
37.15 supplement filed under the Securities Act of 1933 that includes a statement of the offering  
37.16 price, underwriting and selling discounts or commissions, amount of proceeds, conversion  
37.17 rates, call prices, and other matters dependent upon the offering price.

37.18 (25) "Principal place of business" of a broker-dealer or an investment adviser means  
37.19 the executive office of the broker-dealer or investment adviser from which the officers,  
37.20 partners, or managers of the broker-dealer or investment adviser direct, control, and  
37.21 coordinate the activities of the broker-dealer or investment adviser.

37.22 (26) Only for purposes of calculating the number of purchasers under section  
37.23 80A.46(1) and 80A.46(14), "purchaser" does not include:

37.24 (A) any relative, spouse, or relative of the spouse of a purchaser who has the same  
37.25 principal residence as the purchaser;

37.26 (B) any trust or estate in which a purchaser and any of the persons related to him as  
37.27 specified in Regulation D, Rule 501(e)(1)(i) or (e)(1)(ii) collectively have more than 50  
37.28 percent of the beneficial interest (excluding contingent interests);

37.29 (C) any corporation or other organization of which a purchaser and any of the  
37.30 persons related to the purchaser as specified in Regulation D, Rule 501(e)(1)(i) or  
37.31 (e)(1)(ii) collectively are beneficial owners of more than 50 percent of the equity securities  
37.32 (excluding directors' qualifying shares) or equity interests; and

37.33 (D) any accredited investor.

37.34 A corporation, partnership, or other entity must be counted as one purchaser. If,  
37.35 however, that entity is organized for the specific purpose of acquiring the securities offered  
37.36 and is not an accredited investor, then each beneficial owner of equity securities or equity

38.1 interests in the entity shall count as a separate purchaser for all provisions of Regulation  
38.2 D, except to the extent provided in Regulation D, Rule 501(e)(1).

38.3 A noncontributory employee benefit plan within the meaning of Title I of the  
38.4 Employee Retirement Income Security Act of 1974 shall be counted as one purchaser  
38.5 where the trustee makes all investment decisions for the plan.

38.6 (27) "Record," except in the phrases "of record," "official record," and "public  
38.7 record," means information that is inscribed on a tangible medium or that is stored in an  
38.8 electronic or other medium and is retrievable in perceivable form.

38.9 (28) "Sale" includes every contract of sale, contract to sell, or disposition of, a  
38.10 security or interest in a security for value, and "offer to sell" includes every attempt or  
38.11 offer to dispose of, or solicitation of an offer to purchase, a security or interest in a  
38.12 security for value.

38.13 (A) A security given or delivered with, or as a bonus on account of, any purchase of  
38.14 securities or any other thing is considered to constitute part of the subject of the purchase  
38.15 and to have been offered and sold for value.

38.16 (B) A gift of assessable stock is considered to involve an offer and sale.

38.17 (C) A sale or offer of a warrant or right to purchase or subscribe to another security  
38.18 of the same or another issuer and a sale or offer of a security that gives the holder a present  
38.19 or future right or privilege to convert the security into another security of the same or  
38.20 another issuer, are each considered to include an offer of the other security.

38.21 (29) "Securities and Exchange Commission" means the United States Securities and  
38.22 Exchange Commission.

38.23 (30) "Security" means a note; stock; treasury stock; security future; bond; debenture;  
38.24 evidence of indebtedness; certificate of interest or participation in a profit-sharing  
38.25 agreement; collateral trust certificate; preorganization certificate or subscription;  
38.26 transferable share; investment contract; voting trust certificate; certificate of deposit for a  
38.27 security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle,  
38.28 option, or privilege on a security, certificate of deposit, or group or index of securities,  
38.29 including an interest therein or based on the value thereof; put, call, straddle, option, or  
38.30 privilege entered into on a national securities exchange relating to foreign currency; or,  
38.31 in general, an interest or instrument commonly known as a "security"; or a certificate of  
38.32 interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or  
38.33 warrant or right to subscribe to or purchase, any of the foregoing. The term:

38.34 (A) includes both a certificated and an uncertificated security;

39.1 (B) does not include an insurance or endowment policy or annuity contract under  
39.2 which an insurance company promises to pay a fixed or variable sum of money either in a  
39.3 lump sum or periodically for life or other specified period;

39.4 (C) does not include an interest in a contributory or noncontributory pension or  
39.5 welfare plan subject to the Employee Retirement Income Security Act of 1974;

39.6 (D) includes as an "investment contract," among other contracts, an interest in  
39.7 a limited partnership and a limited liability company and an investment in a viatical  
39.8 settlement or similar agreement; and

39.9 (E) does not include any equity interest of a closely held corporation or other entity  
39.10 with not more than 35 holders of the equity interest of such entity offered or sold pursuant  
39.11 to a transaction in which 100 percent of the equity interest of such entity is sold as a means  
39.12 to effect the sale of the business of the entity if the transaction has been negotiated on  
39.13 behalf of all purchasers and if all purchasers have access to inside information regarding  
39.14 the entity before consummating the transaction.

39.15 (31) "Self-regulatory organization" means a national securities exchange registered  
39.16 under the Securities Exchange Act of 1934, a national securities association of  
39.17 broker-dealers registered under the Securities Exchange Act of 1934, a clearing agency  
39.18 registered under the Securities Exchange Act of 1934, or the Municipal Securities  
39.19 Rulemaking Board established under the Securities Exchange Act of 1934.

39.20 (32) "Sign" means, with present intent to authenticate or adopt a record:

39.21 (A) to execute or adopt a tangible symbol; or

39.22 (B) to attach or logically associate with the record an electronic symbol, sound,  
39.23 or process.

39.24 (33) "State" means a state of the United States, the District of Columbia, Puerto  
39.25 Rico, the United States Virgin Islands, or any territory or insular possession subject to the  
39.26 jurisdiction of the United States.

39.27 (34) "Associated with" with respect to a person means any partner, officer, director,  
39.28 or manager of such person or any person occupying a similar status or performing  
39.29 similar functions or any person directly or indirectly controlling, controlled by, or in  
39.30 common control with, such person, but does not include a person whose primary duties  
39.31 are ministerial or clerical.

39.32 Sec. 44. Minnesota Statutes 2008, section 80A.46, is amended to read:

39.33 **80A.46 SECTION 202; EXEMPT TRANSACTIONS.**

39.34 The following transactions are exempt from the requirements of sections 80A.49  
39.35 through 80A.54 and 80A.71:

40.1 (1) isolated nonissuer transactions, consisting of sale to not more than ten purchasers  
40.2 in Minnesota during any period of 12 consecutive months, whether effected by or through  
40.3 a broker-dealer or not;

40.4 (2) a nonissuer transaction by or through a broker-dealer registered, or exempt from  
40.5 registration under this chapter, and a resale transaction by a sponsor of a unit investment  
40.6 trust registered under the Investment Company Act of 1940, in a security of a class that  
40.7 has been outstanding in the hands of the public for at least 90 days, if, at the date of  
40.8 the transaction:

40.9 (A) the issuer of the security is engaged in business, the issuer is not in the  
40.10 organizational stage or in bankruptcy or receivership, and the issuer is not a blank check,  
40.11 blind pool, or shell company that has no specific business plan or purpose or has indicated  
40.12 that its primary business plan is to engage in a merger or combination of the business with,  
40.13 or an acquisition of, an unidentified person;

40.14 (B) the security is sold at a price reasonably related to its current market price;

40.15 (C) the security does not constitute the whole or part of an unsold allotment to, or  
40.16 a subscription or participation by, the broker-dealer as an underwriter of the security  
40.17 or a redistribution;

40.18 (D) a nationally recognized securities manual or its electronic equivalent designated  
40.19 by rule adopted or order issued under this chapter or a record filed with the Securities and  
40.20 Exchange Commission that is publicly available contains:

40.21 (i) a description of the business and operations of the issuer;

40.22 (ii) the names of the issuer's executive officers and the names of the issuer's  
40.23 directors, if any;

40.24 (iii) an audited balance sheet of the issuer as of a date within 18 months before the  
40.25 date of the transaction or, in the case of a reorganization or merger when the parties to  
40.26 the reorganization or merger each had an audited balance sheet, a pro forma balance  
40.27 sheet for the combined organization; and

40.28 (iv) an audited income statement for each of the issuer's two immediately previous  
40.29 fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case  
40.30 of a reorganization or merger when each party to the reorganization or merger had audited  
40.31 income statements, a pro forma income statement; and

40.32 (E) any one of the following requirements is met:

40.33 (i) the issuer of the security has a class of equity securities listed on a national  
40.34 securities exchange registered under Section 6 of the Securities Exchange Act of 1934  
40.35 or designated for trading on the National Association of Securities Dealers Automated  
40.36 Quotation System;



41.1 (ii) the issuer of the security is a unit investment trust registered under the Investment  
41.2 Company Act of 1940;

41.3 (iii) the issuer of the security, including its predecessors, has been engaged in  
41.4 continuous business for at least three years; or

41.5 (iv) the issuer of the security has total assets of at least \$2,000,000 based on an  
41.6 audited balance sheet as of a date within 18 months before the date of the transaction or, in  
41.7 the case of a reorganization or merger when the parties to the reorganization or merger  
41.8 each had such an audited balance sheet, a pro forma balance sheet for the combined  
41.9 organization;

41.10 (3) a nonissuer transaction by or through a broker-dealer registered or exempt from  
41.11 registration under this chapter in a security of a foreign issuer that is a margin security  
41.12 defined in regulations or rules adopted by the Board of Governors of the Federal Reserve  
41.13 System;

41.14 (4) a nonissuer transaction by or through a broker-dealer registered or exempt  
41.15 from registration under this chapter in an outstanding security if the guarantor of the  
41.16 security files reports with the Securities and Exchange Commission under the reporting  
41.17 requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.  
41.18 Sections 78m or 78o(d));

41.19 (5) a nonissuer transaction by or through a broker-dealer registered or exempt from  
41.20 registration under this chapter in a security that:

41.21 (A) is rated at the time of the transaction by a nationally recognized statistical rating  
41.22 organization in one of its four highest rating categories; or

41.23 (B) has a fixed maturity or a fixed interest or dividend, if:

41.24 (i) a default has not occurred during the current fiscal year or within the three  
41.25 previous fiscal years or during the existence of the issuer and any predecessor if less than  
41.26 three fiscal years, in the payment of principal, interest, or dividends on the security; and

41.27 (ii) the issuer is engaged in business, is not in the organizational stage or in  
41.28 bankruptcy or receivership, and is not and has not been within the previous 12 months a  
41.29 blank check, blind pool, or shell company that has no specific business plan or purpose or  
41.30 has indicated that its primary business plan is to engage in a merger or combination of the  
41.31 business with, or an acquisition of, an unidentified person;

41.32 (6) a nonissuer transaction by or through a broker-dealer registered or exempt from  
41.33 registration under this chapter effecting an unsolicited order or offer to purchase;

41.34 (7) a nonissuer transaction executed by a bona fide pledgee without the purpose  
41.35 of evading this chapter;

42.1 (8) a nonissuer transaction by a federal covered investment adviser with investments  
42.2 under management in excess of \$100,000,000 acting in the exercise of discretionary  
42.3 authority in a signed record for the account of others;

42.4 (9) a transaction in a security, whether or not the security or transaction is otherwise  
42.5 exempt, in exchange for one or more bona fide outstanding securities, claims, or property  
42.6 interests, or partly in such exchange and partly for cash, if the terms and conditions of  
42.7 the issuance and exchange or the delivery and exchange and the fairness of the terms and  
42.8 conditions have been approved by the administrator after a hearing;

42.9 (10) a transaction between the issuer or other person on whose behalf the offering is  
42.10 made and an underwriter, or among underwriters;

42.11 (11) a transaction in a note, bond, debenture, or other evidence of indebtedness  
42.12 secured by a mortgage or other security agreement if:

42.13 (A) the note, bond, debenture, or other evidence of indebtedness is offered and sold  
42.14 with the mortgage or other security agreement as a unit;

42.15 (B) a general solicitation or general advertisement of the transaction is not made; and

42.16 (C) a commission or other remuneration is not paid or given, directly or indirectly, to  
42.17 a person not registered under this chapter as a broker-dealer or as an agent;

42.18 (12) a transaction by an executor, administrator of an estate, sheriff, marshal,  
42.19 receiver, trustee in bankruptcy, guardian, or conservator;

42.20 (13) a sale or offer to sell to:

42.21 (A) an institutional investor;

42.22 (B) an accredited investor;

42.23 (C) a federal covered investment adviser; or

42.24 (D) any other person exempted by rule adopted or order issued under this chapter;

42.25 (14) a sale or an offer to sell securities by an issuer, if the transaction is part of  
42.26 a single issue in which:

42.27 (A) not more than 35 purchasers are present in this state during any 12 consecutive  
42.28 months, other than those designated in paragraph (13);

42.29 (B) a general solicitation or general advertising is not made in connection with  
42.30 the offer to sell or sale of the securities;

42.31 (C) a commission or other remuneration is not paid or given, directly or indirectly, to  
42.32 a person other than a broker-dealer registered under this chapter or an agent registered  
42.33 under this chapter for soliciting a prospective purchaser in this state; and

42.34 (D) the issuer reasonably believes that all the purchasers in this state, other than  
42.35 those designated in paragraph (13), are purchasing for investment.

43.1 Any issuer selling to purchasers in this state in reliance on this clause (14) exemption  
43.2 must provide to the administrator notice of the transaction by filing a statement of issuer  
43.3 form as adopted by rule. Notice must be filed at least ten days in advance of any sale or  
43.4 such shorter period as permitted by the administrator. However, an issuer who makes sales  
43.5 to ten or fewer purchasers in Minnesota during any period of 12 consecutive months is not  
43.6 required to provide this notice;

43.7 (15) a transaction under an offer to existing security holders of the issuer, including  
43.8 persons that at the date of the transaction are holders of convertible securities, options,  
43.9 or warrants, if a commission or other remuneration, other than a standby commission, is  
43.10 not paid or given, directly or indirectly, for soliciting a security holder in this state. The  
43.11 person making the offer and effecting the transaction must provide to the administrator  
43.12 notice of the transaction by filing a written description of the transaction. Notice must be  
43.13 filed at least ten days in advance of any transaction or such shorter period as permitted by  
43.14 the administrator;

43.15 (16) an offer to sell, but not a sale, of a security not exempt from registration under  
43.16 the Securities Act of 1933 if:

43.17 (A) a registration or offering statement or similar record as required under the  
43.18 Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance  
43.19 with Rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165); and

43.20 (B) a stop order of which the offeror is aware has not been issued against the offeror  
43.21 by the administrator or the Securities and Exchange Commission, and an audit, inspection,  
43.22 or proceeding that is public and that may culminate in a stop order is not known by the  
43.23 offeror to be pending;

43.24 (17) an offer to sell, but not a sale, of a security exempt from registration under the  
43.25 Securities Act of 1933 if:

43.26 (A) a registration statement has been filed under this chapter, but is not effective;

43.27 (B) a solicitation of interest is provided in a record to offerees in compliance with a  
43.28 rule adopted by the administrator under this chapter; and

43.29 (C) a stop order of which the offeror is aware has not been issued by the administrator  
43.30 under this chapter and an audit, inspection, or proceeding that may culminate in a stop  
43.31 order is not known by the offeror to be pending;

43.32 (18) a transaction involving the distribution of the securities of an issuer to the  
43.33 security holders of another person in connection with a merger, consolidation, exchange  
43.34 of securities, sale of assets, or other reorganization to which the issuer, or its parent  
43.35 or subsidiary and the other person, or its parent or subsidiary, are parties. The person  
43.36 distributing the issuer's securities must provide to the administrator notice of the

44.1 transaction by filing a written description of the transaction along with a consent to service  
44.2 of process complying with section 80A.88. Notice must be filed at least ten days in  
44.3 advance of any transaction or such shorter period as permitted by the administrator;

44.4 (19) a rescission offer, sale, or purchase under section 80A.77~~;~~. The person making  
44.5 the rescission offer must provide to the administrator notice of the transaction by filing a  
44.6 written description of the transaction and a copy of the record that must be delivered to the  
44.7 offeree under section 80A.77. Notice must be filed at least ten days in advance of any  
44.8 rescission offer under section 80A.77 or a shorter period as permitted by the administrator;

44.9 (20) an offer or sale of a security to a person not a resident of this state and not  
44.10 present in this state if the offer or sale does not constitute a violation of the laws of the  
44.11 state or foreign jurisdiction in which the offeree or purchaser is present and is not part of  
44.12 an unlawful plan or scheme to evade this chapter;

44.13 (21) employees' stock purchase, savings, option, profit-sharing, pension, or  
44.14 similar employees' benefit plan, including any securities, plan interests, and guarantees  
44.15 issued under a compensatory benefit plan or compensation contract, contained in a  
44.16 record, established by the issuer, its parents, its majority-owned subsidiaries, or the  
44.17 majority-owned subsidiaries of the issuer's parent for the participation of their employees  
44.18 including offers or sales of such securities to:

44.19 (A) directors; general partners; trustees, if the issuer is a business trust; officers;  
44.20 consultants; and advisors;

44.21 (B) family members who acquire such securities from those persons through gifts or  
44.22 domestic relations orders;

44.23 (C) former employees, directors, general partners, trustees, officers, consultants, and  
44.24 advisors if those individuals were employed by or providing services to the issuer when  
44.25 the securities were offered; and

44.26 (D) insurance agents who are exclusive insurance agents of the issuer, or the issuer's  
44.27 subsidiaries or parents, or who derive more than 50 percent of their annual income from  
44.28 those organizations.

44.29 A person establishing an employee benefit plan under the exemption in this clause  
44.30 (21) must provide to the administrator notice of the transaction by filing a written  
44.31 description of the transaction along with a consent to service of process complying with  
44.32 section 80A.88. Notice must be filed at least ten days in advance of any transaction or  
44.33 such shorter period as permitted by the administrator;

44.34 (22) a transaction involving:

44.35 (A) a stock dividend or equivalent equity distribution, whether the corporation or  
44.36 other business organization distributing the dividend or equivalent equity distribution is

45.1 the issuer or not, if nothing of value is given by stockholders or other equity holders for  
45.2 the dividend or equivalent equity distribution other than the surrender of a right to a cash  
45.3 or property dividend if each stockholder or other equity holder may elect to take the  
45.4 dividend or equivalent equity distribution in cash, property, or stock;

45.5 (B) an act incident to a judicially approved reorganization in which a security is  
45.6 issued in exchange for one or more outstanding securities, claims, or property interests, or  
45.7 partly in such exchange and partly for cash; or

45.8 (C) the solicitation of tenders of securities by an offeror in a tender offer in  
45.9 compliance with Rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162);

45.10 (23) a nonissuer transaction in an outstanding security by or through a broker-dealer  
45.11 registered or exempt from registration under this chapter, if the issuer is a reporting  
45.12 issuer in a foreign jurisdiction designated by this paragraph or by rule adopted or order  
45.13 issued under this chapter; has been subject to continuous reporting requirements in the  
45.14 foreign jurisdiction for not less than 180 days before the transaction; and the security is  
45.15 listed on the foreign jurisdiction's securities exchange that has been designated by this  
45.16 paragraph or by rule adopted or order issued under this chapter, or is a security of the same  
45.17 issuer that is of senior or substantially equal rank to the listed security or is a warrant or  
45.18 right to purchase or subscribe to any of the foregoing. For purposes of this paragraph,  
45.19 Canada, together with its provinces and territories, is a designated foreign jurisdiction  
45.20 and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an  
45.21 administrative hearing in compliance with chapter 14, the administrator, by rule adopted  
45.22 or order issued under this chapter, may revoke the designation of a securities exchange  
45.23 under this paragraph, if the administrator finds that revocation is necessary or appropriate  
45.24 in the public interest and for the protection of investors;

45.25 (24) any transaction effected by or through a Canadian broker-dealer exempted from  
45.26 broker-dealer registration pursuant to section 80A.56(b)(3); or

45.27 (25)(A) the offer and sale by a cooperative organized under chapter 308A, or  
45.28 under the laws of another state, of its securities when the securities are offered and sold  
45.29 only to its members, or when the purchase of the securities is necessary or incidental to  
45.30 establishing membership in the cooperative, or when the securities are issued as patronage  
45.31 dividends. This paragraph applies to a cooperative organized under chapter 308A, or under  
45.32 the laws of another state, only if the cooperative has filed with the administrator a consent  
45.33 to service of process under section 80A.88 and has, not less than ten days before the  
45.34 issuance or delivery, furnished the administrator with a written general description of the  
45.35 transaction and any other information that the administrator requires by rule or otherwise;

46.1 (B) the offer and sale by a cooperative organized under chapter 308B of its securities  
46.2 when the securities are offered and sold to its existing members or when the purchase of the  
46.3 securities is necessary or incidental to establishing patron membership in the cooperative,  
46.4 or when such securities are issued as patronage dividends. The administrator has the  
46.5 power to define "patron membership" for purposes of this paragraph. This paragraph  
46.6 applies to securities, other than securities issued as patronage dividends, only when:

46.7 (i) the issuer, before the completion of the sale of the securities, provides each  
46.8 offeree or purchaser disclosure materials that, to the extent material to an understanding of  
46.9 the issuer, its business, and the securities being offered, substantially meet the disclosure  
46.10 conditions and limitations found in rule 502(b) of Regulation D promulgated by the  
46.11 Securities and Exchange Commission, Code of Federal Regulations, title 17, section  
46.12 230.502; and

46.13 (ii) within 15 days after the completion of the first sale in each offering completed in  
46.14 reliance upon this exemption, the cooperative has filed with the administrator a consent to  
46.15 service of process under section 80A.88 (or has previously filed such a consent), and has  
46.16 furnished the administrator with a written general description of the transaction and any  
46.17 other information that the administrator requires by rule or otherwise; and

46.18 (C) a cooperative may, at or about the same time as offers or sales are being  
46.19 completed in reliance upon the exemptions from registration found in this subpart and as  
46.20 part of a common plan of financing, offer or sell its securities in reliance upon any other  
46.21 exemption from registration available under this chapter. The offer or sale of securities in  
46.22 reliance upon the exemptions found in this subpart will not be considered or deemed a part  
46.23 of or be integrated with any offer or sale of securities conducted by the cooperative in  
46.24 reliance upon any other exemption from registration available under this chapter, nor will  
46.25 offers or sales of securities by the cooperative in reliance upon any other exemption from  
46.26 registration available under this chapter be considered or deemed a part of or be integrated  
46.27 with any offer or sale conducted by the cooperative in reliance upon this paragraph.

46.28 Sec. 45. Minnesota Statutes 2008, section 80A.65, subdivision 6, is amended to read:

46.29 Subd. 6. **Rescission offer filing fee.** The filing of a rescission offer under section  
46.30 ~~80A.77~~ 80A.46(19), shall be accompanied by the fees as calculated in subdivision 1.

46.31 Sec. 46. Minnesota Statutes 2008, section 82.17, is amended by adding a subdivision  
46.32 to read:

47.1           Subd. 1a. **Brokerage; business entity.** "Brokerage" or "business entity" means a  
47.2 corporation, partnership, limited liability company, limited liability partnership, or other  
47.3 business structure that holds a real estate broker license.

47.4           Sec. 47. Minnesota Statutes 2008, section 82.17, subdivision 15, is amended to read:

47.5           Subd. 15. **Protective list.** "Protective list" means the written list of names and  
47.6 addresses of prospective ~~purchasers~~ buyers with whom a licensee has negotiated the sale  
47.7 or rental of the property or to whom a licensee has exhibited the property before the  
47.8 expiration of the listing agreement. For the purposes of this subdivision, "property" means  
47.9 the property that is the subject of the listing agreement in question.

47.10          Sec. 48. Minnesota Statutes 2008, section 82.17, is amended by adding a subdivision  
47.11 to read:

47.12          Subd. 20a. **Responsible person.** "Responsible person" means a natural person that  
47.13 is an officer of a corporation, a partner of a partnership, a general partner of a limited  
47.14 liability partnership, or a manager of a limited liability company.

47.15          Sec. 49. Minnesota Statutes 2008, section 82.19, is amended to read:

47.16                 **82.19 COMPENSATION.**

47.17          Subdivision 1. **Licensee to receive only from broker.** A licensee shall not  
47.18 accept a commission, compensation, referral fee, or other valuable consideration for the  
47.19 performance of any acts requiring a real estate license from any person except the real  
47.20 estate broker to whom the licensee is licensed or to whom the licensee was licensed at the  
47.21 time of the transaction.

47.22          Subd. 1a. **Commission-splitting, rebates, referral fee, and fees.** (a) In connection  
47.23 with a real estate or business opportunity transaction, a real estate broker or real estate  
47.24 salesperson shall not offer, pay, or give, and a person shall not accept, any compensation  
47.25 or other thing of value from a real estate broker or real estate salesperson by way of  
47.26 commission-splitting, rebate, referral fees, finder's fees, or otherwise.

47.27                 (b) This subdivision does not apply to transactions:

47.28                 (1) between a licensed real estate broker or salesperson and the parties to the  
47.29 transaction;

47.30                 (2) among persons licensed as provided in this chapter;

47.31                 (3) between a licensed real estate broker or salesperson and persons from other  
47.32 jurisdictions similarly licensed in that jurisdiction;

48.1 (4) involving timeshare or other recreational lands where the amount offered or paid  
48.2 does not exceed \$150, and payment is not conditioned upon any sale but is made merely  
48.3 for providing the referral and the person paying the fee is bound by any representations  
48.4 made by the person receiving the fee; and

48.5 (5) involving a person who receives a referral fee from a person or an agent of a  
48.6 person licensed under this section, provided that in any 12-month period, no recipient may  
48.7 earn more than the value of one month's rent, that the recipient is a resident of the property  
48.8 or has lived there within 60 days of the payment of the fee, and that the person paying the  
48.9 fee is bound by any representations made by the recipient of the fee.

48.10 Subd. 2. **Undisclosed compensation.** A licensee shall not accept, give, or charge  
48.11 any undisclosed compensation or realize any direct or indirect remuneration that inures to  
48.12 the benefit of the licensee on an expenditure made for a principal.

48.13 Subd. 2a. **Sharing of compensation with other brokers.** The seller may, in  
48.14 the listing agreement, authorize the seller's broker to disburse part of the broker's  
48.15 compensation to other brokers, including the buyer's brokers solely representing the buyer.

48.16 Subd. 3. **Limitation on broker when transaction not completed.** When the owner  
48.17 fails or is unable to consummate a real estate transaction, through no fault of the purchaser,  
48.18 the listing broker may not claim any portion of any trust funds deposited with the broker  
48.19 by the purchaser, absent a separate agreement with the purchaser.

48.20 Subd. 3a. **Directing payment of compensation.** A licensed real estate broker  
48.21 or salesperson may assign or direct that commissions or other compensation earned in  
48.22 connection with a real estate or business opportunity transaction be paid to a corporation,  
48.23 limited liability company, or sole proprietorship of which the licensed real estate broker  
48.24 or salesperson is the sole owner.

48.25 Subd. 3b. **Closing agent fee.** A real estate closing agent may not charge a fee for  
48.26 closing services to a borrower, and a borrower may not be required to pay such a fee at  
48.27 settlement, if the fee was not previously disclosed in writing at least one business day  
48.28 before the settlement. This disclosure requirement is satisfied if a disclosure is made or  
48.29 an estimate given under section 507.45.

48.30 Sec. 50. Minnesota Statutes 2008, section 82.21, subdivision 2, is amended to read:

48.31 Subd. 2. **Listing agreements. (a) Requirement.** Licensees shall obtain a signed  
48.32 listing agreement or other signed written authorization from the owner of real property or  
48.33 from another person authorized to offer the property for sale or lease before advertising to  
48.34 the general public that the real property is available for sale or lease.



49.1 For the purposes of this section "advertising" includes placing a sign on the owner's  
49.2 property that indicates that the property is being offered for sale or lease.

49.3 (b) **Contents.** All listing agreements must be in writing and must include:

49.4 (1) a definite expiration date;

49.5 (2) a description of the real property involved;

49.6 (3) the list price and any terms required by the seller;

49.7 (4) the amount of any compensation or commission or the basis for computing  
49.8 the commission;

49.9 (5) a clear statement explaining the events or conditions that will entitle a broker to  
49.10 a commission;

49.11 (6) a clear statement explaining if the agreement may be canceled and the terms  
49.12 under which the agreement may be canceled;

49.13 ~~(6)~~ (7) information regarding an override clause, if applicable, including a statement  
49.14 to the effect that the override clause will not be effective unless the licensee supplies the  
49.15 seller with a protective list within 72 hours after the expiration of the listing agreement;

49.16 ~~(7)~~ (8) the following notice in not less than ten point boldface type immediately  
49.17 preceding any provision of the listing agreement relating to compensation of the licensee:

49.18 "NOTICE: THE COMPENSATION FOR THE SALE, LEASE, RENTAL, OR  
49.19 MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN  
49.20 EACH INDIVIDUAL BROKER AND THE BROKER'S CLIENT.";

49.21 ~~(8)~~ (9) for residential property listings, the following "dual agency" disclosure  
49.22 statement:

49.23 If a buyer represented by broker wishes to buy the seller's property, a dual agency  
49.24 will be created. This means that broker will represent both the seller(s) and the buyer(s),  
49.25 and owe the same duties to the buyer(s) that broker owes to the seller(s). This conflict  
49.26 of interest will prohibit broker from advocating exclusively on the seller's behalf. Dual  
49.27 agency will limit the level of representation broker can provide. If a dual agency should  
49.28 arise, the seller(s) will need to agree that confidential information about price, terms, and  
49.29 motivation will still be kept confidential unless the seller(s) instruct broker in writing to  
49.30 disclose specific information about the seller(s). All other information will be shared.  
49.31 Broker cannot act as a dual agent unless both the seller(s) and the buyer(s) agree to it. By  
49.32 agreeing to a possible dual agency, the seller(s) will be giving up the right to exclusive  
49.33 representation in an in-house transaction. However, if the seller(s) should decide not to  
49.34 agree to a possible dual agency, and the seller(s) want broker to represent the seller(s), the  
49.35 seller(s) may give up the opportunity to sell the property to buyers represented by broker.

49.36 Seller's Instructions to Broker

50.1 Having read and understood this information about dual agency, seller(s) now  
50.2 instructs broker as follows:

50.3 ..... Seller(s) will agree to a dual agency representation and will consider  
50.4 offers made by buyers represented by broker.

50.5 ..... Seller(s) will not agree to a dual agency representation and will not  
50.6 consider offers made by buyers represented by broker.

50.7 .....  
50.8 Seller Real Estate Company Name

50.9 ..... By: .....  
50.10 Seller Salesperson

50.11 Date : ..... ;

50.12 ~~(9)~~ (10) a notice requiring the seller to indicate in writing whether it is acceptable to  
50.13 the seller to have the licensee arrange for closing services or whether the seller wishes to  
50.14 arrange for others to conduct the closing; and

50.15 ~~(10)~~ (11) for residential listings, a notice stating that after the expiration of the  
50.16 listing agreement, the seller will not be obligated to pay the licensee a fee or commission  
50.17 if the seller has executed another valid listing agreement pursuant to which the seller is  
50.18 obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of  
50.19 the real property in question. This notice may be used in the listing agreement for any  
50.20 other type of real estate.

50.21 (c) **Prohibited provisions.** Except as otherwise provided in paragraph (d), clause  
50.22 (2), licensees shall not include in a listing agreement a holdover clause, automatic  
50.23 extension, or any similar provision, or an override clause the length of which is more than  
50.24 six months after the expiration of the listing agreement.

50.25 (d) **Override clauses.** (1) Licensees shall not seek to enforce an override clause  
50.26 unless a protective list has been furnished to the seller within 72 hours after the expiration  
50.27 of the listing agreement.

50.28 (2) A listing agreement may contain an override clause of up to two years in length  
50.29 when used in conjunction with the purchase or sale of a business. The length of the  
50.30 override clause must be negotiable between the licensee and the seller of the business. The  
50.31 protective list provided in connection with the override clause must include the written  
50.32 acknowledgment of each party named on the protective list, that the business which is the  
50.33 subject of the listing agreement was presented to that party by the licensee.

50.34 (e) **Protective lists.** A broker or salesperson has the burden of demonstrating that  
50.35 each person on the protective list has, during the period of the listing agreement, either  
50.36 made an affirmative showing of interest in the property by responding to an advertisement  
50.37 or by contacting the broker or salesperson involved or has been physically shown the

51.1 property by the broker or salesperson. For the purpose of this section, the mere mailing or  
51.2 other distribution by a licensee of literature setting forth information about the property in  
51.3 question does not, of itself, constitute an affirmative showing of interest in the property on  
51.4 the part of a subsequent purchaser.

51.5 For listings of nonresidential real property which do not contain the notice described  
51.6 in paragraph (b), clause ~~(10)~~ (11), the protective list must contain the following notice in  
51.7 boldface type:

51.8 "IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE  
51.9 PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME  
51.10 APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS  
51.11 TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK  
51.12 COMPETENT ADVICE."

51.13 Sec. 51. Minnesota Statutes 2008, section 82.24, subdivision 3, is amended to read:

51.14 Subd. 3. **Broker payment consolidation.** For all license renewal fees, recovery  
51.15 fund renewal fees, and recovery fund assessments pursuant to this section and section  
51.16 82.43, the broker must remit the fees or assessments for the company, broker, and all  
51.17 salespersons licensed to the broker, in the form of a single ~~check~~ payment.

51.18 Sec. 52. Minnesota Statutes 2008, section 82.29, subdivision 4, is amended to read:

51.19 Subd. 4. **Broker's examination.** (a) The examination for a real estate broker's  
51.20 license shall be more exacting than that for a real estate salesperson, and shall require a  
51.21 higher degree of knowledge of the fundamentals of real estate practice and law.

51.22 (b) Every application for a broker's examination shall be accompanied by proof that  
51.23 the applicant has had a minimum of two years of actual experience within the previous  
51.24 five-year period prior to application as a licensed real estate salesperson in this or in  
51.25 another state having comparable requirements or is, in the opinion of the commissioner,  
51.26 otherwise or similarly qualified by reason of education or practical experience. The  
51.27 applicant shall have completed educational requirements in accordance with subdivision 8.

51.28 (c) An applicant for a limited broker's license pursuant to section 82.34, subdivision  
51.29 13, shall not be required to have a minimum of two years of actual experience as a real  
51.30 estate person in order to obtain a limited broker's license ~~to act as principal only~~.

51.31 Sec. 53. Minnesota Statutes 2008, section 82.29, subdivision 5, is amended to read:

52.1 Subd. 5. **Waivers.** The commissioner may ~~waive~~ grant a waiver of the real estate  
52.2 licensing experience requirement for the broker's examination to a qualified applicant for  
52.3 a waiver.

52.4 (a) ~~An~~ A qualified applicant for a waiver shall provide evidence of is an individual  
52.5 who:

52.6 (1) ~~successful completion of a minimum of 90 quarter credits or 270 classroom~~  
52.7 hours of real estate-related studies has a degree in real estate from an accredited college  
52.8 or university;

52.9 (2) ~~a minimum of five consecutive years of practical experience in real estate-related~~  
52.10 areas is a licensed practicing attorney whose practice involves real estate law; or

52.11 (3) ~~successful completion of 30 credits or 90 classroom hours and three consecutive~~  
52.12 years of practical experience in real estate-related areas is a public officer whose official  
52.13 duties involve real estate law or real estate transactions.

52.14 (b) A request for a waiver shall be submitted to the commissioner in writing on a  
52.15 form prescribed by the commissioner and be accompanied by documents necessary to  
52.16 evidence qualification as set forth in paragraph (a).

52.17 (c) The waiver will lapse if the applicant fails to successfully complete the broker's  
52.18 examination within one year from the date of the granting of the waiver.

52.19 Sec. 54. Minnesota Statutes 2008, section 82.29, subdivision 8, is amended to read:

52.20 Subd. 8. **Instruction; new licenses.** (a) ~~Every~~ An applicant for a salesperson's  
52.21 license shall be required to successfully complete a course of study in the real estate field  
52.22 consisting of 30 hours of instruction approved by the commissioner before taking the  
52.23 examination specified in subdivision 1. ~~Every~~ An applicant for a salesperson's license  
52.24 shall be required to successfully complete an additional course of study in the real estate  
52.25 field consisting of 60 hours of instruction approved by the commissioner, of which three  
52.26 hours shall consist of training in state and federal fair housing laws, regulations, and  
52.27 rules, and of which two hours must consist of training in laws and regulations on agency  
52.28 representation and disclosure, before filing an application for the license. This subdivision  
52.29 does not apply to salespeople licensed in Minnesota before July 1, 1969.

52.30 (b) An applicant for a broker's license must successfully complete a course of study  
52.31 in the real estate field consisting of 30 hours of instruction approved by the commissioner,  
52.32 of which three hours shall consist of training in state and federal fair housing laws,  
52.33 regulations, and rules. The course must have been completed within 12 months prior to  
52.34 the date of application for the broker's license.

53.1 ~~(e) An applicant for a real estate closing agent's license must successfully complete~~  
53.2 ~~a course of study relating to closing services consisting of eight hours of instruction~~  
53.3 ~~approved by the commissioner.~~

53.4 Sec. 55. Minnesota Statutes 2008, section 82.31, subdivision 1, is amended to read:

53.5 Subdivision 1. **Qualification of applicants.** ~~Every~~ An applicant for a real estate  
53.6 broker, or real estate salesperson, ~~or real estate closing agent~~ license shall be at least 18  
53.7 years of age at the time of making application for said license.

53.8 Sec. 56. Minnesota Statutes 2008, section 82.31, subdivision 2, is amended to read:

53.9 Subd. 2. **Application for license; contents.** (a) ~~Every~~ An applicant for a license  
53.10 as a real estate broker, or real estate salesperson, ~~or closing agent~~ shall make an  
53.11 application in ~~writing upon forms prepared and furnished~~ the format prescribed by the  
53.12 commissioner. ~~Each~~ The application shall be signed and sworn to by the applicant and  
53.13 ~~shall be~~ accompanied by the license fee required by this chapter.

53.14 (b) Each application for a real estate broker license, or real estate salesperson  
53.15 license, ~~or real estate closing agent~~ license shall contain such information as required  
53.16 by the commissioner consistent with the administration of the provisions and purposes  
53.17 of this chapter.

53.18 (c) ~~Each~~ The application for a real estate salesperson license shall give the applicant's  
53.19 legal name, age, residence address, and the name and place of business of the real estate  
53.20 broker on whose behalf the salesperson is to be acting.

53.21 ~~(d) Each application for a real estate closing agent license shall give the applicant's~~  
53.22 ~~name, age, residence address, and the name and place of business of the closing agent.~~

53.23 ~~(e)~~ (d) The commissioner may require such further information as the commissioner  
53.24 deems appropriate to administer the provisions and further the purposes of this chapter.

53.25 ~~(f) Applicants~~ (e) An applicant for a real estate salesperson license shall submit  
53.26 to the commissioner, along with the application for licensure, a copy of the course  
53.27 completion certificate for courses I, II, and III and passing examination results.

53.28 Sec. 57. Minnesota Statutes 2009 Supplement, section 82.31, subdivision 4, is  
53.29 amended to read:

53.30 Subd. 4. **Corporate and partnership Business entity; brokerage licenses.**

53.31 (a) A corporation business entity applying for a license shall have at least one ~~officer~~  
53.32 responsible person individually licensed to act as broker for the corporation brokerage.  
53.33 The corporation business entity broker's license shall extend no authority to act as broker

54.1 to any person other than the ~~corporate~~ business entity. Each ~~officer~~ responsible person  
54.2 who intends to act as a broker shall obtain a license.

54.3 (b) A ~~partnership~~ business entity applying for a license shall have at least one ~~partner~~  
54.4 responsible person individually licensed to act as broker for the ~~partnership~~ business entity.  
54.5 Each ~~partner~~ responsible person who intends to act as a broker shall obtain a license.

54.6 (c) ~~Applications~~ An application for a business entity license ~~made by a corporation~~  
54.7 ~~shall be verified by the president and one other officer.~~ Applications made by a partnership  
54.8 shall be verified by at least two partners responsible persons for the business entity.

54.9 (d) ~~Any partner or officer~~ A responsible person who ceases to act as broker for  
54.10 a ~~partnership or corporation~~ business entity shall notify the commissioner upon said  
54.11 termination. The individual licenses of all salespersons acting on behalf of a ~~corporation~~  
54.12 ~~or partnership,~~ brokerage are automatically ineffective upon the revocation or suspension  
54.13 of the license of the ~~partnership or corporation~~ brokerage. The commissioner may suspend  
54.14 or revoke the license of an ~~officer or partner~~ responsible person licensee without  
54.15 suspending or revoking the license of the ~~corporation or partnership~~ business entity.

54.16 (e) The application of all ~~officers~~ responsible persons of a ~~corporation or partners~~  
54.17 ~~in a partnership~~ business entity who intend to act as a ~~broker~~ brokers on behalf of a  
54.18 ~~corporation or partnership~~ business entity shall accompany the initial license application  
54.19 of the ~~corporation or partnership~~ business entity. ~~Officers or partners~~ Responsible persons  
54.20 intending to act as brokers subsequent to the licensing of the ~~corporation or partnership~~  
54.21 business entity shall procure an individual real estate broker's license prior to acting in the  
54.22 capacity of a broker. No ~~corporate officer, or partner,~~ responsible person who maintains a  
54.23 salesperson's license may exercise any authority over any trust account administered by  
54.24 the broker nor may they be vested with any supervisory authority over the broker.

54.25 (f) The ~~corporation or partnership~~ business entity applicant shall make available  
54.26 upon request, such records and data required by the commissioner for enforcement  
54.27 of this chapter.

54.28 (g) The commissioner may require further information, as the commissioner deems  
54.29 appropriate, to administer the provisions and further the purposes of this chapter.

54.30 Sec. 58. Minnesota Statutes 2009 Supplement, section 82.32, is amended to read:

54.31 **82.32 LICENSING: CONTINUING EDUCATION AND INSTRUCTION.**

54.32 (a) All real estate salespersons and all real estate brokers shall be required to  
54.33 successfully complete 30 hours of real estate continuing education, either as a student or  
54.34 a lecturer, in courses of study approved by the commissioner, during the initial license  
54.35 period and during each succeeding 24-month license period. At least 15 of the 30 credit

55.1 hours must be completed during the first 12 months of the 24-month licensing period.  
55.2 Licensees may not claim credit for continuing education not actually completed as of the  
55.3 date their report of continuing education compliance is filed.

55.4 (b) The commissioner may adopt rules defining the standards for course and  
55.5 instructor approval, and may adopt rules for the proper administration of prelicense  
55.6 instruction as required under section 82.29, subdivision 8, and continuing education as  
55.7 required under this section and sections 82.29; 82.31, ~~subdivisions~~ subdivision 5 and 6;  
55.8 82.33, subdivisions 1 and 4 to 6; and 82.44. The commissioner may not approve a course  
55.9 which can be completed by the student at home or outside the classroom without the  
55.10 supervision of an instructor except accredited courses using new delivery technology,  
55.11 including interactive technology, and the Internet. The commissioner may approve  
55.12 courses of study in the real estate field offered in educational institutions of higher learning  
55.13 in this state or courses of study in the real estate field developed by and offered under  
55.14 the auspices of the National Association of Realtors, its affiliates, or private real estate  
55.15 schools. Courses in motivation, salesmanship, psychology, or time management shall not  
55.16 be approved by the commissioner for continuing education credit. The commissioner may  
55.17 approve courses in any other subjects, including, but not limited to, communication,  
55.18 marketing, negotiation, and technology for continuing education credit.

55.19 (c) As part of the continuing education requirements of this section and sections  
55.20 82.29; 82.31, subdivisions 5 and 6; 82.33, subdivisions 1 and 4 to 6; and 82.44, the  
55.21 commissioner shall require that all real estate brokers and salespersons receive:

55.22 (1) at least one hour of training during each license period in courses in laws or  
55.23 regulations on agency representation and disclosure; and

55.24 (2) at least one hour of training during each license period in courses in state and  
55.25 federal fair housing laws, regulations, and rules, other antidiscrimination laws, or courses  
55.26 designed to help licensees to meet the housing needs of immigrant and other underserved  
55.27 populations.

55.28 Clauses (1) and (2) do not apply to real estate salespersons and real estate brokers  
55.29 engaged solely in the commercial real estate business who file with the commissioner  
55.30 a verification of this status along with the continuing education report required under  
55.31 paragraph (a).

55.32 (d) The commissioner is authorized to establish a procedure for renewal of course  
55.33 accreditation.

55.34 (e) Approved continuing education courses may be sponsored or offered by a broker  
55.35 of a real estate company and may be held on the premises of a company licensed under  
55.36 this chapter. All continuing education course offerings must be open to any interested

56.1 individuals. Access may be restricted by the education provider based on class size  
56.2 only. Courses must not be approved if attendance is restricted to any particular group of  
56.3 people. A broker must comply with all continuing education rules prescribed by the  
56.4 commissioner. The commissioner shall not approve any prelicense instruction courses  
56.5 offered by, sponsored by, or affiliated with any person or company licensed to engage in  
56.6 the real estate business.

56.7 (f) Credit may not be earned if the licensee has previously obtained credit for the  
56.8 same course as either a student or instructor during the same licensing period.

56.9 (g) The real estate education course completion certificate must be in the form set  
56.10 forth by the commissioner. Students are responsible for maintaining copies of course  
56.11 completion certificates.

56.12 (h) An approved prelicense 30-hour broker course may be used for continuing  
56.13 education credit by a real estate salesperson or broker if the course is completed during  
56.14 the appropriate licensing period.

56.15 Sec. 59. Minnesota Statutes 2008, section 82.33, subdivision 1, is amended to read:

56.16 Subdivision 1. **Duration.** ~~No~~ The renewal of a salesperson's license shall be is not  
56.17 effective beyond a date two years after the granting of such the salesperson's license unless  
56.18 the salesperson has furnished evidence of compliance with section 82.29, subdivision 8.  
56.19 The commissioner shall cancel the license of any a salesperson who fails to comply with  
56.20 section 82.29, subdivision 8. This subdivision shall not apply to salespeople licensed in  
56.21 Minnesota prior to July 1, 1969.

56.22 Sec. 60. Minnesota Statutes 2008, section 82.33, is amended by adding a subdivision  
56.23 to read:

56.24 Subd. 1a. **Broker's responsibility.** (a) A broker shall renew the license of each  
56.25 eligible salesperson who is and will continue to be associated with the broker. For  
56.26 the purposes of this subdivision, an eligible salesperson is one who has demonstrated  
56.27 compliance with all renewal requirements before June 15 of the renewal year.

56.28 (b) When a broker does not intend to renew the license of an eligible salesperson  
56.29 who is associated with the broker, the broker must notify the salesperson in writing 30  
56.30 days before June 15 of the renewal year.

56.31 (c) When the broker responsible for the salesperson's license renewal does not renew  
56.32 an eligible salesperson's license before the renewal deadline, the broker shall pay on the  
56.33 salesperson's behalf any additional higher license fees that result.



57.1 Sec. 61. Minnesota Statutes 2008, section 82.33, subdivision 2, is amended to read:

57.2 Subd. 2. **Timely renewals.** ~~Persons~~ A person whose applications have application  
57.3 for a license renewal has not been properly and timely filed and who have has not received  
57.4 notice of ~~denial~~ approval of renewal are deemed to have been approved for renewal and  
57.5 may not continue to transact business either as a real estate broker, salesperson, or closing  
57.6 agent ~~whether or not the renewed license has been received on or before July 1~~ after June  
57.7 30 of the renewal year until approval of renewal is received. Application for renewal of a  
57.8 license ~~shall be deemed to have been~~ is timely filed if ~~received by the commissioner by, or~~  
57.9 ~~mailed with proper postage and postmarked by:~~

57.10 (1) all requirements for renewal, including continuing education requirements,  
57.11 have been completed by June 15 of the renewal year. ~~Applications for renewal shall be~~  
57.12 ~~deemed properly filed if made;~~ and

57.13 (2) the application is submitted before the renewal deadline in the manner  
57.14 prescribed by the commissioner upon forms duly executed and sworn to, accompanied  
57.15 by fees prescribed by this chapter, and ~~contain~~ containing any information which the  
57.16 commissioner may require requires.

57.17 Sec. 62. Minnesota Statutes 2008, section 82.34, subdivision 1, is amended to read:

57.18 Subdivision 1. **Generally.** (a) The commissioner shall issue a license as a real estate  
57.19 broker, or real estate salesperson, ~~or closing agent~~ to any person who qualifies for ~~such~~  
57.20 the license under the terms of this chapter.

57.21 (b) The commissioner is authorized to establish by rule a special license for real  
57.22 estate brokers and real estate salespeople engaged solely in the rental or management of  
57.23 an interest or estate in real estate, to prescribe qualifications for the license, and to issue  
57.24 the license consistent with the terms of this chapter. This clause shall not be construed to  
57.25 require those owners or managers or their agents or employees who are excluded by section  
57.26 82.23, clause (d), from the definition of real estate broker, to obtain the special license.

57.27 Sec. 63. Minnesota Statutes 2008, section 82.34, subdivision 2, is amended to read:

57.28 Subd. 2. **Additional broker's license.** An individual who holds a broker's license  
57.29 in ~~his or her~~ the broker's own name or for or on behalf of a ~~corporation or partnership~~  
57.30 business entity must be issued an additional broker's license only upon demonstrating:

57.31 (1) that the additional license is necessary in order to serve a legitimate business  
57.32 purpose;

58.1           (2) that the broker will be capable of supervising all salespersons over whom ~~he or~~  
58.2 ~~she~~ the broker will have supervisory responsibility or, in the alternative, that the broker  
58.3 will have no supervisory responsibilities under the additional license; and

58.4           (3) that the broker:

58.5           (i) ~~has a substantial~~ at least 51 percent ownership interest in each ~~corporation or~~  
58.6 ~~partnership~~ business entity for or on whose behalf ~~he or she~~ the broker holds or will  
58.7 hold a broker's license; or

58.8           (ii) is an elected or appointed officer, signing partner, or managing member of both  
58.9 the business entity for which or on whose behalf the broker already holds a license, and  
58.10 an affiliated business entity for which or on whose behalf the broker is applying for an  
58.11 additional license.

58.12           ~~The requirement of a substantial ownership interest does not apply where the broker~~  
58.13 ~~seeking the additional license or licenses is an officer of a corporation for or on whose~~  
58.14 ~~behalf the broker already holds a license and the broker is applying for the additional~~  
58.15 ~~license or licenses for or on behalf of an affiliated corporation or corporations of which he~~  
58.16 ~~or she is also an officer. For the purpose of this section and sections 82.31, subdivisions 1~~  
58.17 ~~to 4; 82.33, subdivisions 1 to 3; 82.35, subdivision 2; and 82.39, "affiliated corporation~~  
58.18 ~~business entity" means a corporation which is directly or indirectly controlled business~~  
58.19 ~~entity that is majority-owned by the same persons as the corporation business entity for~~  
58.20 ~~which or on whose behalf the broker is already licensed to act.~~

58.21           For the purposes of this section and sections 82.31, subdivisions 1 to 4; 82.33,  
58.22 subdivisions 1 to 3; 82.35, subdivision 2; and 82.39, a legitimate business purpose  
58.23 includes engaging in a different and specialized area of real estate or maintaining an  
58.24 existing business name.

58.25           Sec. 64. Minnesota Statutes 2008, section 82.34, subdivision 4, is amended to read:

58.26           Subd. 4. **Issuance of license; salesperson.** A salesperson must be licensed to act  
58.27 on behalf of a licensed broker and may not be licensed to act on behalf of more than  
58.28 one broker in this state during the same period of time. ~~The license of each real estate~~  
58.29 ~~salesperson shall be mailed to and remain in the possession of the licensed broker with~~  
58.30 ~~whom the salesperson is or is to be associated until canceled or until such licensee leaves~~  
58.31 ~~such broker.~~

58.32           Sec. 65. Minnesota Statutes 2008, section 82.34, subdivision 5, is amended to read:

58.33           Subd. 5. **Effective date of license.** ~~Licenses~~ A license renewed pursuant to this  
58.34 chapter ~~are~~ is valid for a period of 24 months. ~~New licenses~~ A new license issued during a

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59.1 24-month licensing period will expire on June 30 of the expiration year assigned to the  
59.2 license. ~~Implementation of the 24-month licensing program must be staggered so that~~  
59.3 ~~approximately one-half of the licenses will expire on June 30 of each even-numbered year~~  
59.4 ~~and the other one-half on June 30 of each odd-numbered year. Those licensees who will~~  
59.5 ~~receive a 12-month license on July 1, 1995, because of the staggered implementation~~  
59.6 ~~schedule will pay for the license a fee reduced by an amount equal to one-half the fee~~  
59.7 ~~for renewal of the license.~~

59.8 Sec. 66. Minnesota Statutes 2008, section 82.34, subdivision 13, is amended to read:

59.9 Subd. 13. **Limited broker's license.** ~~(a) The commissioner shall have the authority~~  
59.10 ~~to issue a limited real estate broker's license authorizing the licensee to engage in~~  
59.11 ~~transactions as principal only. Such license shall be issued only after receipt of the~~  
59.12 ~~application described in section 82.31, subdivision 2, and payment of the fee prescribed~~  
59.13 ~~by section 82.24, subdivision 1. No salesperson may be licensed to act on behalf of an~~  
59.14 ~~individual holding a limited broker's license. An officer of a corporation or partner of a~~  
59.15 ~~partnership licensed as a limited broker may act on behalf of that corporation or partnership~~  
59.16 ~~without being subject to the licensing requirements. following limited activities:~~

59.17 ~~(b) A limited broker's license shall also authorize the licensee to engage in~~  
59.18 ~~negotiation of mortgage loans, other than residential mortgage loans, as described in~~  
59.19 ~~section 82.17, subdivision 18, clause (b).~~

59.20 (1) the licensee to engage in transactions as principal only; or

59.21 (2) the licensee to engage in negotiations of mortgage loans, other than residential  
59.22 mortgage loans, as described in section 82.17, subdivision 18, clause (b).

59.23 The license may be issued only after receipt of the application described in section  
59.24 82.31, subdivision 2, and payment of the fee prescribed by section 82.24, subdivision 1. A  
59.25 salesperson may not be licensed to act on behalf of an individual holding a limited broker's  
59.26 license. A responsible person of a business entity licensed as a limited broker may act on  
59.27 behalf of that business entity without being subject to the licensing requirements.

59.28 Sec. 67. Minnesota Statutes 2008, section 82.39, is amended to read:

59.29 **82.39 NOTICE TO COMMISSIONER.**

59.30 Subdivision 1. **Notice Change of application information.** Notice in writing  
59.31 or in the format prescribed by the commissioner shall be given to the commissioner by  
59.32 each a licensee of any change in of information contained in the license application on file  
59.33 with the commissioner, including but not limited to personal name, trade name, address or

60.1 business location not later than ten days after ~~such~~ the change. ~~The commissioner shall~~  
60.2 ~~issue a new license if required for the unexpired period.~~

60.3 Subd. 2. **Mandatory. Licensees** ~~The licensee shall notify the commissioner in~~  
60.4 ~~writing or in the format prescribed by the commissioner within ten days of the facts in~~  
60.5 ~~subdivisions 3 to 5.~~

60.6 Subd. 3. **Civil judgment. Licensees** ~~The licensee must notify the commissioner~~  
60.7 ~~in writing within ten days of a final adverse decision or order of a court, whether or not~~  
60.8 ~~the decision or order is appealed, regarding any proceeding in which the licensee was~~  
60.9 ~~named as a defendant, and which alleged fraud, misrepresentation, or the conversion of~~  
60.10 ~~funds, if the final adverse decision relates to the allegations of fraud, misrepresentation, or~~  
60.11 ~~the conversion of funds.~~

60.12 Subd. 4. **Disciplinary action.** ~~The licensee must notify the commissioner in writing~~  
60.13 ~~within ten days of the suspension or revocation of the licensee's real estate or other~~  
60.14 ~~occupational license issued by this state or another jurisdiction.~~

60.15 Subd. 5. **Criminal offense.** ~~The licensee must notify the commissioner in writing~~  
60.16 ~~within ten days if the licensee is charged with, adjudged guilty of, or enters a plea of~~  
60.17 ~~guilty or nolo contendere to a charge of any felony, or of any gross misdemeanor alleging~~  
60.18 ~~fraud, misrepresentation, conversion of funds, or a similar violation of any real estate~~  
60.19 ~~licensing law.~~

60.20 Sec. 68. Minnesota Statutes 2008, section 82.41, subdivision 1, is amended to read:

60.21 Subdivision 1. **License required.** ~~No person shall act as a real estate broker,~~  
60.22 ~~or real estate salesperson, or real estate closing agent unless licensed as herein provided~~  
60.23 ~~in this section.~~

60.24 Sec. 69. Minnesota Statutes 2008, section 82.41, subdivision 2, is amended to read:

60.25 Subd. 2. **Misrepresenting status as licensee.** ~~No persons shall advertise or~~  
60.26 ~~represent themselves to be real estate brokers, salespeople, or closing agents or real estate~~  
60.27 ~~salespersons unless licensed as herein provided in this section.~~

60.28 Sec. 70. Minnesota Statutes 2008, section 82.41, is amended by adding a subdivision  
60.29 to read:

60.30 Subd. 3a. **Limitation on broker when transaction not completed.** When the  
60.31 owner fails or is unable to consummate a real estate transaction, through no fault of the  
60.32 purchaser, the listing broker may not claim any portion of any trust funds deposited with  
60.33 the broker by the purchaser, absent a separate agreement with the purchaser.

61.1 Sec. 71. Minnesota Statutes 2008, section 82.45, subdivision 3, is amended to read:

61.2 Subd. 3. **Retention.** A licensed real estate broker shall retain for ~~three~~ six years  
61.3 copies of all listings, buyer representation and facilitator services contracts, deposit  
61.4 receipts, purchase money contracts, canceled checks, trust account records, and such  
61.5 other documents as may reasonably be related to carrying on a real estate brokerage  
61.6 business. The retention period shall run from the date of the closing of the transaction,  
61.7 or from the date of the document if the document is not consummated. The following  
61.8 documents need not be retained:

61.9 (1) agency disclosure forms provided to prospective buyers or sellers, where no  
61.10 contractual relationship is subsequently created and no services are provided by the  
61.11 licensee; and

61.12 (2) facilitator services contracts or buyer representation contracts entered into with  
61.13 prospective buyers, where the prospective buyer abandons the contractual relationship  
61.14 before any services have been provided by the licensee.

61.15 Sec. 72. Minnesota Statutes 2008, section 82.45, is amended by adding a subdivision  
61.16 to read:

61.17 Subd. 4. **Storage.** Storage of documents identified in subdivision 3 may be stored  
61.18 by electronic means.

61.19 Sec. 73. Minnesota Statutes 2008, section 82.45, is amended by adding a subdivision  
61.20 to read:

61.21 Subd. 5. **Destruction.** After the retention period specified in subdivision 3 has  
61.22 elapsed and the broker no longer wishes to retain the documents, the broker must ensure  
61.23 that the documents are disposed of according to the confidential record destruction  
61.24 procedures of the Fair and Accurate Credit Transaction Act of 2003, Public Law 108-159.

61.25 Sec. 74. Minnesota Statutes 2008, section 82.48, subdivision 2, is amended to read:

61.26 Subd. 2. **Penalty for noncompliance.** The methods, acts, or practices set forth in  
61.27 subdivisions 1 and 3 and sections 82.19; 82.22; 82.27; ~~82.31, subdivision 6;~~ 82.37; and  
61.28 82.41, subdivision 11, are standards of conduct governing the activities of real estate  
61.29 brokers and salespersons. Failure to comply with these standards shall constitute grounds  
61.30 for license denial, suspension, or revocation, or for censure of the licensee.

61.31 Sec. 75. Minnesota Statutes 2008, section 82.48, subdivision 3, is amended to read:

62.1 Subd. 3. **Responsibilities of brokers.** (a) **Supervision of personnel.** ~~Brokers~~ A  
62.2 broker shall adequately supervise the activities of ~~their~~ the broker's salespersons and  
62.3 employees. Supervision includes the ongoing monitoring of listing agreements, purchase  
62.4 agreements, other real estate-related documents which are prepared or drafted by the  
62.5 broker's salespersons or employees or which are otherwise received by the broker's office,  
62.6 and the review of all trust account books and records. If an individual broker maintains  
62.7 more than one place of business, each place of business shall be under the broker's direction  
62.8 and supervision. If a ~~partnership or corporate broker~~ brokerage maintains more than one  
62.9 place of business, each place of business shall be under the direction and supervision of an  
62.10 individual broker licensed to act on behalf of the ~~partnership or corporation~~ brokerage.

62.11 The primary broker shall maintain records specifying the name of each broker  
62.12 responsible for the direction and supervision of each place of business. If an individual  
62.13 broker, who may be the primary broker, is responsible for supervising more than one  
62.14 place of business, the primary broker shall, upon written request of the commissioner,  
62.15 file a written statement specifying the procedures which have been established to ensure  
62.16 that all salespersons and employees are adequately supervised. Designation of another  
62.17 broker to supervise a place of business does not relieve the primary broker of the ultimate  
62.18 responsibility for the actions of licensees.

62.19 (b) **Preparation and safekeeping of documents.** ~~Brokers shall be~~ A broker is  
62.20 responsible for the preparation, custody, safety, and accuracy of all real estate contracts,  
62.21 documents, and records, even though another person may be assigned these duties by  
62.22 the broker.

62.23 (c) **Documentation and resolution of complaints.** ~~Brokers~~ A broker shall  
62.24 investigate and attempt to resolve complaints made regarding the practices of any  
62.25 individual licensed to ~~them~~ the broker and shall maintain, with respect to each individual  
62.26 licensed to ~~them~~ the broker, a complaint file containing all material relating to any  
62.27 complaints received in writing for a period of three years.

62.28 (d) **Disclosure of listed property information.** A broker may allow any unlicensed  
62.29 person, who is authorized by the broker, to disclose any factual information pertaining  
62.30 to the properties listed with the broker, if the factual information is provided to the  
62.31 unlicensed person in written form by the broker representing or assisting the seller(s).

62.32 Sec. 76. **[82.52] ADVERTISING REQUIREMENTS.**

62.33 A licensee shall identify himself or herself as either a broker or an agent salesperson  
62.34 in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other

63.1 disposition of real property, whether the advertising pertains to the licensee's own property  
63.2 or the property of others.

63.3 If a salesperson or broker is part of a team or group within the brokerage, the licensee  
63.4 may include the team or group name in the advertising only under the following conditions:

63.5 (1) the inclusion of the team or group name is authorized by the primary broker of  
63.6 the brokerage to which the salesperson or broker is licensed; and

63.7 (2) the real estate brokerage name is included and more prominently displayed than  
63.8 the team or group name in the advertising.

63.9 Sec. 77. **[82.53] REAL ESTATE CLOSING AGENT LICENSING.**

63.10 Subdivision 1. **Generally.** The commissioner shall issue a license as a closing agent  
63.11 to a person who qualifies for the license under the terms of this chapter.

63.12 Subd. 2. **Qualification of applicants.** An applicant for a real estate closing agent  
63.13 license must be at least 18 years of age at the time of making application for the license.

63.14 Subd. 3. **Application for license; contents.** (a) An applicant for a real estate closing  
63.15 agent license shall make an application in the format prescribed by the commissioner. The  
63.16 application must be accompanied by the license fee required by this chapter.

63.17 (b) An application for a real estate closing agent license must contain the information  
63.18 required by the commissioner consistent with this chapter.

63.19 (c) An application for a real estate closing agent license shall give the applicant's  
63.20 legal name, age, residence address, and the name and place of business of the closing agent.

63.21 (d) The commissioner may require further information the commissioner considers  
63.22 appropriate to administer this chapter.

63.23 Subd. 4. **Instruction.** An applicant for a real estate closing agent's license must  
63.24 successfully complete a course of study relating to closing services consisting of eight  
63.25 hours of instruction approved by the commissioner.

63.26 Subd. 5. **Change of application information.** The commissioner must be notified  
63.27 in the format prescribed by the commissioner of a change of information contained in the  
63.28 license application on file with the commissioner within ten days of the change.

63.29 Subd. 6. **Exemption.** The following persons, when acting as closing agents, are  
63.30 exempt from the requirements of sections 82.41 and 82.50 unless otherwise required  
63.31 in this chapter:

63.32 (1) a direct employee of a title insurance company authorized to do business in this  
63.33 state, or a direct employee of a title company, or a person who has an agency agreement  
63.34 with a title insurance company or a title company in which the agent agrees to perform  
63.35 closing services on the title insurance company's or title company's behalf and the title

64.1 insurance company or title company assumes responsibility for the actions of the agent as  
64.2 if the agent were a direct employee of the title insurance company or title company;  
64.3 (2) a licensed attorney or a direct employee of a licensed attorney;  
64.4 (3) a licensed real estate broker or salesperson;  
64.5 (4) a direct employee of a licensed real estate broker if the broker maintains all funds  
64.6 received in connection with the closing services in the broker's trust account;  
64.7 (5) a bank, trust company, savings association, credit union, industrial loan and thrift  
64.8 company, regulated lender under chapter 56, public utility, or land mortgage or farm loan  
64.9 association organized under the laws of this state or the United States, when engaged in  
64.10 the transaction of businesses within the scope of its corporate powers as provided by law;  
64.11 (6) a title insurance company authorized to do business in this state; and  
64.12 (7) a title company that has a contractual agency relationship with a title insurance  
64.13 company authorized to do business in this state, where the title insurance company  
64.14 assumes responsibility for the actions of the title company and its employees or agents as  
64.15 if they were employees or agents of the title insurance company.

64.16 Sec. 78. **[82.54] OTHER DISCLOSURE REQUIREMENTS.**

64.17 Subdivision 1. **Agent of broker disclosure.** A salesperson shall only conduct  
64.18 business under the licensed name of and on behalf of the broker to whom the salesperson  
64.19 is licensed. An individual broker shall only conduct business under the brokerage's  
64.20 licensed name. A broker licensed to a business entity shall only conduct business under  
64.21 the licensed business entity name. A licensee shall affirmatively disclose, before the  
64.22 negotiation or consummation of any transaction, the licensed name of the brokerage under  
64.23 whom the licensee is authorized to conduct business according to this section.

64.24 Subd. 2. **Financial interests or relative or business associate disclosure;**  
64.25 **licensee.** (a) Before the negotiation or consummation of any transaction, a licensee shall  
64.26 affirmatively disclose to the owner of real property that the licensee is a real estate broker  
64.27 or agent salesperson, and in what capacity the licensee is acting, if the licensee directly, or  
64.28 indirectly through a third party, purchases for himself or herself or acquires, or intends to  
64.29 acquire, any interest in, or any option to purchase, the owner's property.

64.30 (b) When a principal in the transaction is a licensee or a relative or business associate  
64.31 of the licensee, that fact must be disclosed in writing.

64.32 Subd. 3. **Material facts.** (a) A licensee shall disclose to a prospective purchaser  
64.33 all material facts of which the licensee is aware, which could adversely and significantly  
64.34 affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the  
64.35 property of which the licensee is aware.



65.1 (b) It is not a material fact relating to real property offered for sale the fact or  
65.2 suspicion that the property:

65.3 (1) is or was occupied by an owner or occupant who is or was suspected  
65.4 to be infected with human immunodeficiency virus or diagnosed with acquired  
65.5 immunodeficiency syndrome;

65.6 (2) was the site of a suicide, accidental death, natural death, or perceived paranormal  
65.7 activity; or

65.8 (3) is located in a neighborhood containing any adult family home, community-based  
65.9 residential facility, or nursing home.

65.10 (c) A licensee or employee of the licensee has no duty to disclose information  
65.11 regarding an offender who is required to register under section 243.166, or about whom  
65.12 notification is made under that section, if the broker or salesperson, in a timely manner,  
65.13 provides a written notice that information about the predatory offender registry and  
65.14 persons registered with the registry may be obtained by contacting local law enforcement  
65.15 where the property is located or the Department of Corrections.

65.16 (d) A licensee or employee of the licensee has no duty to disclose information  
65.17 regarding airport zoning regulations if the broker or salesperson, in a timely manner,  
65.18 provides a written notice that a copy of the airport zoning regulations as adopted can be  
65.19 reviewed or obtained at the office of the county recorder where the zoned area is located.

65.20 (e) A licensee is not required to disclose, except as otherwise provided in paragraph  
65.21 (f), information relating to the physical condition of the property or any other information  
65.22 relating to the real estate transaction, if a written report that discloses the information has  
65.23 been prepared by a qualified third party and provided to the person. For the purposes of  
65.24 this paragraph, "qualified third party" means a federal, state, or local governmental agency,  
65.25 or any person whom the broker, salesperson, or a party to the real estate transaction  
65.26 reasonably believes has the expertise necessary to meet the industry standards of practice  
65.27 for the type of inspection or investigation that has been conducted by the third party  
65.28 in order to prepare the written report and who is acceptable to the person to whom the  
65.29 disclosure is being made.

65.30 (f) A licensee shall disclose to the parties to a real estate transaction any facts known  
65.31 by the broker or salesperson that contradict any information included in a written report  
65.32 described in paragraph (e), if a copy of the report is provided to the licensee.

65.33 (g) The limitation on disclosures in paragraphs (b) and (c) shall modify any common  
65.34 law duties with respect to disclosure of material facts.

65.35 Subd. 4. **Nonperformance of party.** If a licensee is put on notice by a party to a  
65.36 real estate transaction that the party will not perform according to the terms of a purchase

66.1 agreement or other similar written agreement to convey real estate, the licensee shall  
66.2 immediately disclose the fact of that party's intent not to perform to the other party or  
66.3 parties to the transaction. The licensee shall, if reasonably possible, inform the party who  
66.4 will not perform of the licensee's obligation to disclose this fact to the other party or  
66.5 parties to the transaction before making the disclosure. The obligation required by this  
66.6 section does not apply to notice of a party's inability to keep or fulfill any contingency to  
66.7 which the real estate transaction has been made subject.

66.8 Sec. 79. Minnesota Statutes 2008, section 82B.05, as amended by Laws 2009, chapter  
66.9 63, section 62, is amended to read:

66.10 **82B.05 REAL ESTATE APPRAISER ADVISORY BOARD.**

66.11 Subdivision 1. **Members.** The Real Estate Appraiser Advisory Board consists of  
66.12 ~~15~~ nine members appointed by the commissioner of commerce. Three of the members  
66.13 must be ~~public members~~, ~~four must be~~ consumers of appraisal services, of whom one  
66.14 member must be employed in the financial lending industry, and ~~eight~~ six must be real  
66.15 estate appraisers who are currently licensed in good standing, of whom ~~not less than two~~  
66.16 three members must be ~~trainee real property appraisers, licensed real property appraisers,~~  
66.17 ~~or certified residential real property appraisers, not less than two~~ and three members must  
66.18 be certified general real property appraisers, ~~and not less than~~. At least one member of the  
66.19 board must be certified by the Appraisal Qualification Board of the Appraisal Foundation  
66.20 to teach the Uniform Standards of Professional Appraisal Practice. The board is governed  
66.21 by section 15.0575.

66.22 Subd. 3. **Terms.** The term of office for members is three years.

66.23 Upon expiration of their terms, members of the board shall continue to hold office  
66.24 until the appointment and qualification of their successors. No person may serve as a  
66.25 member of the board for more than two consecutive terms. The commissioner may  
66.26 remove a member for cause.

66.27 ~~Subd. 4. **Practice of public members prohibited.** The public members of the board~~  
66.28 ~~may not be engaged in the practice of real estate appraising.~~

66.29 Subd. 5. **Conduct of meetings.** Places of regular board meetings must be decided  
66.30 by the vote of members. Written notice must be given to each member of the time and  
66.31 place of each meeting of the board at least ten days before the scheduled date of regular  
66.32 board meetings. The board shall establish procedures for emergency board meetings and  
66.33 other operational procedures, subject to the approval of the commissioner.

66.34 The members of the board shall elect a chair to preside at board meetings, a  
66.35 vice-chair, and a secretary from among the members ~~to preside at board meetings.~~

67.1 A quorum of the board is ~~eight~~ five members.

67.2 The board shall meet at least once every ~~six~~ three months as determined by a  
67.3 majority vote of the members or a call of the commissioner.

67.4 Subd. 6. **Compensation.** Each member of the board is entitled to a per diem  
67.5 allowance of \$35 for each meeting of the board at which the member is present and for each  
67.6 day or substantial part of a day actually spent in the conduct of the business of the board,  
67.7 plus all appropriate expenses unless a greater amount is authorized by section 15.0575.

67.8 Subd. 7. Enforcement reports. The commissioner shall, on a regular basis, provide  
67.9 the board with the commissioner's public enforcement data.

67.10 EFFECTIVE DATE. This section is effective January 1, 2011.

67.11 Sec. 80. Minnesota Statutes 2008, section 82B.06, is amended to read:

67.12 **82B.06 POWERS OF THE BOARD.**

67.13 The board shall make recommendations to the commissioner as the commissioner  
67.14 requests or at the board's own initiative on:

67.15 (1) rules with respect to each category of licensed real estate appraiser, the type of  
67.16 educational experience, appraisal experience, and equivalent experience that will meet  
67.17 the requirements of this chapter;

67.18 (2) examination specifications for each category of licensed real estate appraiser,  
67.19 to assist in providing or obtaining appropriate examination questions and answers, and  
67.20 procedures for grading examinations;

67.21 (3) rules with respect to each category of licensed real estate appraiser, the  
67.22 continuing education requirements for the renewal of licensing that will meet the  
67.23 requirements provided in this chapter;

67.24 (4) periodic review of the standards for the development and communication of  
67.25 real estate appraisals provided in this chapter and rules explaining and interpreting the  
67.26 standards; and

67.27 (5) other matters necessary in carrying out the provisions of this chapter.

67.28 EFFECTIVE DATE. This section is effective January 1, 2011.

67.29 Sec. 81. Minnesota Statutes 2008, section 82B.14, is amended to read:

67.30 **82B.14 EXPERIENCE REQUIREMENT.**

67.31 (a) As a prerequisite for licensing as a licensed real property appraiser, an applicant  
67.32 must present evidence satisfactory to the commissioner that the person has obtained 2,000  
67.33 hours of experience in real property appraisal obtained in no fewer than 12 months.

68.1 As a prerequisite for licensing as a certified residential real property appraiser, an  
68.2 applicant must present evidence satisfactory to the commissioner that the person has  
68.3 obtained 2,500 hours of experience in real property appraisal obtained in no fewer than  
68.4 24 months.

68.5 As a prerequisite for licensing as a certified general real property appraiser, an  
68.6 applicant must present evidence satisfactory to the commissioner that the person has  
68.7 obtained 3,000 hours of experience in real property appraisal obtained in no fewer than 30  
68.8 months. At least 50 percent, or 1,500 hours, must be in nonresidential appraisal work.

68.9 (b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall  
68.10 give under oath a detailed listing of the real estate appraisal reports or file memoranda  
68.11 for which experience is claimed by the applicant. Upon request, the applicant shall make  
68.12 available to the commissioner for examination, a sample of appraisal reports that the  
68.13 applicant has prepared in the course of appraisal practice.

68.14 (c) Notwithstanding section 45.22, a college or university real estate course may be  
68.15 approved retroactively by the commissioner for appraiser prelicense education credit if:

68.16 (1) the course was offered by a college or university physically located in Minnesota;

68.17 (2) the college or university was an approved education provider at the time the  
68.18 course was offered;

68.19 (3) the commissioner's approval is made to the same extent in terms of courses and  
68.20 hours and with the same time limits as those specified by the Appraiser Qualifications  
68.21 Board.

68.22 (d) Applicants may not receive credit for experience accumulated while unlicensed,  
68.23 if the experience is based on activities which required a license under this section.

68.24 ~~(d)~~ (e) Experience for all classifications must be obtained after January 30, 1989,  
68.25 and must be USPAP compliant.

68.26 Sec. 82. Minnesota Statutes 2008, section 326.3382, subdivision 3, is amended to read:

68.27 Subd. 3. **Proof of insurance.** (a) No license may be issued to a private detective  
68.28 or protective agent applicant until the applicant has complied with the requirements in  
68.29 this subdivision.

68.30 (b) The applicant shall execute a surety bond to the state of Minnesota in the penal  
68.31 sum of \$10,000 and file it with the board. The surety bond must be executed by a  
68.32 company authorized to do business in the state of Minnesota, must name the applicant as  
68.33 principal, and must state that the applicant and each of the applicant's employees shall  
68.34 faithfully observe all of the laws of Minnesota and of the United States and shall pay all

69.1 damages suffered by any person by reason of a violation of law by the applicant or by the  
69.2 commission of any willful and malicious wrong by the applicant in the course of business.

69.3 (c) The applicant shall furnish proof, acceptable to the board, of the applicant's  
69.4 ability to respond in damages for liability on account of accidents or wrongdoings arising  
69.5 out of the ownership and operation of a private detective or protective agent business.  
69.6 Compliance with paragraph (d), (e), or (f) is satisfactory proof of financial responsibility  
69.7 for purposes of this paragraph.

69.8 (d) The applicant may file with the board a certificate of insurance demonstrating  
69.9 coverage for general liability, completed operations, and personal injury. Personal injury  
69.10 insurance must include coverage for:

- 69.11 (1) false arrest, detention, imprisonment, and malicious prosecution;  
69.12 (2) libel, slander, defamation, and violation of rights of privacy; and  
69.13 (3) wrongful entry, eviction, and other invasion of rights of private occupancy.

69.14 ~~The certificate must provide that the insurance may not be modified or canceled~~  
69.15 ~~unless 30 days prior notice is given to the board.~~ In the event of a policy cancellation,  
69.16 the insurer will send notice to the board at the same time that a cancellation request is  
69.17 received from or a notice is sent to the insured.

69.18 (e) The applicant may file with the board an annual net worth statement, signed  
69.19 by a licensed certified public accountant, evidencing that the applicant has a net worth  
69.20 of at least the following:

- 69.21 (1) for an applicant with no employees, \$10,000;  
69.22 (2) for an applicant with one to ten employees, \$15,000;  
69.23 (3) for an applicant with 11 to 25 employees, \$25,000;  
69.24 (4) for an applicant with 26 to 50 employees, \$50,000; or  
69.25 (5) for an applicant with 51 or more employees, \$100,000.

69.26 Data indicating with which of the above requirements an applicant must comply is  
69.27 public data. The contents of the net worth statement are private data on individuals or  
69.28 nonpublic data, as defined in section 13.02.

69.29 (f) The applicant may file with the board an irrevocable letter of credit from a  
69.30 financial institution acceptable to the board in the amount listed in the appropriate  
69.31 category in paragraph (e).

69.32 Sec. 83. Minnesota Statutes 2008, section 326B.33, subdivision 16, is amended to read:

69.33 Subd. 16. **Insurance required.** Each contractor shall have and maintain in effect  
69.34 general liability insurance, which includes premises and operations insurance and products  
69.35 and completed operations insurance, with limits of at least \$100,000 per occurrence,

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70.1 \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of  
70.2 at least \$50,000 or a policy with a single limit for bodily injury and property damage of  
70.3 \$300,000 per occurrence and \$300,000 aggregate limits. Such insurance shall be written  
70.4 by an insurer licensed to do business in the state of Minnesota and each contractor shall  
70.5 maintain on file with the commissioner a certificate evidencing such insurance ~~which~~  
70.6 ~~provides that such insurance shall not be canceled without the insurer first giving 15~~  
70.7 ~~days written notice to the commissioner of such cancellation.~~ In the event of a policy  
70.8 cancellation, the insurer shall send written notice to the commissioner at the same time  
70.9 that a cancellation request is received from or a notice is sent to the insured.

70.10 Sec. 84. Minnesota Statutes 2009 Supplement, section 326B.46, subdivision 2, is  
70.11 amended to read:

70.12 Subd. 2. **Bond; insurance.** Any person contracting to do plumbing work must give  
70.13 bond to the state in the amount of at least \$25,000 for (1) all plumbing work entered  
70.14 into within the state or (2) all plumbing work and subsurface sewage treatment work  
70.15 entered into within the state. If the bond is for both plumbing work and subsurface sewage  
70.16 treatment work, the bond must comply with the requirements of this section and section  
70.17 115.56, subdivision 2, paragraph (e). The bond shall be for the benefit of persons injured  
70.18 or suffering financial loss by reason of failure to comply with the requirements of the  
70.19 State Plumbing Code and, if the bond is for both plumbing work and subsurface sewage  
70.20 treatment work, financial loss by reason of failure to comply with the requirements of  
70.21 sections 115.55 and 115.56. The bond shall be filed with the commissioner and shall be  
70.22 written by a corporate surety licensed to do business in the state.

70.23 In addition, each applicant for a master plumber license or restricted master plumber  
70.24 license, or renewal thereof, shall provide evidence of public liability insurance, including  
70.25 products liability insurance with limits of at least \$50,000 per person and \$100,000 per  
70.26 occurrence and property damage insurance with limits of at least \$10,000. The insurance  
70.27 shall be written by an insurer licensed to do business in the state of Minnesota and  
70.28 each licensed master plumber shall maintain on file with the commissioner a certificate  
70.29 evidencing the insurance ~~providing that the insurance shall not be canceled without the~~  
70.30 ~~insurer first giving 15 days written notice to the commissioner. The term of the insurance~~  
70.31 ~~shall be concurrent with the term of the license.~~ In the event of a policy cancellation, the  
70.32 insurer shall send written notice to the commissioner at the same time that a cancellation  
70.33 request is received from or a notice is sent to the insured.

70.34 Sec. 85. Minnesota Statutes 2008, section 326B.56, subdivision 2, is amended to read:

71.1 Subd. 2. **Insurance.** (a) Each applicant for a water conditioning contractor or  
71.2 installer license or renewal thereof who is required by any political subdivision to  
71.3 maintain insurance to obtain or maintain the license may comply with any political  
71.4 subdivision's insurance requirement by maintaining the insurance described in paragraph  
71.5 (b). No applicant for a water conditioning contractor or installer license who maintains the  
71.6 insurance described in paragraph (b) shall be otherwise required to meet the insurance  
71.7 requirements of any political subdivision.

71.8 (b) The insurance shall provide coverage, including products liability coverage,  
71.9 for all damages in connection with licensed work for which the licensee is liable, with  
71.10 personal damage limits of at least \$50,000 per person and \$100,000 per occurrence and  
71.11 property damage insurance with limits of at least \$10,000. The insurance shall be written  
71.12 by an insurer licensed to do business in this state and a certificate evidencing the insurance  
71.13 shall be filed with the commissioner. The insurance must remain in effect at all times while  
71.14 the application is pending and while the license is in effect. ~~The insurance shall not be~~  
71.15 ~~canceled without the insurer first giving 15 days' written notice to the commissioner.~~ In the  
71.16 event of a policy cancellation, the insurer shall send written notice to the commissioner at  
71.17 the same time that a cancellation request is received from or a notice is sent to the insured.

71.18 Sec. 86. Minnesota Statutes 2008, section 326B.86, subdivision 2, is amended to read:

71.19 Subd. 2. **Insurance.** Each licensee shall have and maintain in effect commercial  
71.20 general liability insurance, which includes premises and operations insurance and products  
71.21 and completed operations insurance, with limits of at least \$100,000 per occurrence,  
71.22 \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of  
71.23 at least \$25,000 or a policy with a single limit for bodily injury and property damage of  
71.24 \$300,000 per occurrence and \$300,000 aggregate limits. The insurance must be written by  
71.25 an insurer licensed to do business in this state. Each licensee shall maintain on file with  
71.26 the commissioner a certificate evidencing the insurance ~~which provides that the insurance~~  
71.27 ~~shall not be canceled without the insurer first giving 15 days' written notice of cancellation~~  
71.28 ~~to the commissioner.~~ In the event of a policy cancellation, the insurer shall send written  
71.29 notice to the commissioner at the same time that a cancellation request is received from or  
71.30 a notice is sent to the insured. The commissioner may increase the minimum amount of  
71.31 insurance required for any licensee or class of licensees if the commissioner considers it to  
71.32 be in the public interest and necessary to protect the interests of Minnesota consumers.

71.33 Sec. 87. Minnesota Statutes 2008, section 326B.921, subdivision 6, is amended to read:

72.1 Subd. 6. **Insurance.** In addition to the bond described in subdivision 5, each  
72.2 applicant for a high pressure pipefitting business license or renewal shall have in force  
72.3 public liability insurance, including products liability insurance, with limits of at least  
72.4 \$100,000 per person and \$300,000 per occurrence and property damage insurance with  
72.5 limits of at least \$50,000.

72.6 The insurance must be kept in force for the entire term of the high pressure  
72.7 pipefitting business license, and the license shall be suspended by the department if at any  
72.8 time the insurance is not in force.

72.9 The insurance must be written by an insurer licensed to do business in the state and  
72.10 shall be in lieu of any other insurance required by any subdivision of government for high  
72.11 pressure pipefitting. Each person holding a high pressure pipefitting business license shall  
72.12 maintain on file with the department a certificate evidencing the insurance. ~~Any purported~~  
72.13 ~~cancellation of insurance shall not be effective without the insurer first giving 30 days'~~  
72.14 ~~written notice to the department.~~ In the event of a policy cancellation, the insurer shall  
72.15 send written notice to the commissioner at the same time that a cancellation request is  
72.16 received from or a notice is sent to the insured.

72.17 Sec. 88. Minnesota Statutes 2008, section 327B.04, subdivision 4, is amended to read:

72.18 Subd. 4. **License prerequisites.** No application shall be granted nor license issued  
72.19 until the applicant proves to the commissioner that:

72.20 (a) the applicant has a permanent, established place of business at each licensed  
72.21 location. An "established place of business" means a permanent enclosed building other  
72.22 than a residence, or a commercial office space, either owned by the applicant or leased by  
72.23 the applicant for a term of at least one year, located in an area where zoning regulations  
72.24 allow commercial activity, and where the books, records and files necessary to conduct  
72.25 the business are kept and maintained. The owner of a licensed manufactured home park  
72.26 who resides in or adjacent to the park may use the residence as the established place of  
72.27 business required by this subdivision, unless prohibited by local zoning ordinance.

72.28 If a license is granted, the licensee may use unimproved lots and premises for sale,  
72.29 storage, and display of manufactured homes, if the licensee first notifies the commissioner  
72.30 in writing;

72.31 (b) if the applicant desires to sell, solicit or advertise the sale of new manufactured  
72.32 homes, it has a bona fide contract or franchise in effect with a manufacturer or distributor  
72.33 of the new manufactured home it proposes to deal in;

72.34 (c) the applicant has secured: (1) a surety bond in the amount of \$20,000 for each  
72.35 agency and each subagency location that bears the applicant's name and the name under



73.1 which the applicant will be licensed and do business in this state. Each bond is for the  
73.2 protection of consumer customers, and must be executed by the applicant as principal and  
73.3 issued by a surety company admitted to do business in this state. Each bond shall be  
73.4 exclusively for the purpose of reimbursing consumer customers and shall be conditioned  
73.5 upon the faithful compliance by the applicant with all of the laws and rules of this state  
73.6 pertaining to the applicant's business as a dealer or manufacturer, including sections  
73.7 325D.44, 325F.67 and 325F.69, and upon the applicant's faithful performance of all its  
73.8 legal obligations to consumer customers; and (2) a certificate of liability insurance in  
73.9 the amount of \$1,000,000 that provides aggregate coverage for the agency and each  
73.10 subagency location. In the event of a policy cancellation, the insurer shall send written  
73.11 notice to the commissioner at the same time that a cancellation request is received from  
73.12 or a notice is sent to the insured;

73.13 (d) the applicant has established a trust account as required by section 327B.08,  
73.14 subdivision 3, unless the applicant states in writing its intention to limit its business to  
73.15 selling, offering for sale, soliciting or advertising the sale of new manufactured homes; and

73.16 (e) the applicant has provided evidence of having had at least two years' prior  
73.17 experience in the sale of manufactured homes, working for a licensed dealer.

73.18 Sec. 89. **[332.3351] EXEMPTION FROM LICENSURE.**

73.19 A collection agency shall be exempt from the licensing and registration requirements  
73.20 of this chapter if all of the following conditions are met:

73.21 (1) the agency is located in another state that regulates and licenses collection  
73.22 agencies, but does not require a Minnesota collection agency to obtain a license to collect  
73.23 debts in their state if the agency's collection activities are limited in the same manner;

73.24 (2) the agency's collection activities are limited to collecting debts not incurred in  
73.25 this state from consumers located in this state; and

73.26 (3) the agency's collection activities in Minnesota are conducted by means of  
73.27 interstate communications, including telephone, mail, electronic mail, or facsimile  
73.28 transmission.

73.29 **EFFECTIVE DATE.** This section is effective January 1, 2011.

73.30 Sec. 90. Minnesota Statutes 2008, section 332.34, is amended to read:

73.31 **332.34 BOND.**

73.32 The commissioner of commerce shall require each collection agency licensee to  
73.33 ~~annually~~ file and maintain in force a corporate surety bond, in a form to be prescribed

74.1 by, and acceptable to, the commissioner, and in a sum of at least ~~\$20,000~~ \$50,000 plus  
74.2 an additional \$5,000 for each \$100,000 received by the collection agency from debtors  
74.3 located in Minnesota during the previous calendar year, less commissions earned by the  
74.4 collection agency on those collections for the previous calendar year. The total amount of  
74.5 the bond shall not exceed \$100,000. A collection agency may deposit cash in and with a  
74.6 depository acceptable to the commissioner in an amount and in the manner prescribed and  
74.7 approved by the commissioner in lieu of a bond.

74.8 **EFFECTIVE DATE.** This section is effective for bonds obtained or renewed after  
74.9 January 1, 2011.

74.10 Sec. 91. Minnesota Statutes 2008, section 340A.409, subdivision 1, is amended to read:

74.11 Subdivision 1. **Insurance required.** (a) No retail license may be issued, maintained  
74.12 or renewed unless the applicant demonstrates proof of financial responsibility with regard  
74.13 to liability imposed by section 340A.801. The issuing authority must submit to the  
74.14 commissioner the applicant's proof of financial responsibility. This subdivision does not  
74.15 prohibit a local unit of government from requiring higher insurance or bond coverages, or  
74.16 a larger deposit of cash or securities. The minimum requirement for proof of financial  
74.17 responsibility may be given by filing:

74.18 (1) a certificate that there is in effect for the license period an insurance policy  
74.19 issued by an insurer required to be licensed under section 60A.07, subdivision 4, or by  
74.20 an insurer recognized as an eligible surplus lines carrier pursuant to section 60A.206 or  
74.21 pool providing at least \$50,000 of coverage because of bodily injury to any one person in  
74.22 any one occurrence, \$100,000 because of bodily injury to two or more persons in any one  
74.23 occurrence, \$10,000 because of injury to or destruction of property of others in any one  
74.24 occurrence, \$50,000 for loss of means of support of any one person in any one occurrence,  
74.25 and \$100,000 for loss of means of support of two or more persons in any one occurrence;

74.26 (2) a bond of a surety company with minimum coverages as provided in clause (1); or

74.27 (3) a certificate of the commissioner of management and budget that the licensee  
74.28 has deposited with the commissioner of management and budget \$100,000 in cash or  
74.29 securities which may legally be purchased by savings banks or for trust funds having a  
74.30 market value of \$100,000.

74.31 (b) This subdivision does not prohibit an insurer from providing the coverage  
74.32 required by this subdivision in combination with other insurance coverage.

74.33 (c) An annual aggregate policy limit for dram shop insurance of not less than  
74.34 \$300,000 per policy year may be included in the policy provisions.

75.1 (d) A liability insurance policy required by this section must provide that it may  
75.2 not be canceled for:

75.3 (1) any cause, except for nonpayment of premium, by either the insured or the  
75.4 insurer unless the canceling party has first given ~~30~~ 60 days' notice in writing to the  
75.5 ~~issuing authority~~ insured of intent to cancel the policy; ~~and~~

75.6 (2) nonpayment of premium unless the canceling party has first given ten days'  
75.7 notice in writing to the ~~issuing authority~~ insured of intent to cancel the policy; ~~and~~

75.8 (3) in the event of a policy cancellation, the insurer will send notice to the issuing  
75.9 authority at the same time that a cancellation request is received from or a notice is sent  
75.10 to the insured.

75.11 Sec. 92. Laws 2007, chapter 147, article 12, section 14, is amended to read:

75.12 Sec. 14. **AGRICULTURAL COOPERATIVE HEALTH PLAN FOR**  
75.13 **FARMERS.**

75.14 Subdivision 1. **Pilot project requirements.** Notwithstanding contrary provisions of  
75.15 Minnesota Statutes, chapter 62H, the following apply to a joint self-insurance pilot project  
75.16 administered by a trust sponsored by one or more agricultural cooperatives organized  
75.17 under Minnesota Statutes, chapter 308A or 308B, or under a federal charter for the  
75.18 purpose of offering health coverage to members of the cooperatives and their families,  
75.19 provided the project satisfies the other requirements of Minnesota Statutes, chapter 62H:

75.20 (1) Minnesota Statutes, section 62H.02, paragraph (b), does not apply;

75.21 (2) the notice period required under Minnesota Statutes, section 62H.02, paragraph  
75.22 (e), is 90 days;

75.23 (3) a joint self-insurance plan may elect to treat the sale of a health plan to or for  
75.24 an employer that has only one eligible employee who has not waived coverage as the  
75.25 sale of an individual health plan as allowed under Minnesota Statutes, section 62L.02,  
75.26 subdivision 26;

75.27 (4) Minnesota Statutes, section 297I.05, subdivision 12, paragraph (c), applies; and

75.28 (5) the trust must pay the assessment for the Minnesota Comprehensive Health  
75.29 Association as provided under Minnesota Statutes, section 62E.11.

75.30 Subd. 2. **Evaluation and renewal.** The pilot project authorized under this section  
75.31 is for a period of four years from the date of initial enrollment. The commissioner of  
75.32 commerce shall grant an extension of four additional years if the trust provides evidence  
75.33 that it remains in compliance with the requirements of this section and other applicable  
75.34 laws and rules. If the commissioner determines that the operation of the trust has not  
75.35 improved access, expanded health plan choices, or improved the affordability of health

76.1 coverage for farm families, or that it has significantly damaged access, choice, or  
76.2 affordability for other consumers not enrolled in the trust, the commissioner shall provide  
76.3 at least 180 days' advance written notice to the trust and to the chairs of the senate and  
76.4 house finance and policy committees with jurisdiction over health and insurance of the  
76.5 commissioner's intention not to renew the pilot project at the expiration of a four-year  
76.6 period.

76.7 Subd. 3. Use of surplus lines. Plans created under this section may use surplus lines  
76.8 carriers to fulfill its obligations under Minnesota Statutes, chapter 62H.

76.9 Sec. 93. **2011 APPOINTMENTS TO REAL ESTATE APPRAISER ADVISORY**  
76.10 **BOARD.**

76.11 The terms of all members of the Real Estate Appraiser Advisory Board expire the  
76.12 effective date of this section. The commissioner of commerce shall, as soon as practicable  
76.13 after this date, appoint members to an initial term of office as follows: three years for one  
76.14 consumer of appraisal services member, one certified residential real property appraiser  
76.15 member, and one certified general real property appraiser member; two years for one  
76.16 consumer of appraisal services member, one certified residential real property appraiser  
76.17 member, and one certified general real property appraiser member; and one year for one  
76.18 consumer of appraisal services member, one certified residential real property appraiser  
76.19 member, and one certified general real property appraiser member.

76.20 Upon the expiration of the term of office established in this section, the successor  
76.21 must be appointed pursuant to Minnesota Statutes, section 82B.05.

76.22 All provisions of Minnesota Statutes, section 82B.05, not inconsistent with this  
76.23 section apply to the initial board appointed pursuant to this section.

76.24 **EFFECTIVE DATE.** This section is effective January 1, 2011.

76.25 Sec. 94. **COORDINATION OF BENEFITS STUDY.**

76.26 The commissioner of commerce, in consultation with the commissioner of  
76.27 health and health plan companies, shall consider the appropriateness of adopting the  
76.28 National Association of Insurance Commissioners 2005 Coordination of Benefits Model  
76.29 Regulation. The commissioner shall submit recommendations and draft legislation, if any,  
76.30 needed to implement the recommendations, to the legislature by January 15, 2011.

76.31 Sec. 95. **REPEALER.**

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77.1 Minnesota Statutes 2008, sections 82.19, subdivision 3; 82.22, subdivisions 1, 6, 7,  
77.2 8, and 9; 82.31, subdivision 6; 82.34, subdivision 16; 82.41, subdivisions 3 and 7; 332.31,  
77.3 subdivision 7; and 332.335, are repealed.

77.4 Minnesota Statutes 2009 Supplement, section 65B.133, subdivision 3; and 72B.02,  
77.5 subdivision 11, are repealed.

77.6 Minnesota Statutes 2008, section 72B.04, is repealed effective July 1, 2010.

**65B.133 SURCHARGE DISCLOSURE.**

Subd. 3. **Disclosure to policyholders.** An insurer or its agent shall mail or deliver a surcharge disclosure statement or written notice of the statement's availability on the insurer's Web site to the named insured either before or with the first notice to renew a policy on or after January 1, 1983. If a surcharge disclosure statement or written Web site notice has been provided pursuant to subdivision 2, no surcharge disclosure statement is required to be mailed or delivered to the same named insured pursuant to subdivision 3.

**72B.02 DEFINITIONS.**

Subd. 11. **Catastrophe.** "Catastrophe" means an event that results in large numbers of deaths or injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; or severely affects state, local, and private sector capabilities to begin and sustain response activities. A catastrophe must be declared by the governor of the state, district, or territory in which the catastrophe occurred.

**72B.04 LICENSE PROCEDURE AND REQUIREMENTS; EXAMINATIONS; FEES.**

Subdivision 1. **Application.** A license to act as an adjuster, or public adjuster solicitor shall only be granted by the commissioner to a qualified person upon request.

Subd. 2. **Qualifications.** An applicant for licensing as an adjuster under sections 72B.01 to 72B.14 shall be at least 18 years of age. The applicant shall be competent and trustworthy and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of the application.

An applicant for licensing as a public adjuster solicitor under sections 72B.01 to 72B.14 shall be at least 18 years of age, shall be competent and trustworthy, and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of the application.

In the case of any applicant who has been convicted of a felony within the ten years next preceding the date of the application, and who in the judgment of the commissioner, meets the other qualifications, the commissioner may impose the additional requirement of the filing of a bond in accordance with the requirements of section 72B.08, subdivision 8.

Subd. 3. **Application.** The application for any initial or renewal license under sections 72B.01 to 72B.14 or for a temporary permit shall be signed and sworn to by the applicant and accompanied by the appropriate fee. An application for an initial license or temporary permit shall state the applicant's name, age, residence address, business name and address, educational background, previous experience in the field and class in which a license or permit is sought, the class of license applied for, and, in the case of an applicant for an adjuster's license the field in which the license is being sought, and such other information as the commissioner deems appropriate to determine the applicant's trustworthiness and competency. The application for an initial license or permit shall also state whether or not the application is being made on the basis of an examination. If the application is not made on the successful completion of an examination, it shall state the reasons why no examination is required. Renewal of a license or permit shall be made on the basis of an application for renewal. All applicants for a license as a public adjuster must attach to their application evidence that the bonding requirement has been satisfied.

Subd. 4. **Bonding.** No initial or renewal public adjuster's license shall be issued to any applicant unless there is on file with the commissioner a good and sufficient surety bond, issued by an insurer authorized to do business in this state. The bond shall be in the amount of \$10,000 with the state of Minnesota as obligee, conditioned for the prompt payment to any person entitled thereto, other than a partner or associate of the applicant, of any amounts received by the applicant or to protect any person other than a partner or associate of the applicant from loss resulting from fraud, dishonesty, forgery or theft in connection with the applicant's duties under sections 72B.01 to 72B.14; provided, however, that the aggregate liability of the surety to all persons for all losses shall, in no event, exceed the amount of such bond. The bond shall remain in effect during the term of the license, or until the surety is released from liability by the commissioner, or until canceled by the surety. The surety may cancel a bond, without prejudice to any liability which occurred prior to the cancellation, by giving at least 30 days' written notice to the commissioner.

## APPENDIX

### Repealed Minnesota Statutes: s2839-2

In the event that the required bond is terminated, the public adjuster's license shall automatically be suspended until a new bond is filed with the commissioner.

Subd. 5. **Examinations.** A person applying for a license under sections 72B.01 to 72B.14 must successfully complete an examination prescribed by the commissioner, which examination shall be at least in part a written examination. Examinations shall be given at such time and place as designated by the commissioner and there shall be different examinations for adjusters, public adjuster solicitors, and applicants for temporary permits. Adjusters' examinations shall be given in at least each of three fields: fire and allied lines, inland marine lines and including all perils under homeowners policies; all lines written as casualty insurance under section 60A.06, and including workers' compensation; and a combination of the two foregoing fields. Each examination shall be, in the judgment of the commissioner with the advice of the advisory committee, sufficient to require for a satisfactory score such knowledge of insurance, adjusting practices and appraisal techniques, to the extent that such knowledge is necessary for the class of license applied for and the field in which the applicant is being examined, that the people of Minnesota will receive insurance claim service from persons who are sufficiently trained to make fair and well informed judgments in the evaluation or settlement of insured losses. The examination for an applicant for a temporary permit may be oriented to the specified fields, but shall be less exacting than the examination for a license.

The commissioner may by rule determine the period of time between failure of an examination and reexamination.

A person shall not be eligible to take an examination if that person's license as an adjuster or public adjuster solicitor has been revoked in this or any other state within the three years next preceding the date of the application.

No examination shall be required for the timely renewal of a license, unless the license has been revoked.

Subd. 6. **Exceptions.** A person who on January 1, 1972, meets all of the qualifications specified in subdivision 2 with regard to the class of license applied for and, if experience is one of the requisites, has gained the experience within the three years next preceding January 1, 1972, shall be eligible for the issuance of a license without taking an examination.

A person who has held a license of any given class or in any field or fields within three years prior to the application shall be entitled to a renewal of the license in the same class or in the same fields without taking an examination.

A person applying for a license as a crop hail adjuster shall not be required to comply with the requirements of subdivision 5.

The commissioner may issue a license under sections 72B.01 to 72B.14 without an examination, if the applicant presents sufficient and satisfactory evidence of having passed a similar examination in another state and if the commissioner, with the advice of the advisory board, has determined that the standards of such other state are equivalent to those in Minnesota for the class of license applied for. Any applicant who presents sufficient and satisfactory evidence of having successfully completed all six parts of the Insurance Institute of America program in adjusting or other programs approved by the commissioner shall be entitled to an adjuster's license without taking the examination prescribed in subdivision 5.

Subd. 7. **License term.** (a) Initial licenses issued under this section are valid for a period not to exceed two years. Each initial license must expire on October 31 of the expiration year assigned by the commissioner.

(b) Licenses issued under this section may be renewed upon the timely filing of an application for renewal. Every renewal license is valid for a period of 24 months.

Subd. 8. **Renewal.** An application for renewal of a license issued under sections 72B.01 to 72B.14 shall be on a form prescribed by the commissioner and shall be filed with the commissioner with payment of the renewal fee prior to the expiration date of the license.

Subd. 9. **Notice of changes.** Each licensee or holder of a temporary permit shall give written notice to the commissioner of any change in name, or residence address not later than ten days after such change. The commissioner may, upon receipt of such notice, issue an amendment to the license incorporating such changes.

Subd. 10. **Fees.** A fee of \$50 is imposed for each initial license or temporary permit and \$50 for each renewal thereof or amendment thereto. A fee of \$20 is imposed for the registration of each nonlicensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the Department of Commerce.

## 82.19 COMPENSATION.

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Subd. 3. **Limitation on broker when transaction not completed.** When the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser.

**82.22 DISCLOSURE REQUIREMENTS.**

Subdivision 1. **Advertising.** Each licensee shall identify himself or herself as either a broker or an agent salesperson in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to the licensee's own property or the property of others.

Subd. 6. **Agent of broker disclosure.** A salesperson shall only conduct business under the licensed name of and on behalf of the broker to whom the salesperson is licensed. An individual broker shall only conduct business under the broker's licensed name. A broker licensed to a corporation or partnership shall only conduct business under the licensed corporate or partnership name. A licensee shall affirmatively disclose, before the negotiation or consummation of any transaction, the licensed name of the broker under whom the licensee is authorized to conduct business in accordance with this section.

Subd. 7. **Financial interests disclosure; licensee.** (a) Prior to the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner of real property that the licensee is a real estate broker or agent salesperson, and in what capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

(b) When a principal in the transaction is a licensee or a relative or business associate of the licensee, that fact must be disclosed in writing.

Subd. 8. **Material facts.** (a) Licensees shall disclose to any prospective purchaser all material facts of which the licensees are aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensees are aware.

(b) It is not a material fact relating to real property offered for sale the fact or suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity; or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under that section, if the broker or salesperson, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee or employee of the licensee has no duty to disclose information regarding airport zoning regulations if the broker or salesperson, in a timely manner, provides a written notice that a copy of the airport zoning regulations as adopted can be reviewed or obtained at the office of the county recorder where the zoned area is located.

(e) A licensee is not required to disclose, except as otherwise provided in paragraph (f), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

(f) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report, if a copy of the report is provided to the licensee, described in paragraph (e).

(g) The limitation on disclosures set forth in paragraphs (b) and (c) shall modify any common law duties with respect to disclosure of material facts.



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Subd. 9. **Nonperformance of any party.** If a licensee is put on notice by any party to a real estate transaction that the party will not perform in accordance with the terms of a purchase agreement or other similar written agreement to convey real estate, the licensee shall immediately disclose the fact of that party's intent not to perform to the other party or parties to the transaction. Whenever reasonably possible, the licensee shall inform the party who will not perform of the licensee's obligation to disclose this fact to the other party or parties to the transaction prior to making the disclosure. The obligation required by this section shall not apply to notice of a party's inability to keep or fulfill any contingency to which the real estate transaction has been made subject.

### **82.31 LICENSING: APPLICATION.**

Subd. 6. **Change of application information.** The commissioner must be notified in writing of a change of information contained in the license application on file with the commissioner within ten days of the change.

### **82.34 LICENSING; OTHER REQUIREMENTS.**

Subd. 16. **Exemption.** The following persons, when acting as closing agents, are exempt from the requirements of sections 82.41 and 82.50 unless otherwise required in this chapter:

(1) a direct employee of a title insurance company authorized to do business in this state, or a direct employee of a title company, or a person who has an agency agreement with a title insurance company or a title company in which the agent agrees to perform closing services on the title insurance company's or title company's behalf and the title insurance company or title company assumes responsibility for the actions of the agent as if the agent were a direct employee of the title insurance company or title company;

(2) a licensed attorney or a direct employee of a licensed attorney;

(3) a licensed real estate broker or salesperson;

(4) a direct employee of a licensed real estate broker if the broker maintains all funds received in connection with the closing services in the broker's trust account;

(5) any bank, trust company, savings association, credit union, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of businesses within the scope of its corporate powers as provided by law;

(6) a title insurance company authorized to do business in this state; and

(7) a title company that has a contractual agency relationship with a title insurance company authorized to do business in this state, where the title insurance company assumes responsibility for the actions of the title company and its employees or agents as if they were the employees or agents of the title insurance company.

### **82.41 PROHIBITIONS.**

Subd. 3. **Commission-splitting, rebates, and fees.** No real estate broker, salesperson, or closing agents shall offer, pay, or give, and no person shall accept, any compensation or other thing of value from any real estate broker, salesperson, or closing agents by way of commission-splitting, rebate, finder's fees, or otherwise, in connection with any real estate or business opportunity transaction. This subdivision does not apply to transactions (1) between a licensed real estate broker or salesperson and the parties to the transaction, (2) among persons licensed as provided herein, (3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction, (4) involving timeshare or other recreational lands where the amount offered or paid does not exceed \$150, and payment is not conditioned upon any sale but is made merely for providing the referral and the person paying the fee is bound by any representations the person receiving the fee makes, and (5) involving a person who receives a referral fee from a person or an agent of a person licensed under this section, provided that in any 12-month period, no recipient may earn more than the value of one month's rent, that the recipient is a resident of the property or has lived there within 60 days of the payment of the fee, and that the person paying the fee is bound by any representations made by the recipient of the fee. A licensed real estate broker or salesperson may assign or direct that commissions or other compensation earned in connection with any real estate or business opportunity transaction be paid to a corporation, limited liability company, or sole proprietorship of which the licensed real estate broker or salesperson is the sole owner.

Subd. 7. **Closing agents.** A real estate closing agent may not charge a fee for closing services to a borrower, and a borrower may not be required to pay such a fee at settlement, if

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the fee was not previously disclosed in writing at least one business day before the settlement. This disclosure requirement will be considered satisfied if a disclosure is made or an estimate given under section 507.45.

**332.31 DEFINITIONS.**

Subd. 7. **Exempt out-of-state collection agency.** "Exempt out-of-state collection agency" means a collection agency that has no physical presence in this state, that is engaged in the business of collecting claims on behalf of creditors that have no physical presence in this state, and that only conducts business within this state by means of interstate communications including telephone, mail, and facsimile transmission.

**332.335 EXEMPTION FROM LICENSURE.**

Subdivision 1. **Requirements.** An exempt out-of-state collection agency, as defined by section 332.31, subdivision 7, that has obtained a certificate of exemption under subdivision 2 is exempt from the collector registration requirements and collection agency licensing requirements of this chapter, but is subject to all other provisions of sections 45.027 and 332.31 to 332.45.

Subd. 2. **Certificate of exemption.** To qualify as an exempt out-of-state collection agency, a person, except for those excluded from the definition of collection agency under section 332.32, must, before initiating collection activity, obtain a certificate of exemption from the commissioner. A certificate of exemption must be issued upon the applicant's filing an application on a form approved by the commissioner if the applicant is found to be qualified under this chapter. The form must include:

(1) a signed statement that the exempt out-of-state collection agency holds a valid license to do business as a collection agency in another state whose requirements for licensing are similar to the requirements imposed under this chapter along with a copy of the licensing document from the other state;

(2) certification that the exempt out-of-state collection agency will not solicit or collect claims for any creditor who has a business presence in this state. A creditor has a business presence in this state if either the creditor or an affiliate or subsidiary of the creditor has an office in this state;

(3) certification that the exempt out-of-state collection agency will not establish a physical presence in this state and that all collection activity in this state will be conducted exclusively by means of interstate communications including telephone, mail, or facsimile transmission;

(4) evidence of a corporate surety bond substantially similar, as determined by the commissioner, to the bond required under section 332.34;

(5) appointment of the commissioner as the exempt out-of-state collection agency's agent for service of process in this state; and

(6) written acknowledgment that the exempt out-of-state collection agency agrees to be subject to the jurisdiction of Minnesota courts and the Minnesota Administrative Procedure Act, chapter 14, in connection with the commissioner's enforcement of Minnesota law pertaining to collection activities in Minnesota, including compliance with this chapter and chapter 45.

Subd. 3. **Notice.** An exempt out-of-state collection agency must advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change.

Subd. 4. **Loss of exemption.** In addition to fines and other authorized sanctions, a certificate of exemption is considered revoked if the exempt out-of-state collection agency is found to be in violation of any provision of chapter 45 or 332, or the Fair Debt Collection Practices Act of 1977, United States Code, title 15, sections 1691 to 1693r.