

A bill for an act

relating to commerce; prohibiting the sale of certain mortgage information; modifying residential mortgage lending licensing and education requirements; providing examination powers to the commissioner; regulating certain transactions with homeowners whose homes are in foreclosure; prohibiting certain predatory mortgage lending practices; regulating recovery for breaches of statutory housing warranties; permitting victims of domestic abuse to terminate a lease in certain circumstances; modifying the limitation on actions for damages based on services or construction to improve real property for certain actions; regulating homestead property; prescribing criminal penalties; providing remedies; amending Minnesota Statutes 2006, sections 13C.01, by adding a subdivision; 58.02, by adding subdivisions; 58.04, subdivisions 1, 2; 58.05; 58.06, subdivision 2, by adding a subdivision; 58.08, subdivision 3; 58.10, subdivision 1; 58.13, subdivision 1; 58.137, subdivisions 1, 2; 58.15; 58.16, subdivision 1, by adding a subdivision; 325N.01; 325N.03; 325N.04; 325N.10, subdivisions 3, 4, by adding a subdivision; 325N.13; 325N.14; 325N.17; 325N.18, by adding a subdivision; 327A.05; 505.01; 505.03, subdivision 1; 505.04; 505.08, subdivision 2; 505.1792, subdivision 2; 510.02; 510.05; 541.051, subdivision 2; 550.175, subdivisions 1, 4, by adding a subdivision; 550.18; 550.19; 550.22; 550.24; 580.24; Laws 2004, chapter 263, section 26; proposing coding for new law in Minnesota Statutes, chapters 58; 82B; 504B; 505; 550; repealing Minnesota Statutes 2006, sections 58.08, subdivision 1; 505.02; 505.08, subdivisions 1, 2a, 3.

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

ARTICLE 1

MORTGAGES

Section 1. Minnesota Statutes 2006, section 13C.01, is amended by adding a subdivision to read:

Subd. 3. Sale of certain information prohibited. A consumer reporting agency or any other business entity may not sell to, or exchange with, a third party, the existence of a credit inquiry arising from a consumer mortgage loan application, unless the third

party holds an existing mortgage loan on the property. This subdivision does not apply to information provided by a mortgage originator or servicer to a third party providing services in connection with the mortgage loan origination or servicing; a proposed or actual securitization; secondary market sale, including sales of servicing rights; or similar transaction related to the consumer mortgage loan. For purposes of this subdivision, "third party" does not include an affiliate of the consumer reporting agency or other business entity.

EFFECTIVE DATE. This section is effective August 1, 2007.

Sec. 2. Minnesota Statutes 2006, section 58.04, subdivision 1, is amended to read:

Subdivision 1. **Residential mortgage originator licensing requirements.** (a) ~~Beginning August 1, 1999,~~ No person shall act as a residential mortgage originator, or make residential mortgage loans without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) A licensee must be either a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and must have and maintain at all times one of the following: (1) approval as a mortgagee by either the federal Department of Housing and Urban Development or the Federal National Mortgage Association; (2) a minimum net worth, net of intangibles, of at least \$250,000; or (3) a surety bond or irrevocable letter of credit in the amount of \$100,000. Net worth, net of intangibles, must be calculated in accordance with generally accepted accounting principles.

(c) The following persons are exempt from the residential mortgage originator licensing requirements:

~~(1) an employee of one mortgage originator licensee or one person holding a certificate of exemption;~~

~~(2) a person licensed as a real estate broker under chapter 82 who is not licensed to another real estate broker;~~

~~(3) an individual real estate licensee who is licensed to a real estate broker as described in clause (2) if:~~

~~(i) the individual licensee acts only under the name, authority, and supervision of the broker to whom the licensee is licensed;~~

~~(ii) the broker to whom the licensee is licensed obtains a certificate of exemption according to section 58.05, subdivision 2;~~

~~(iii) the broker does not collect an advance fee for its residential mortgage-related activities; and~~

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~~(iv) the residential mortgage origination activities are incidental to the real estate licensee's primary activities as a real estate broker or salesperson;~~

~~(4) an individual licensed as a property/casualty or life/health insurance agent under chapter 60K if:~~

~~(i) the insurance agent acts on behalf of only one residential mortgage originator, which is in compliance with chapter 58;~~

~~(ii) the insurance agent has entered into a written contract with the mortgage originator under the terms of which the mortgage originator agrees to accept responsibility for the insurance agent's residential mortgage-related activities;~~

~~(iii) the insurance agent obtains a certificate of exemption under section 58.05, subdivision 2; and~~

~~(iv) the insurance agent does not collect an advance fee for the insurance agent's residential mortgage-related activities;~~

~~(5) (1) a person who is not in the business of making residential mortgage loans and who makes no more than three such loans, with its own funds, during any 12-month period;~~

~~(6) (2) a financial institution as defined in section 58.02, subdivision 10;~~

~~(7) (3) an agency of the federal government, or of a state or municipal government;~~

~~(8) (4) an employee or employer pension plan making loans only to its participants;~~

~~(9) (5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; or~~

~~(10) (6) a person exempted by order of the commissioner.~~

Sec. 3. Minnesota Statutes 2006, section 58.04, subdivision 2, is amended to read:

Subd. 2. **Residential mortgage servicer licensing requirements.** (a) ~~Beginning August 1, 1999,~~ No person shall engage in activities or practices that fall within the definition of "servicing a residential mortgage loan" under section 58.02, subdivision 22, without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) The following persons are exempt from the residential mortgage servicer licensing requirements:

(1) a person licensed as a residential mortgage originator;

~~(2) an employee of one licensee or one person holding a certificate of exemption based on an exemption under this subdivision;~~

~~(3) (2) a person servicing loans made with its own funds, if no more than three such loans are made in any 12-month period;~~

~~(4) (3) a financial institution as defined in section 58.02, subdivision 10;~~

~~(5)~~ (4) an agency of the federal government, or of a state or municipal government;
~~(6)~~ (5) an employee or employer pension plan making loans only to its participants;
~~(7)~~ (6) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result
of a specific order issued by a court of competent jurisdiction; or
~~(8)~~ (7) a person exempted by order of the commissioner.

Sec. 4. Minnesota Statutes 2006, section 58.05, is amended to read:

58.05 EXEMPTIONS FROM LICENSE.

Subdivision 1. **Exempt person.** An exempt person as defined by section 58.04, subdivision 1, paragraph ~~(b)~~ (c), and subdivision 2, paragraph (b), is exempt from the licensing requirements of this chapter, but is subject to all other provisions of this chapter.

Subd. 3. **Certificate of exemption.** A person must obtain a certificate of exemption from the commissioner to qualify as an exempt person under section 58.04, subdivision 1, paragraph ~~(b)~~ (c), ~~as a real estate broker under clause (2), an insurance agent under clause (4),~~ a financial institution under clause ~~(6)~~ (2), or by order of the commissioner under clause ~~(10)~~ (6); or under section 58.04, subdivision 2, paragraph (b), as a financial institution under clause ~~(4)~~ (3), or by order of the commissioner under clause ~~(8)~~ (7).

Sec. 5. Minnesota Statutes 2006, section 58.06, subdivision 2, is amended to read:

Subd. 2. **Application contents.** (a) The application must contain the name and complete business address or addresses of the license applicant. ~~If~~ The license applicant ~~is~~ must be a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require.

(b) An applicant must submit one of the following:

(1) evidence which shows, to the commissioner's satisfaction, that either the federal Department of Housing and Urban Development or the Federal National Mortgage Association has approved the applicant as a mortgagee;

(2) a surety bond or irrevocable letter of credit in the amount of not less than \$100,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers. The bond or letter of credit must be submitted with the license application, and evidence of continued coverage must be

submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner within ten days of its execution; or

(3) a copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statements of changes in shareholder equity, and statement of changes in financial position. Financial statements must be dated within 12 months of the date of application.

(c) The application must also include all of the following:

~~(a)~~ (1) an affirmation under oath that the applicant:

~~(1) will maintain competent staff and adequate staffing levels, through direct employees or otherwise, to meet the requirements of this chapter~~ (i) is in compliance with the requirements of section 58.125;

(ii) will maintain a perpetual roster of individuals employed as residential mortgage originators, including employees and independent contractors, which includes the date that mandatory initial education was completed. In addition, the roster must be made available to the commissioner on demand, within three business days of the commissioner's request;

~~(2)~~ (iii) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;

~~(3)~~ (iv) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;

~~(4) is financially solvent~~ (v) will maintain at all times either a net worth, net of intangibles, of at least \$250,000 or a surety bond or irrevocable letter of credit in the amount of at least \$100,000;

~~(5)~~ (vi) complies with federal and state tax laws; and

~~(6)~~ (vii) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law; and

~~(7) is, or that a person in control of the license applicant is, at least 18 years of age;~~

~~(b)~~ (2) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;

~~(c)~~ (3) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;

~~(d)~~ (4) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;

~~(e)~~ (5) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive

order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and
~~(f)~~ (6) other information required by the commissioner.

Sec. 6. Minnesota Statutes 2006, section 58.06, is amended by adding a subdivision to read:

Subd. 3. **Waiver.** The commissioner may, for good cause shown, waive any requirement of this section with respect to any license application or to permit a license applicant to submit substituted information in its license application in lieu of the information required by this section.

Sec. 7. Minnesota Statutes 2006, section 58.08, subdivision 3, is amended to read:

Subd. 3. **Exemption.** ~~Subdivisions 1 and Subdivision 2 do~~ does not apply to mortgage originators or mortgage servicers who are approved as seller/servicers by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

Sec. 8. Minnesota Statutes 2006, section 58.10, subdivision 1, is amended to read:

Subdivision 1. **Amounts.** The following fees must be paid to the commissioner:

(1) for an initial residential mortgage originator license, ~~\$850~~ \$2,550, \$50 of which is credited to the consumer education account in the special revenue fund;

(2) for a renewal license, ~~\$450~~ \$1,350, \$50 of which is credited to the consumer education account in the special revenue fund;

(3) for an initial residential mortgage servicer's license, \$1,000;

(4) for a renewal license, \$500; and

(5) for a certificate of exemption, \$100.

Sec. 9. **[58.115] EXAMINATIONS.**

The commissioner has under this chapter the same powers with respect to examinations that the commissioner has under section 46.04, including the authority to charge for the direct costs of the examination, including travel and per diem expenses.

Sec. 10. **[58.126] EDUCATION REQUIREMENT.**

No individual shall engage in residential mortgage origination or make residential mortgage loans, whether as an employee or independent contractor, before the completion

7.1 of 15 hours of educational training which has been approved by the commissioner, and
7.2 covering state and federal laws concerning residential mortgage lending.

7.3 Sec. 11. Minnesota Statutes 2006, section 325N.01, is amended to read:

7.4 **325N.01 DEFINITIONS.**

7.5 The definitions in paragraphs (a) to (h) apply to sections 325N.01 to 325N.09.

7.6 (a) "Foreclosure consultant" means any person who, directly or indirectly, makes
7.7 any solicitation, representation, or offer to any owner to perform for compensation or
7.8 who, for compensation, performs any service which the person in any manner represents
7.9 will in any manner do any of the following:

7.10 (1) stop or postpone the foreclosure sale;

7.11 (2) obtain any forbearance from any beneficiary or mortgagee;

7.12 (3) assist the owner to exercise the right of reinstatement provided in section 580.30;

7.13 (4) obtain any extension of the period within which the owner may reinstate the
7.14 owner's obligation;

7.15 (5) obtain any waiver of an acceleration clause contained in any promissory note or
7.16 contract secured by a mortgage on a residence in foreclosure or contained in the mortgage;

7.17 (6) assist the owner in foreclosure or loan default to obtain a loan or advance
7.18 of funds;

7.19 (7) avoid or ameliorate the impairment of the owner's credit resulting from the
7.20 recording of a notice of default or the conduct of a foreclosure sale; or

7.21 (8) save the owner's residence from foreclosure.

7.22 (b) A foreclosure consultant does not include any of the following:

7.23 (1) a person licensed to practice law in this state when the person renders service
7.24 in the course of his or her practice as an attorney-at-law;

7.25 (2) a person licensed as a debt prorater under sections 332.12 to 332.29, when the
7.26 person is acting as a debt prorater as defined in these sections;

7.27 (3) a person licensed as a real estate broker or salesperson under chapter 82 when the
7.28 person engages in acts whose performance requires licensure under that chapter unless the
7.29 person is engaged in offering services designed to, or purportedly designed to, enable the
7.30 owner to retain possession of the residence in foreclosure;

7.31 (4) a person licensed as an accountant under chapter 326A when the person is acting
7.32 in any capacity for which the person is licensed under those provisions;

7.33 (5) a person or the person's authorized agent acting under the express authority
7.34 or written approval of the Department of Housing and Urban Development or other
7.35 department or agency of the United States or this state to provide services;

(6) a person who holds or is owed an obligation secured by a lien on any residence in foreclosure when the person performs services in connection with this obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

(7) any person or entity doing business under any law of this state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of these persons or entities, and any agent or employee of these persons or entities while engaged in the business of these persons or entities;

(8) a person licensed as a residential mortgage originator or servicer pursuant to chapter 58, when acting under the authority of that license ~~or a foreclosure purchaser as defined in section 325N.10;~~

(9) a nonprofit agency or organization that offers counseling or advice to an owner of a home in foreclosure or loan default if they do not contract for services with for-profit lenders or foreclosure purchasers; ~~and~~

(10) a judgment creditor of the owner, to the extent that the judgment creditor's claim accrued prior to the personal service of the foreclosure notice required by section 580.03, but excluding a person who purchased the claim after such personal service; and

(11) a foreclosure purchaser as defined in section 325N.10.

(c) "Foreclosure reconveyance" means a transaction involving:

(1) the transfer of title to real property by a foreclosed homeowner during a foreclosure proceeding, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the foreclosure process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder; and

(2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the foreclosed homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess either the residence in foreclosure or any other real property ~~following the completion of the foreclosure proceeding~~, which interest includes, but is not limited to, an interest in a contract for deed, purchase agreement, option to purchase, or lease.

(d) "Person" means any individual, partnership, corporation, limited liability company, association, or other group, however organized.

(e) "Service" means and includes, but is not limited to, any of the following:

- 9.1 (1) debt, budget, or financial counseling of any type;
- 9.2 (2) receiving money for the purpose of distributing it to creditors in payment or
- 9.3 partial payment of any obligation secured by a lien on a residence in foreclosure;
- 9.4 (3) contacting creditors on behalf of an owner of a residence in foreclosure;
- 9.5 (4) arranging or attempting to arrange for an extension of the period within which
- 9.6 the owner of a residence in foreclosure may cure the owner's default and reinstate his or
- 9.7 her obligation pursuant to section 580.30;
- 9.8 (5) arranging or attempting to arrange for any delay or postponement of the time of
- 9.9 sale of the residence in foreclosure;
- 9.10 (6) advising the filing of any document or assisting in any manner in the preparation
- 9.11 of any document for filing with any bankruptcy court; or
- 9.12 (7) giving any advice, explanation, or instruction to an owner of a residence in
- 9.13 foreclosure, which in any manner relates to the cure of a default in or the reinstatement
- 9.14 of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of
- 9.15 that obligation, or the postponement or avoidance of a sale of a residence in foreclosure,
- 9.16 pursuant to a power of sale contained in any mortgage.
- 9.17 (f) "Residence in foreclosure" means residential real property consisting of one to
- 9.18 four family dwelling units, one of which the owner occupies as his or her principal place
- 9.19 of residence, ~~and against which there is an outstanding notice of pendency of foreclosure,~~
- 9.20 ~~recorded pursuant to section 580.032, or against which a summons and complaint has been~~
- 9.21 ~~served under chapter 581~~ where there is a delinquency or default on any loan payment
- 9.22 or debt secured by or attached to the residential real property including, but not limited
- 9.23 to, contract for deed payments.
- 9.24 (g) "Owner" means the record owner of the residential real property in foreclosure at
- 9.25 the time the notice of pendency was recorded, or the summons and complaint served.
- 9.26 (h) "Contract" means any agreement, or any term in any agreement, between
- 9.27 a foreclosure consultant and an owner for the rendition of any service as defined in
- 9.28 paragraph (e).

9.29 Sec. 12. Minnesota Statutes 2006, section 325N.03, is amended to read:

9.30 **325N.03 CONTRACT.**

9.31 (a) Every contract must be in writing and must fully disclose the exact nature of the

9.32 foreclosure consultant's services and the total amount and terms of compensation.

9.33 (b) The following notice, printed in at least 14-point boldface type and completed

9.34 with the name of the foreclosure consultant, must be printed immediately above the

9.35 statement required by paragraph (c):

10.1 "NOTICE REQUIRED BY MINNESOTA LAW

10.2 (Name) or anyone working for him
10.3 or her CANNOT:

10.4 (1) Take any money from you or ask you for money
10.5 until (Name) has completely finished
10.6 doing everything he or she said he or she would do;
10.7 and

10.8 (2) Ask you to sign or have you sign any lien,
10.9 mortgage, or deed."

10.10 (c) The contract must be written in the same language as principally used by the
10.11 foreclosure consultant to describe his or her services or to negotiate the contract, must
10.12 be dated and signed by the owner, and must contain in immediate proximity to the space
10.13 reserved for the owner's signature a conspicuous statement in a size equal to at least
10.14 10-point boldface type, as follows:

10.15 "You, the owner, may cancel this transaction at any time prior to midnight of the
10.16 third business day after the date of this transaction. See the attached notice of
10.17 cancellation form for an explanation of this right."

10.18 (d) The notice of cancellation must contain, and the contract must contain on the
10.19 first page, in a type size no smaller than that generally used in the body of the document,
10.20 each of the following:

10.21 (1) the name and physical address of the foreclosure consultant to which the
10.22 notice of cancellation is to be mailed or otherwise delivered. A post office box does not
10.23 constitute a physical address. A post office box may be designated for delivery by mail
10.24 only if it is accompanied by a physical address at which the notice could be delivered by a
10.25 method other than mail. An e-mail address may be included, in addition to the physical
10.26 address; and

10.27 (2) the date the owner signed the contract.

10.28 (e) Cancellation occurs when the foreclosed homeowner delivers, by any means,
10.29 written notice of cancellation to the address specified in the contract. If cancellation is
10.30 mailed, delivery is effective upon mailing. If e-mailed, cancellation is effective upon
10.31 transmission. The contract must be accompanied by a completed form in duplicate,
10.32 captioned "notice of cancellation," which must be attached to the contract, must be easily
10.33 detachable, and must contain in at least 10-point type the following statement written in
10.34 the same language as used in the contract:

10.35 "NOTICE OF CANCELLATION

10.36
10.37 (Enter date of transaction) (Date)

11.1 You may cancel this transaction, without any penalty
11.2 or obligation, within three business days from the
11.3 above date.

11.4 To cancel this transaction, you may use any of the
11.5 following methods: (1) mail or otherwise deliver a
11.6 signed and dated copy of this cancellation notice, or
11.7 any other written notice of cancellation; or (2) e-mail
11.8 a notice of cancellation

11.9 to
11.10 (Name of foreclosure consultant)

11.11 at
11.12 (Physical address of foreclosure consultant's
11.13 place of business)

11.14
11.15 (E-mail address of foreclosure consultant's
11.16 place of business)

11.17 NOT LATER THAN MIDNIGHT OF
11.18 (Date)

11.19 I hereby cancel this transaction
11.20 (Date)

11.21
11.22 (Owner's signature)"

11.23 (f) The foreclosure consultant shall provide the owner with a copy of the contract
11.24 and the attached notice of cancellation immediately upon execution of the contract.

11.25 (g) The three business days during which the owner may cancel the contract shall
11.26 not begin to run until the foreclosure consultant has complied with this section.

11.27 Sec. 13. Minnesota Statutes 2006, section 325N.04, is amended to read:

11.28 **325N.04 VIOLATIONS.**

11.29 It is a violation for a foreclosure consultant to:

11.30 (1) claim, demand, charge, collect, or receive any compensation until after the
11.31 foreclosure consultant has fully performed each and every service the foreclosure
11.32 consultant contracted to perform or represented he or she would perform;

11.33 (2) claim, demand, charge, collect, or receive any fee, interest, or any other
11.34 compensation for any reason which exceeds eight percent per annum of the amount of
11.35 any loan which the foreclosure consultant may make to the owner. Such a loan must not,
11.36 as provided in clause (3), be secured by the residence in foreclosure or any other real or
11.37 personal property;

11.38 (3) take any wage assignment, any lien of any type on real or personal property, or
11.39 other security to secure the payment of compensation. Any such security is void and
11.40 unenforceable;

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12.1 (4) receive any consideration from any third party in connection with services
12.2 rendered to an owner unless the consideration is first fully disclosed to the owner;

12.3 (5) acquire any interest, directly or indirectly, or by means of a subsidiary or affiliate
12.4 in a residence in foreclosure from an owner with whom the foreclosure consultant has
12.5 contracted;

12.6 (6) take any power of attorney from an owner for any purpose, except to inspect
12.7 documents as provided by law; or

12.8 (7) induce or attempt to induce any owner to enter a contract which does not comply
12.9 in all respects with sections 325N.02 and 325N.03.

12.10 Sec. 14. Minnesota Statutes 2006, section 325N.10, subdivision 3, is amended to read:

12.11 Subd. 3. **Foreclosure reconveyance.** "Foreclosure reconveyance" means a
12.12 transaction involving:

12.13 (1) the transfer of title to real property by a foreclosed homeowner during a
12.14 foreclosure proceeding, either by transfer of interest from the foreclosed homeowner or
12.15 by creation of a mortgage or other lien or encumbrance during the foreclosure process
12.16 that allows the acquirer to obtain title to the property by redeeming the property as
12.17 a junior lienholder; and

12.18 (2) the subsequent conveyance, or promise of a subsequent conveyance, of
12.19 an interest back to the foreclosed homeowner by the acquirer or a person acting in
12.20 participation with the acquirer that allows the foreclosed homeowner to possess either the
12.21 residence in foreclosure or other real property following the completion of the foreclosure
12.22 proceeding, which interest includes, but is not limited to, an interest in a contract for deed,
12.23 purchase agreement, option to purchase, or lease.

12.24 Sec. 15. Minnesota Statutes 2006, section 325N.10, subdivision 4, is amended to read:

12.25 Subd. 4. **Foreclosure purchaser.** "Foreclosure purchaser" means a person that has
12.26 acted as the acquirer in ~~more than one~~ a foreclosure reconveyance ~~during any 24-month~~
12.27 ~~period~~. Foreclosure purchaser also includes a person that has acted in joint venture or joint
12.28 enterprise with one or more acquirers in ~~more than one~~ a foreclosure reconveyance ~~during~~
12.29 ~~any 24-month period~~. A foreclosure purchaser does not include: (i) a natural person
12.30 who shows that the natural person is not in the business of foreclosure purchasing and
12.31 has a prior personal relationship with the foreclosed homeowner, or (ii) a federal or state
12.32 chartered bank, savings bank, thrift, or credit union ~~is not a foreclosure purchaser.~~

13.1 Sec. 16. Minnesota Statutes 2006, section 325N.10, is amended by adding a
13.2 subdivision to read:

13.3 Subd. 7. **Residence in foreclosure.** "Residence in foreclosure" means residential
13.4 real property consisting of one to four family dwelling units, one of which the owner
13.5 occupies as the owner's principal place of residence, where there is a delinquency or
13.6 default on any loan payment or debt secured by or attached to the residential real property,
13.7 including, but not limited to, contract for deed payments.

13.8 Sec. 17. Minnesota Statutes 2006, section 325N.13, is amended to read:

13.9 **325N.13 CONTRACT CANCELLATION.**

13.10 (a) In addition to any other right of rescission, the foreclosed homeowner has
13.11 the right to cancel any contract with a foreclosure purchaser until midnight of the fifth
13.12 business day following the day on which the foreclosed homeowner signs a contract that
13.13 complies with sections 325N.10 to 325N.15 or until 8:00 a.m. on the last day of the period
13.14 during which the foreclosed homeowner has a right of redemption, whichever occurs first.

13.15 (b) Cancellation occurs when the foreclosed homeowner delivers, by any means,
13.16 written notice of cancellation ~~to the address specified in the contract~~, provided that, at a
13.17 minimum, the contract and the notice of cancellation must contain a physical address to
13.18 which notice of cancellation may be mailed or otherwise delivered. A post office box may
13.19 be designated for delivery by mail only if it is accompanied by a physical address at which
13.20 the notice could be delivered by a method other than mail. An e-mail address may be
13.21 provided in addition to the physical address. If cancellation is mailed, delivery is effective
13.22 upon mailing. If e-mailed, cancellation is effective upon transmission.

13.23 (c) A notice of cancellation given by the foreclosed homeowner need not take the
13.24 particular form as provided with the contract.

13.25 (d) Within ten days following receipt of a notice of cancellation given in accordance
13.26 with this section, the foreclosure purchaser shall return without condition any original
13.27 contract and any other documents signed by the foreclosed homeowner.

13.28 Sec. 18. Minnesota Statutes 2006, section 325N.14, is amended to read:

13.29 **325N.14 NOTICE OF CANCELLATION.**

13.30 (a) The contract must contain in immediate proximity to the space reserved for the
13.31 foreclosed homeowner's signature a conspicuous statement in a size equal to at least
13.32 14-point boldface type, if the contract is printed, or in capital letters, if the contract is
13.33 typed, as follows:

14.1 "You may cancel this contract for the sale of
14.2 your house without any penalty or obligation
14.3 at any time before
14.4
14.5 (Date and time of day)
14.6 See the attached notice of cancellation form
14.7 for an explanation of this right."

14.8 The foreclosure purchaser shall accurately enter the date and time of day on which the
14.9 cancellation right ends.

14.10 (b) The contract must be accompanied by a completed form in duplicate, captioned
14.11 "notice of cancellation" in a size equal to a 12-point boldface type if the contract is
14.12 printed, or in capital letters, if the contract is typed, followed by a space in which the
14.13 foreclosure purchaser shall enter the date on which the foreclosed homeowner executes
14.14 ~~any~~ the contract. This form must be attached to the contract, must be easily detachable,
14.15 and must contain in type of at least 10 points, if the contract is printed or in capital
14.16 letters if the contract is typed, the following statement written in the same language as
14.17 used in the contract:

14.18 "NOTICE OF CANCELLATION
14.19
14.20 (Enter date contract signed)
14.21 You may cancel this contract for the sale of
14.22 your house, without any penalty or obligation,
14.23 at any time before
14.24
14.25 (Enter date and time of day)
14.26 To cancel this transaction, ~~personally~~ you may
14.27 use any of the following methods: (1) mail or
14.28 otherwise deliver a signed and dated copy of
14.29 this cancellation notice; or (2) e-mail a notice
14.30 of cancellation to
14.31
14.32 (Name of purchaser)
14.33 at
14.34 (~~Street~~ Physical address of purchaser's
14.35 place of business)
14.36
14.37 (E-mail address of foreclosure consultant's
14.38 place of business)
14.39 NOT LATER THAN
14.40 (Enter date and time of day)
14.41 I hereby cancel this transaction
14.42 (Date)
14.43
14.44 (Seller's signature)"

15.1 (c) The foreclosure purchaser shall provide the foreclosed homeowner with a copy
15.2 of the contract and the attached notice of cancellation at the time the contract is executed
15.3 by all parties.

15.4 (d) The five business days during which the foreclosed homeowner may cancel the
15.5 contract must not begin to run until all parties to the contract have executed the contract
15.6 and the foreclosure purchaser has complied with this section.

15.7 Sec. 19. Minnesota Statutes 2006, section 325N.17, is amended to read:

15.8 **325N.17 PROHIBITED PRACTICES.**

15.9 A foreclosure purchaser shall not:

15.10 (a) enter into, or attempt to enter into, a foreclosure reconveyance with a foreclosed
15.11 homeowner unless:

15.12 (1) the foreclosure purchaser verifies and can demonstrate that the foreclosed
15.13 homeowner has a reasonable ability to pay for the subsequent conveyance of an interest
15.14 back to the foreclosed homeowner. In the case of a lease with an option to purchase,
15.15 payment ability also includes the reasonable ability to make the lease payments and
15.16 purchase the property within the term of the option to purchase. There is a rebuttable
15.17 presumption that a homeowner is reasonably able to pay for the subsequent conveyance
15.18 if the owner's payments for primary housing expenses and regular principal and interest
15.19 payments on other personal debt, on a monthly basis, do not exceed 60 percent of
15.20 the owner's monthly gross income. For the purposes of this section, "primary housing
15.21 expenses" means the sum of payments for regular principal, interest, rent, utilities, hazard
15.22 insurance, real estate taxes, and association dues. There is a rebuttable presumption that
15.23 the foreclosure purchaser has not verified reasonable payment ability if the foreclosure
15.24 purchaser has not obtained documents other than a statement by the foreclosed homeowner
15.25 of assets, liabilities, and income;

15.26 (2) the foreclosure purchaser and the foreclosed homeowner complete a closing
15.27 for any foreclosure reconveyance in which the foreclosure purchaser obtains a deed or
15.28 mortgage from a foreclosed homeowner. For purposes of this section, "closing" means an
15.29 in-person meeting to complete final documents incident to the sale of the real property
15.30 or creation of a mortgage on the real property conducted by a closing agent, as defined
15.31 in section 82.17, who is not employed by or an affiliate of the foreclosure purchaser, or
15.32 employed by such an affiliate, and who does not have a business or personal relationship
15.33 with the foreclosure purchaser other than the provision of real estate settlement services;

(3) the foreclosure purchaser obtains the written consent of the foreclosed homeowner to a grant by the foreclosure purchaser of any interest in the property during such times as the foreclosed homeowner maintains any interest in the property; and

(4) the foreclosure purchaser complies with the requirements ~~of~~ for disclosure, loan terms, and conduct in the federal Home Ownership Equity Protection Act, United States Code, title 15, section 1639, or its implementing regulation, Code of Federal Regulations, title 12, sections 226.31 to, 226.32, and 226.34, for any foreclosure reconveyance in which the foreclosed homeowner obtains a vendee interest in a contract for deed, regardless of whether the terms of the contract for deed meet the annual percentage rate or points and fees requirements for a covered loan in Code of Federal Regulations, title 12, section 226.32 (a) and (b);

(b) fail to either:

(1) ensure that title to the subject dwelling has been reconveyed to the foreclosed homeowner; or

(2) make a payment to the foreclosed homeowner such that the foreclosed homeowner has received consideration in an amount of at least 82 percent of the fair market value of the property within 150 days of either the eviction or voluntary relinquishment of possession of the dwelling by the foreclosed homeowner. The foreclosure purchaser shall make a detailed accounting of the basis for the payment amount, or a detailed accounting of the reasons for failure to make a payment, including providing written documentation of expenses, within this 150-day period. The accounting shall be on a form prescribed by the attorney general, in consultation with the commissioner of commerce, without being subject to the rulemaking procedures of chapter 14. For purposes of this provision, the following applies:

(i) there is a rebuttable presumption that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate constitutes the fair market value of the property;

(ii) the time for determining the fair market value amount shall be determined in the foreclosure reconveyance contract as either at the time of the execution of the foreclosure reconveyance contract or at resale. If the contract states that the fair market value shall be determined at the time of resale, the fair market value shall be the resale price if it is sold within 120 days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner. If the contract states that the fair market value shall be determined at the time of resale, and the resale is not completed within 120 days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner, the fair market value shall be determined by an appraisal conducted during this 120-day period

17.1 and payment, if required, shall be made to the homeowner, but the fair market value
17.2 shall be recalculated as the resale price on resale and an additional payment amount, if
17.3 appropriate based on the resale price, shall be made to the foreclosed homeowner within
17.4 15 days of resale, and a detailed accounting of the basis for the payment amount, or a
17.5 detailed accounting of the reasons for failure to make additional payment, shall be made
17.6 within 15 days of resale, including providing written documentation of expenses. The
17.7 accounting shall be on a form prescribed by the attorney general, in consultation with
17.8 the commissioner of commerce, without being subject to the rulemaking procedures
17.9 of chapter 14;

17.10 (iii) "consideration" shall mean any payment or thing of value provided to the
17.11 foreclosed homeowner, including unpaid rent or contract for deed payments owed by the
17.12 foreclosed homeowner prior to the date of eviction or voluntary relinquishment of the
17.13 property, reasonable costs paid to third parties necessary to complete the foreclosure
17.14 reconveyance transaction, payment of money to satisfy a debt or legal obligation of the
17.15 foreclosed homeowner, ~~or~~ the reasonable cost of repairs for damage to the dwelling caused
17.16 by the foreclosed homeowner, or a penalty imposed by a court for the filing of a frivolous
17.17 claim under section 325N.18, subdivision 6; but

17.18 (iv) "consideration" shall not include amounts imputed as a down payment or fee
17.19 to the foreclosure purchaser, or a person acting in participation with the foreclosure
17.20 purchaser, incident to a contract for deed, lease, or option to purchase entered into as part
17.21 of the foreclosure reconveyance, except for reasonable costs paid to third parties necessary
17.22 to complete the foreclosure reconveyance;

17.23 (c) enter into repurchase or lease terms as part of the subsequent conveyance that are
17.24 unfair or commercially unreasonable, or engage in any other unfair conduct;

17.25 (d) represent, directly or indirectly, that:

17.26 (1) the foreclosure purchaser is acting as an advisor or a consultant, or in any other
17.27 manner represents that the foreclosure purchaser is acting on behalf of the homeowner;

17.28 (2) the foreclosure purchaser has certification or licensure that the foreclosure
17.29 purchaser does not have, or that the foreclosure purchaser is not a member of a licensed
17.30 profession if that is untrue;

17.31 (3) the foreclosure purchaser is assisting the foreclosed homeowner to "save the
17.32 house" or substantially similar phrase; or

17.33 (4) the foreclosure purchaser is assisting the foreclosed homeowner in preventing a
17.34 completed foreclosure if the result of the transaction is that the foreclosed homeowner will
17.35 not complete a redemption of the property;

18.1 (e) make any other statements, directly or by implication, or engage in any other
18.2 conduct that is false, deceptive, or misleading, or that has the likelihood to cause confusion
18.3 or misunderstanding, including, but not limited to, statements regarding the value of
18.4 the residence in foreclosure, the amount of proceeds the foreclosed homeowner will
18.5 receive after a foreclosure sale, any contract term, or the foreclosed homeowner's rights or
18.6 obligations incident to or arising out of the foreclosure reconveyance; or

18.7 (f) do any of the following until the time during which the foreclosed homeowner
18.8 may cancel the transaction has fully elapsed:

18.9 (1) accept from any foreclosed homeowner an execution of, or induce any foreclosed
18.10 homeowner to execute, any instrument of conveyance of any interest in the residence
18.11 in foreclosure;

18.12 (2) record with the county recorder or file with the registrar of titles any document,
18.13 including but not limited to, any instrument of conveyance, signed by the foreclosed
18.14 homeowner;

18.15 (3) transfer or encumber or purport to transfer or encumber any interest in
18.16 the residence in foreclosure to any third party, provided no grant of any interest or
18.17 encumbrance is defeated or affected as against a bona fide purchaser or encumbrance for
18.18 value and without notice of a violation of sections 325N.10 to 325N.18, and knowledge
18.19 on the part of any such person or entity that the property was "residential real property
18.20 in foreclosure" does not constitute notice of a violation of sections 325N.10 to 325N.18.
18.21 This section does not abrogate any duty of inquiry which exists as to rights or interests of
18.22 persons in possession of the residential real property in foreclosure; or

18.23 (4) pay the foreclosed homeowner any consideration.

18.24 Sec. 20. Minnesota Statutes 2006, section 325N.18, is amended by adding a
18.25 subdivision to read:

18.26 Subd. 6. Stay of eviction action. (a) A court hearing an eviction action against a
18.27 foreclosed homeowner must issue an automatic stay, without imposition of a bond, if a
18.28 defendant makes a prima facie showing that the defendant:

18.29 (1) has (i) commenced an action concerning a foreclosure reconveyance; (ii) asserts
18.30 a defense under section 504B.121 that the property that is the subject of the eviction
18.31 action is also the subject of a foreclosure reconveyance in violation of sections 325N.10
18.32 to 325N.17; or (iii) asserts a claim or affirmative defense of fraud, false pretense, false
18.33 promise, misrepresentation, misleading statement, or deceptive practice, in connection
18.34 with a foreclosure reconveyance;

18.35 (2) owned the foreclosed residence;

19.1 (3) conveyed title to the foreclosed residence to a third party upon a promise that the
19.2 defendant would be allowed to occupy the foreclosed residence or other real property in
19.3 which the foreclosure purchaser or a person acting in participation with the foreclosure
19.4 purchaser has an interest and that the foreclosed residence or other real property would be
19.5 the subject of a foreclosure reconveyance; and

19.6 (4) since the conveyance, has continuously occupied the foreclosed residence or
19.7 other real property in which the foreclosure purchaser or a person acting in participation
19.8 with the foreclosure purchaser has an interest.

19.9 For purposes of this subdivision, notarized affidavits are acceptable means of proof
19.10 to meet the defendant's burden. Upon good cause shown, a defendant may request and
19.11 the court may grant up to an additional two weeks to produce evidence required to make
19.12 the prima facie showing.

19.13 (b) A court may award to a plaintiff a \$500 penalty upon a showing that the
19.14 defendant filed a frivolous claim or asserted a frivolous defense.

19.15 (c) The automatic stay expires upon the later of:

19.16 (1) the failure of the foreclosed homeowner to commence an action in a court of
19.17 competent jurisdiction in connection with a foreclosed reconveyance transaction within
19.18 90 days after the issuance of the stay; or

19.19 (2) the issuance of an order lifting the stay by a court hearing the claims related
19.20 to the foreclosure reconveyance.

19.21 (d) If, after the expiration of the stay or an order lifting the stay, a court finds that the
19.22 defendant's claim or defense was asserted in bad faith and wholly without merit, the court
19.23 may impose a sanction against the defendant of \$500 plus reasonable attorney fees.

19.24 Sec. 21. Laws 2004, chapter 263, section 26, is amended to read:

19.25 Sec. 26. **EFFECTIVE DATE; EXPIRATION.**

19.26 Sections 1 to 18, 22, 23, and 25 are effective August 1, 2004,~~and expire December~~
19.27 ~~31, 2009.~~ Sections 19, 20, 21, and 24 are effective July 1, 2004.

19.28 Sec. 22. **LICENSE RENEWAL EXTENSION.**

19.29 The July 31, 2007, renewal date for mortgage originators is extended to October 30,
19.30 2007, because of the changes to the licensing requirements made by this act.

19.31 Sec. 23. **REPEALER.**

19.32 Minnesota Statutes 2006, section 58.08, subdivision 1, is repealed.

ARTICLE 2

PREDATORY LENDING

Section 1. Minnesota Statutes 2006, section 58.02, is amended by adding a subdivision to read:

Subd. 27. **Investment grade.** When used in reference to residential mortgage loans, "investment grade" refers to a system of categorizing residential mortgage loans in which the pricing or terms are distinguished by interest rate or discount points or both charged to the borrower, which vary according to the degree of perceived risk of default based on factors such as the borrower's credit, including credit score and credit patterns; income and employment history; debt ratio; loan-to-value ratio; and prior bankruptcy or foreclosure.

Sec. 2. Minnesota Statutes 2006, section 58.02, is amended by adding a subdivision to read:

Subd. 28. **Prime loan.** "Prime loan" means a residential mortgage loan that is of the highest investment grade and which is commonly designated by an alphabetical character of "A."

Sec. 3. Minnesota Statutes 2006, section 58.02, is amended by adding a subdivision to read:

Subd. 29. **Subprime loan.** "Subprime loan" means a residential mortgage loan that is of less than the highest investment grade, and which is commonly designated by an alphabetical character of "A-" to "D."

Sec. 4. Minnesota Statutes 2006, section 58.02, is amended by adding a subdivision to read:

Subd. 30. **Fully indexed rate.** "Fully indexed rate" equals the index rate prevailing at the time a residential mortgage loan is originated, plus the margin that will apply after the expiration of an introductory interest rate.

Sec. 5. Minnesota Statutes 2006, section 58.13, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, except as otherwise provided in paragraph (b), shall:

21.1 (1) fail to maintain a trust account to hold trust funds received in connection with a
21.2 residential mortgage loan;

21.3 (2) fail to deposit all trust funds into a trust account within three business days of
21.4 receipt; commingle trust funds with funds belonging to the licensee or exempt person; or
21.5 use trust account funds for any purpose other than that for which they are received;

21.6 (3) unreasonably delay the processing of a residential mortgage loan application,
21.7 or the closing of a residential mortgage loan. For purposes of this clause, evidence of
21.8 unreasonable delay includes but is not limited to those factors identified in section 47.206,
21.9 subdivision 7, clause (d);

21.10 (4) fail to disburse funds according to its contractual or statutory obligations;

21.11 (5) fail to perform in conformance with its written agreements with borrowers,
21.12 investors, other licensees, or exempt persons;

21.13 (6) charge a fee for a product or service where the product or service is not actually
21.14 provided, or misrepresent the amount charged by or paid to a third party for a product
21.15 or service;

21.16 (7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property
21.17 law;

21.18 (8) violate any provision of any other applicable state or federal law regulating
21.19 residential mortgage loans including, without limitation, sections 47.20 to 47.208;

21.20 (9) make or cause to be made, directly or indirectly, any false, deceptive, or
21.21 misleading statement or representation in connection with a residential loan transaction
21.22 including, without limitation, a false, deceptive, or misleading statement or representation
21.23 regarding the borrower's ability to qualify for any mortgage product;

21.24 (10) conduct residential mortgage loan business under any name other than that
21.25 under which the license or certificate of exemption was issued;

21.26 (11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for
21.27 the purpose of influencing the independent judgment of the appraiser with respect to the
21.28 value of real estate that is to be covered by a residential mortgage or is being offered as
21.29 security according to an application for a residential mortgage loan;

21.30 (12) issue any document indicating conditional qualification or conditional approval
21.31 for a residential mortgage loan, unless the document also clearly indicates that final
21.32 qualification or approval is not guaranteed, and may be subject to additional review;

21.33 (13) make or assist in making any residential mortgage loan with the intent that the
21.34 loan will not be repaid and that the residential mortgage originator will obtain title to
21.35 the property through foreclosure;

22.1 (14) provide or offer to provide for a borrower, any brokering or lending services
22.2 under an arrangement with a person other than a licensee or exempt person, provided that
22.3 a person may rely upon a written representation by the residential mortgage originator that
22.4 it is in compliance with the licensing requirements of this chapter;

22.5 (15) claim to represent a licensee or exempt person, unless the person is an employee
22.6 of the licensee or exempt person or unless the person has entered into a written agency
22.7 agreement with the licensee or exempt person;

22.8 (16) fail to comply with the record keeping and notification requirements identified
22.9 in section 58.14 or fail to abide by the affirmations made on the application for licensure;

22.10 (17) represent that the licensee or exempt person is acting as the borrower's agent
22.11 after providing the nonagency disclosure required by section 58.15, unless the disclosure
22.12 is retracted and the licensee or exempt person complies with all of the requirements of
22.13 section 58.16;

22.14 (18) make, provide, or arrange for a residential mortgage loan that is of a lower
22.15 investment grade if the borrower's credit score or, if the originator does not utilize credit
22.16 scoring or if a credit score is unavailable, then comparable underwriting data, indicates
22.17 that the borrower may qualify for a residential mortgage loan, available from or through
22.18 the originator, that is of a higher investment grade, unless the borrower is informed that
22.19 the borrower may qualify for a higher investment grade loan with a lower interest rate
22.20 and/or lower discount points, and consents in writing to receipt of the lower investment
22.21 grade loan.

22.22 For purposes of this section, "investment grade" refers to a system of categorizing
22.23 residential mortgage loans in which the loans are: (i) commonly referred to as "prime" or
22.24 "subprime"; (ii) commonly designated by an alphabetical character with "A" being the
22.25 highest investment grade; and (iii) are distinguished by interest rate or discount points
22.26 or both charged to the borrower, which vary according to the degree of perceived risk
22.27 of default based on factors such as the borrower's credit, including credit score and
22.28 credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior
22.29 bankruptcy or foreclosure;

22.30 (19) make, publish, disseminate, circulate, place before the public, or cause to be
22.31 made, directly or indirectly, any advertisement or marketing materials of any type, or any
22.32 statement or representation relating to the business of residential mortgage loans that is
22.33 false, deceptive, or misleading;

22.34 (20) advertise loan types or terms that are not available from or through the licensee
22.35 or exempt person on the date advertised, or on the date specified in the advertisement.
22.36 For purposes of this clause, advertisement includes, but is not limited to, a list of sample

mortgage terms, including interest rates, discount points, and closing costs provided by licensees or exempt persons to a print or electronic medium that presents the information to the public;

(21) use or employ phrases, pictures, return addresses, geographic designations, or other means that create the impression, directly or indirectly, that a licensee or other person is a governmental agency, or is associated with, sponsored by, or in any manner connected to, related to, or endorsed by a governmental agency, if that is not the case; ~~or~~

(22) violate section 82.49, relating to table funding;

(23) make, provide, or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay the scheduled payments of the following, as applicable: principal; interest; real estate taxes; homeowner's insurance; assessments; and mortgage insurance premiums. For loans in which the interest rate may vary, the reasonable ability to pay shall be determined based on a fully indexed rate and a repayment schedule which achieves full amortization over the life of the loan. For all residential mortgage loans, the borrower's income and financial resources must be verified by tax returns, payroll receipts, bank records, or other similarly reliable documents.

Nothing in this section shall be construed to limit a mortgage originator's or exempt person's ability to rely on criteria other than the borrower's income and financial resources to establish the borrower's reasonable ability to repay the residential mortgage loan; however, such other criteria must be verified through reasonably reliable methods and documentation. A statement by the borrower to the residential mortgage originator or exempt person of the borrower's income and resources is not sufficient to establish the existence of the income or resources when verifying the reasonable ability to pay;

(24) engage in "churning." As used in this section, "churning" means knowingly or intentionally making, providing, or arranging for a residential mortgage loan when the new residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances;

(25) the first time a residential mortgage originator orally informs a borrower of the anticipated or actual periodic payment amount for a first-lien residential mortgage loan which does not include an amount for payment of property taxes and hazard insurance, the residential mortgage originator must inform the borrower that an additional amount will be due for taxes and insurance and, if known, disclose to the borrower the amount of the anticipated or actual periodic payments for property taxes and hazard insurance. This same oral disclosure must be made each time the residential mortgage originator orally informs the borrower of a different anticipated or actual periodic payment amount change

24.1 from the amount previously disclosed. A residential mortgage originator need not make
24.2 this disclosure concerning a refinancing loan if the residential mortgage originator knows
24.3 that the borrower's existing loan that is anticipated to be refinanced does not have an
24.4 escrow account; or

24.5 (26) make, provide, or arrange for a residential mortgage loan, other than a reverse
24.6 mortgage pursuant to United States Code, title 15, chapter 41, if the borrower's compliance
24.7 with any repayment option offered pursuant to the terms of the loan will result in negative
24.8 amortization during any six-month period.

24.9 (b) Paragraph (a), clauses (23) through (26), do not apply to a state or federally
24.10 chartered bank, savings bank, or credit union, or to a person making, providing, or
24.11 arranging a residential mortgage loan originated or purchased by a state agency or a
24.12 tribal or local unit of government. This paragraph supersedes any inconsistent provision
24.13 of this chapter.

24.14 Sec. 6. Minnesota Statutes 2006, section 58.137, subdivision 1, is amended to read:

24.15 Subdivision 1. **Financed interest, points, finance charges, fees, and other**
24.16 **charges.** A residential mortgage originator making or modifying a residential mortgage
24.17 loan to a borrower located in this state must not include in the principal amount of any
24.18 residential mortgage loan all or any portion of any lender fee in an aggregate amount
24.19 exceeding five percent of the loan amount. This subdivision shall not apply to residential
24.20 mortgage loans which are insured or guaranteed by the secretary of housing and urban
24.21 development or the administrator of veterans affairs or the administrator of the Farmers
24.22 Home Administration or any successor.

24.23 "Lender fee" means interest, points, finance charges, fees, and other charges payable
24.24 in connection with the residential mortgage loan: (1) by the borrower to any residential
24.25 mortgage originator or to any assignee of any residential mortgage originator; or (2) by
24.26 the lender to a mortgage broker. Lender fee does not include recording fees, mortgage
24.27 registration taxes, passthroughs, or other amounts that are paid by any person to any
24.28 government entity; or filing office; ~~or other third party that is not a residential mortgage~~
24.29 ~~originator or an assignee of a residential mortgage originator. Lender fee also does not~~
24.30 ~~include~~ any amount that is set aside to pay taxes or insurance on any property securing the
24.31 residential mortgage loan.

24.32 "Loan amount" means: (1) for a line of credit, the maximum principal amount of
24.33 the line of credit; and (2) for any other residential mortgage loan, the principal amount
24.34 of the residential mortgage loan excluding all interest, points, finance charges, fees, and
24.35 other charges. A residential mortgage originator shall not charge, receive, or collect any

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25.1 excess financed interest, points, finance charges, fees, or other charges described in this
25.2 subdivision, or any interest, points, finance charges, fees, or other charges with respect
25.3 to this excess.

25.4 Sec. 7. Minnesota Statutes 2006, section 58.137, subdivision 2, is amended to read:

25.5 Subd. 2. **Prepayment penalties.** (a) A residential mortgage originator making a
25.6 residential mortgage loan that is a prime loan to a borrower located in this state shall not
25.7 charge, receive, or collect any prepayment penalty, fee, premium, or other charge:

25.8 (1) for any partial prepayment of the residential mortgage loan; or

25.9 (2) for any prepayment of the residential mortgage loan upon the sale of any
25.10 residential real property, or the sale of any stock, interest, or lease relating to cooperative
25.11 ownership of residential real property, securing the loan; or

25.12 (3) for any prepayment of the residential mortgage loan if the prepayment is made
25.13 more than 42 months after the date of the note or other agreement for the residential
25.14 mortgage loan; or

25.15 (4) for any prepayment of the residential mortgage loan if the aggregate amount of
25.16 all prepayment penalties, fees, premiums, and other charges exceeds the lesser of (i) an
25.17 amount equal to two percent of the unpaid principal balance of the residential mortgage
25.18 loan at the time of prepayment, or (ii) an amount equal to 60 days' interest, at the interest
25.19 rate in effect on the residential mortgage loan at the time of prepayment, on the unpaid
25.20 principal balance of the residential mortgage loan at the time of prepayment.

25.21 (b) If a residential mortgage originator offers or makes residential mortgage loans
25.22 to any borrowers located in this state with prepayment penalties, fees, premiums, or
25.23 other charges exceeding the maximum amount under paragraph (a), clause (4), then the
25.24 residential mortgage originator shall provide the following disclosure to each prospective
25.25 borrower located in this state that requests a residential mortgage loan from the residential
25.26 mortgage originator, whether or not the prospective borrower receives a residential
25.27 mortgage loan:

25.28 THIS IS VERY IMPORTANT

25.29 THIS LENDER CHARGES YOU A SUBSTANTIAL PENALTY IF YOU PAY OFF OR
25.30 REFINANCE YOUR LOAN BEFORE MATURITY. ASK THE LENDER HOW MUCH
25.31 THE PENALTY WILL BE FOR YOUR LOAN.

25.32 The residential mortgage originator shall read the disclosure to the prospective
25.33 borrower when the prospective borrower requests a residential mortgage loan, and again
25.34 within three days before the borrower signs the note or other agreement for the residential
25.35 mortgage loan. The residential mortgage originator also shall provide the disclosure to the

prospective borrower in writing so that it is received by the prospective borrower within five days after the residential mortgage originator receives the prospective borrower's request for a residential mortgage loan, and again within three days before the prospective borrower signs the note or other agreement for the residential mortgage loan. The written disclosure must be stated in at least 16-point capitalized boldface type on a single sheet of paper that contains only the disclosure, the date on which the disclosure form is sent or provided, the name, address, and telephone number of the residential mortgage originator, the name and address of the prospective borrower, and, at the option of the residential mortgage originator, the prospective borrower's dated and signed acknowledgment of receipt of the disclosure form. The provisions of the disclosure form, other than the disclosure in this subdivision, are not required to be in at least 16-point capitalized boldface type. The prospective borrower shall be permitted to keep a copy of each written disclosure form. When a prospective borrower asks a residential mortgage originator for information about a prepayment penalty, the residential mortgage originator shall give the prospective borrower the requested information, and shall tell the borrower the highest aggregate amount of the prepayment penalties, fees, premiums, and other charges that the residential mortgage originator would charge to the prospective borrower for prepayment of the residential mortgage loan one year after it is funded, based on a hypothetical unpaid principal balance of \$100,000 and also based on the highest interest rate that the residential mortgage originator would charge to the prospective borrower. A mortgage originator responding to requests for residential mortgage loans via the Internet may make the disclosure in a manner acceptable to the commissioner.

(c) A residential mortgage originator shall not enter into a subprime loan that contains a provision requiring or permitting the imposition of a penalty, fee, premium, or other charge in the event the residential mortgage loan is prepaid in whole or in part. This prohibition does not apply to any loan with a principal amount that, or, in the case of an open-end credit plan, in which the borrower's initial maximum credit limit, exceeds the conforming loan size limit for a single-family dwelling as established from time to time by Fannie Mae.

Sec. 8. Minnesota Statutes 2006, section 58.15, is amended to read:

58.15 DISCLOSURE REQUIREMENTS FOR CERTAIN RESIDENTIAL MORTGAGE ORIGINATORS.

Subdivision 1. **Nonagency disclosure.** If a residential mortgage originator or exempt person other than a mortgage broker does not contract or offer to contract to act as an agent of a borrower, or accept an advance fee, it must, within three business days

of accepting an application for a residential mortgage loan, provide the borrower with a written disclosure as provided in subdivision 2.

Subd. 2. **Form and content requirements.** The disclosure must be a separate document, 8-1/2 inches by 11 inches, must be signed by the borrower and must contain the following statement in 14-point boldface print:

Originator IS NOT ACTING AS YOUR AGENT IN CONNECTION WITH OBTAINING A RESIDENTIAL MORTGAGE LOAN. WHILE WE SEEK TO ASSIST YOU IN MEETING YOUR FINANCIAL NEEDS, WE CANNOT GUARANTEE THE LOWEST OR BEST TERMS AVAILABLE IN THE MARKET.

Subd. 3. **Electronic application disclosure requirement.** In case of an electronic residential mortgage application, the disclosure requirements of this section may be satisfied by providing the disclosure statement as a separate screen if the disclosure must be acknowledged by the borrower before an application is accepted.

Subd. 4. **Exemption from disclosure requirement.** If the Department of Housing and Urban Development adopts and implements a disclosure requirement ~~for persons offering mortgage origination services~~ that the commissioner determines to be substantially similar to the disclosure required in subdivision 2, ~~licensees and exempt persons complying~~ compliance with the HUD disclosure shall be considered sufficient to ~~have complied with~~ satisfy the requirements of ~~subdivisions 1 and~~ subdivision 2.

Sec. 9. Minnesota Statutes 2006, section 58.16, subdivision 1, is amended to read:

Subdivision 1. **Compliance.** Residential mortgage originators who solicit or receive an advance fee in exchange for assisting a borrower located in this state in obtaining a loan secured by a lien on residential real estate, or who offer to act as an agent of the borrower located in this state in obtaining a loan secured by a lien on residential real estate shall be considered to have created a fiduciary relationship with the borrower and shall comply with the requirements of subdivisions 2 to 7. This section does not apply to mortgage brokers who do not solicit or receive an advance fee.

Sec. 10. Minnesota Statutes 2006, section 58.16, is amended by adding a subdivision to read:

Subd. 1a. **Mortgage broker fiduciary duties.** A mortgage broker shall be considered to have created a fiduciary relationship with the borrower in all cases and shall comply with the duties imposed upon fiduciaries by statute or common law.

Sec. 11. **[58.161] MORTGAGE BROKER DUTIES OF AGENCY.**

Subdivision 1. **Generally.** A mortgage broker shall be considered to have created an agency relationship with the borrower in all cases and shall comply with the following duties:

(1) mortgage brokers shall act in the borrower's best interest and in the utmost good faith toward borrowers, and shall not compromise a borrower's right or interest in favor of another's right or interest, including a right or interest of the mortgage broker. A mortgage broker shall not accept, give, or charge any undisclosed compensation or realize any undisclosed remuneration, either through direct or indirect means that inures to the benefit of the mortgage broker or as an expenditure made for the borrower;

(2) mortgage brokers will carry out all lawful instructions given by borrowers;

(3) mortgage brokers will disclose to borrowers all material facts of which the mortgage broker has knowledge which might reasonably affect the borrower's rights, interests, or ability to receive the borrower's intended benefit from the residential mortgage loan, but not facts which are reasonably susceptible to the knowledge of the borrower;

(4) mortgage brokers will use reasonable care in performing duties; and

(5) mortgage brokers will account to a borrower for all the borrower's money and property received as agent.

Subd. 2. **Scope.** (a) The duty of agency between mortgage broker and borrower applies when the mortgage broker is acting in the capacity of mortgage broker as described in section 58.02, subdivision 14 or 23.

(b) Nothing in this section prohibits a mortgage broker from contracting for or collecting a fee for services rendered and which had been disclosed to the borrower in advance of the provision of such services.

(c) Nothing in this section requires a mortgage broker to obtain a loan containing terms or conditions not available to the mortgage broker in the mortgage broker's usual course of business, or to obtain a loan for the borrower from a mortgage lender with whom the mortgage broker does not have a business relationship.

Sec. 12. **[58.19] CRIMINAL PENALTIES FOR GROSSLY UNSUITABLE LOANS.**

Subdivision 1. **Definition.** For the purpose of this section, "grossly unsuitable" means:

(1) a residential mortgage loan for which the borrower lacked the capacity to repay the interest and principal of the loan, and the real estate taxes and home insurance on the property, at the time the loan was originated; or

(2) a residential mortgage loan made as a result of a loan application that contains materially false or fraudulent information as to the borrower's income, expenses, debts, or assets.

Subd. 2. **Acts constituting; penalties.** Any person who makes a residential mortgage loan, or obtains or assists in obtaining from another person for a borrower a residential mortgage loan, that the person knows is grossly unsuitable for the borrower may be fined not more than \$75,000 or imprisoned for up to two years, or both. Prosecution or conviction for securing grossly unsuitable loans on behalf of borrowers will not bar prosecution or conviction for any other offenses. These penalties are cumulative to any other remedies or penalties provided by law.

Subd. 3. **Additional penalty for crime against a disabled or elderly person.** Any person who commits the criminal offense specified in this section against a senior citizen or disabled person may be fined an additional \$50,000 or imprisoned for up to two additional years, or both. For purposes of this subdivision, "senior citizen" and "disabled person" have the meanings given those terms in section 325F.71, subdivision 1.

Sec. 13. **[82B.24] PRIVATE RIGHT OF ACTION.**

Subdivision 1. **Remedies.** Any person injured by a violation of the standards, duties, prohibitions, or requirements of section 82B.20 or 82B.22 shall have a private right of action and the court shall award:

(1) actual, incidental, and consequential damages;

(2) statutory damages of no less than \$1,000 nor more than \$2,000; and

(3) punitive damages as the court may allow. In determining punitive damages, the court should consider the severity and intentionality of the violation, the number of violations, and whether the violation was part of a pattern and practice of violations; and

(4) court costs and reasonable attorney fees.

Subd. 2. **Private attorney general statute.** A person injured by a violation of the standards, duties, prohibitions, or requirements of section 82B.20 or 82B.22 also may bring an action under section 8.31. A private right of action by a borrower under this chapter is in the public interest.

Subd. 3. **Remedies cumulative.** The remedies provided in this section are cumulative and do not restrict any other right or remedy otherwise available to the borrower.

ARTICLE 3

MISCELLANEOUS PROVISIONS

Section 1. Minnesota Statutes 2006, section 327A.05, is amended to read:

327A.05 REMEDIES.

Subdivision 1. **New home warranties.** Upon breach of any warranty imposed by section 327A.02, subdivision 1, the vendee shall have a cause of action against the vendor for damages arising out of the breach, or for specific performance. If the vendee is the prevailing party, the vendee must also be awarded the vendee's costs, disbursements, and reasonable attorney fees. Damages shall be limited to:

(a) the amount necessary to remedy the defect or breach; or

(b) the difference between the value of the dwelling without the defect and the value of the dwelling with the defect.

Subd. 2. **Home improvement warranty.** Upon breach of any warranty imposed by section 327A.02, subdivision 3, the owner shall have a cause of action against the home improvement contractor for damages arising out of the breach, or for specific performance. If the owner is the prevailing party, the owner must also be awarded the owner's costs, disbursements, and reasonable attorney fees. Damages shall be limited to the amount necessary to remedy the defect or breach.

Sec. 2. **[504B.206] RIGHT OF VICTIMS OF DOMESTIC ABUSE TO TERMINATE LEASE.**

Subdivision 1. **Right to terminate; procedure.** A tenant to a residential lease who is a victim of domestic abuse and fears imminent domestic abuse against the tenant or the tenant's children by remaining in the leased premises may terminate a lease agreement without penalty or liability, except as provided by this section, by providing written notice to the landlord stating that the tenant fears imminent domestic abuse and indicating the specific date the tenant intends to vacate the premises. The written notice must be delivered by mail, fax, or in person, and be accompanied by one of the following:

(1) an order for protection under chapter 518B; or

(2) a no contact order, currently in effect, issued under section 518B.01, subdivision 22, or chapter 609.

Subd. 2. **Confidentiality of information.** Information provided to the landlord by the victim documenting domestic abuse pursuant to subdivision 1 shall be treated by the landlord as confidential. The information may not be entered into any shared database

or provided to any entity except when required for use in an eviction proceeding, upon the consent of the victim, or as otherwise required by law.

Subd. 3. Liability for rent; termination of tenancy. (a) A tenant terminating a lease pursuant to subdivision 1 is responsible for one month's rent following the vacation of the premises and is relieved of any contractual obligation for payment of rent or any other charges for the remaining term of the lease.

(b) This section does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the lease was terminated by the tenant under this section. The return or retention of the security deposit is subject to the provisions of section 504B.178.

(c) The tenancy terminates, including the right of possession of the premises, when the tenant surrenders the keys to the premises to the landlord. The one month's rent is due and payable on or before the date the tenant vacates the premises, as indicated in their written notice pursuant to subdivision 1. For purposes of this section, the provisions of section 504B.178 commence upon the first day of the month following either:

(1) the date the tenant vacates the premises; or

(2) the date the tenant pays the one month's rent, whichever occurs first.

(d) The provisions of this subdivision do not apply until written notice meeting the requirements of subdivision 1 is delivered to the landlord.

Subd. 4. Multiple tenants. Notwithstanding the release of a tenant from a lease agreement under this section, if there are any remaining tenants residing in the premises the tenancy shall continue for those remaining tenants. A perpetrator who has been excluded from the premises under court order remains liable under the lease with any other tenant of the premises for rent or damage to the premises.

Subd. 5. Waiver prohibited. A residential tenant may not waive, and a landlord may not require the residential tenant to waive, the resident tenant's rights under this section.

Subd. 6. Definition. For purposes of this section, "domestic abuse" has the meaning given in section 518B.01, subdivision 2.

Sec. 3. Minnesota Statutes 2006, section 505.01, is amended to read:

505.01 PLATS, DONATIONS, PURPOSE, DEFINITIONS.

Subdivision 1. Donations. Plats of land may be made in accordance with the provisions of this chapter, and, when so made and recorded, every donation of a park to the public ~~or any person or corporation noted thereon~~ shall operate to convey the fee of all land so donated, for the uses and purposes named or intended, with the same effect,

upon the donor and the donor's heirs, and in favor of the donee, as though such land were conveyed by warranty deed. Land donated for any public use in any municipality shall be held in the corporate name in trust for the purposes set forth or intended. A street, road, alley, trail, and other public way dedicated or donated on a plat shall convey an easement only. Easements dedicated or donated on a plat shall convey an easement only.

Subd. 2. **Purpose.** A plat prepared and recorded in accordance with this chapter is for the purpose of subdividing land where the dedication of land for public ways, utility easements, and drainage easements is necessary for orderly development. Plats may also be used to:

(1) depict existing parcels for the purpose of simplifying legal descriptions and to provide a permanent record of a boundary survey; and

(2) supplement minor subdivision procedures used by local units of government.

Plats used to subdivide land are subject to the approval of the elected body of local governmental units. Plats used to delineate existing parcels or supplement minor subdivision procedures may be approved by a local government official designated by the local elected governmental unit.

Subd. 3. **Definitions.** (a) "Block" means a tract of land consisting of one or more adjoining lots, as identified on a recorded plat by a number, and bounded by plat boundaries, public ways, outlots, parks, or bodies of water.

(b) "Dedication" means an easement granted by the owner to the public for the purpose shown on the plat.

(c) "Drainage easement" means an easement for the purpose of controlling, preserving, and providing for the flow or storage of water.

(d) "Lot" means a tract of land which is all or part of a block and identified on the plat by a number.

(e) "Minor subdivision procedure" means an approval process that local units of government use for simple land divisions.

(f) "Outlot" means a tract of land identified by a letter, which is not part of a block.

(g) "Plat" means a delineation of a survey drawn to scale showing all data as required by this chapter, pertaining to the location and boundaries of individual parcels of land and public ways.

(h) "Plat monument" means a durable magnetic marker placed at all locations required by this chapter or other locations as shown on the plat.

(i) "Public way" means a thoroughfare or cul-de-sac which provides ingress and egress to the public.

(j) "Survey line" means a monumented reference line that is not a boundary.

(k) "Utility easement" means an easement conveyed, granted, or dedicated to the public and acquired, established, dedicated, or devoted to utility purposes.

(l) "Water boundary" means the shore or margin of lakes, ponds, rivers, creeks, drainage ditches, or swamps.

(m) "Wetland" means all rivers, streams, creeks, drainage ditches, lakes, ponds, and swamps.

(n) "Witness monument" means a plat monument placed at an identified distance and direction from a corner that is inaccessible.

Sec. 4. **[505.021] PLAT CONTENTS; SURVEY; COUNTY SURVEYOR APPROVAL.**

Subdivision 1. Plat format. A plat shall be prepared on four mil transparent reproducible film or the equivalent, and shall be prepared by a photographic process. Plat sheet size shall be 22 inches by 34 inches. A border line shall be placed one-half inch inside the outer edge of the plat on the top and bottom 34 inch sides; and the right 22 inch side; and two inches inside the outer edge of the plat on the left 22 inch side. If a plat consists of more than one sheet, the sheets shall be numbered consecutively.

Subd. 2. Plat name; legal description; dedication statement. The plat name shall appear across the top portion of the plat and in the dedication paragraph of the plat and shall not duplicate or be similar to the name of any plat that is in the office of the county recorder or registrar of titles in the county in which the land is located. The plat name shall be in capital letters in all locations that the name appears on the plat. The plat shall contain a complete and accurate description of the land being platted and a dedication statement describing what part of the land is dedicated, to whom, and for what purpose. In the event of a discrepancy between the plat name stated in the dedication statement and the plat name appearing in other portions of the plat, the name in the dedication statement shall control.

Subd. 3. Ownership interest; acknowledgment. At the time of recording, the names and signatures of all fee owners, contract for deed vendees, and mortgage holders of record of the land being platted shall appear on the plat, together with a statement as to their interest. Individual owners shall indicate their marital status. Entity owner shall identify the specific type of entity and the jurisdiction in which the entity is organized. Agents or officers for an entity shall state their position with such entity. A mortgage holder may consent to the plat by a written acknowledged statement in lieu of the mortgage holder's name and signature appearing on the plat. If a mortgage holder is included on the plat, the plat shall be signed by an authorized representative. If a certificate of notarial act on a plat includes the jurisdiction of the notarial act, the name of the notarial officer,

34.1 the title of the notarial officer, and the date the notary commission expires, printed in pen
34.2 and ink or typewritten on the plat, a plat shall be recorded regardless of whether a notary
34.3 stamp was used or was illegible if used.

34.4 Subd. 4. **Boundary; lots; blocks; outlots.** Plat boundaries shall be designated on
34.5 the plat in accordance with the underlying legal description and survey. All lots in each
34.6 block shall be numbered consecutively with arabic numerals beginning with numeral
34.7 one. All blocks shall be numbered consecutively with arabic numerals beginning with
34.8 numeral one. All outlots shall be labeled "OUTLOT" and lettered consecutively in capital
34.9 letters beginning with the letter A. All lot, block, and outlot lines shall be drawn as a
34.10 solid line. The name and adjacent boundary line of any adjoining platted lands shall be
34.11 dotted on the plat.

34.12 Subd. 5. **Mathematical data; dimensions; labels; symbols.** A plat shall show
34.13 all survey and mathematical information and data necessary to locate and retrace all
34.14 boundary lines and monuments. Bearings, azimuths, and central angles shall be expressed
34.15 in degrees, minutes, and seconds and labeled with the respective symbols. A north arrow
34.16 and directional orientation note shall be shown. Distances shall be expressed in feet
34.17 and hundredths of a foot. All straight line segments of the plat shall be labeled with the
34.18 length of the line and bearing or azimuth. All curved line segments of the plat shall be
34.19 labeled with the central angle, arc length, and radius length. If any curve is nontangential
34.20 the dimensions shall include a long chord bearing or azimuth, and shall be labeled
34.21 nontangential. The mathematical closure tolerance of the plat boundary, blocks, lots, and
34.22 outlots shall not exceed two-hundredths of a foot. A graphics scale shall be shown along
34.23 with the label "Scale In Feet." Dimension and descriptive recitals in the legal description
34.24 shown on the plat shall be depicted and labeled on the graphic portion of the plat. A
34.25 symbol shall indicate the position of all found and set plat monuments, along with a
34.26 description of each. Ditto marks and foot and inch symbols shall not be used.

34.27 Subd. 6. **Public ways.** All public ways within the plat, whether existing at the time
34.28 of platting or being dedicated by the plat shall be depicted on the plat together with the
34.29 name and sufficient mathematical data to locate the position and width of the public way.
34.30 The location of all existing public ways adjacent to the plat boundary shall be depicted
34.31 on the plat as dashed lines. The name and width of the adjacent public ways shall be
34.32 shown, if known.

34.33 Subd. 7. **Easements.** All easements to be dedicated on the plat shall be depicted
34.34 on the plat with purpose, identification, and sufficient mathematical data to locate the
34.35 boundaries of such easements. Easements created on the plat shall be limited to public
34.36 utility and drainage easements as defined in section 505.01, subdivision 3, paragraphs (c),

(i), and (k). Easement boundaries shall be shown as dashed lines. Temporary easements, building set back information, and building floor elevations shall not be shown on a plat.

Subd. 8. Water boundaries. Any water boundary abutting or lying within the plat boundaries shall be shown and identified on the plat as a solid line delineating the existing shore line. When any parcel depicted on the plat includes water as a boundary, a dashed survey line shall be shown and labeled with sufficient mathematical data to compute a closure of said parcel. Distances shall be shown between the survey line and the water boundary at all angle points, lot, and boundary lines. Plat monuments shall be set at all locations where the survey line intersects a plat boundary line or block, lot, or outlot line. The water elevation of any lake, stream, or river depicted on the plat shall be shown to the tenth of a foot along with the date the elevation was measured. All elevations shall be referenced to a durable bench mark described on the plat together with its general location shown and bench mark elevation to the hundredth of a foot. If a mean sea level adjusted datum bench mark is available within two miles of the land being platted, all elevations shall be referenced to such datum. The highest known water elevation shall be indicated on the plat if such data is available from the Department of Natural Resources, the United States Army Corps of Engineers, or another appropriate governmental unit. All wetlands as defined in section 505.01, subdivision 3, paragraph (m), shall be shown on the plat.

Subd. 9. Certifications. (a) A plat shall contain a certification by the land surveyor who surveyed or directly supervised the survey of the land being platted and prepared the plat or directly supervised the plat preparation. Said certificate shall state that:

(1) the plat is a correct representation of the boundary survey;

(2) all mathematical data and labels are correctly designated on the plat;

(3) all monuments depicted on the plat have been or will be correctly set within one year as indicated on the plat;

(4) all water boundaries and wetlands as of the date of the surveyor's certification are shown and labeled on the plat; and

(5) all public ways are shown and labeled on the plat.

The surveyor's certification shall be properly acknowledged by the surveyor on the plat before a notarial officer.

(b) A plat shall contain a certification of approval executed by the local elected governmental unit or an authorized official designated by the local elected governmental unit.

(c) In any county that requires review and approval of plats by the county surveyor or another land surveyor, the plat shall contain a certification of approval executed by the county surveyor or land surveyor that this plat is in compliance with this section.

(d) A plat shall contain a certification by the proper county official that there are no delinquent taxes owed and that the current year's payable taxes have been paid in accordance with section 272.12.

(e) A plat shall contain a certification of recording by the county recorder or registrar of titles, or both, if the plat contains both nonregistered and registered property.

Subd. 10. Survey. The land surveyor that certifies the plat shall survey or directly supervise the survey of the land depicted on the plat. Plat monuments shall be set at all angle and curve points on the outside boundary lines of the plat prior to recording. Interior block, lot, and witness monuments shall be set within one year after recording of the plat. A financial guarantee may be required for the placement of monuments. If it is impracticable to set a plat monument, a witness plat monument shall be set. The license number of the land surveyor that certifies the plat shall be affixed to all set plat monuments.

Subd. 11. County surveyor approval. All plats prepared for recording in accordance with this section are subject to approval by the county surveyor in accordance with section 389.09, subdivision 1, and as authorized by their respective county board of commissioners.

Sec. 5. Minnesota Statutes 2006, section 505.03, subdivision 1, is amended to read:

Subdivision 1. ~~Plat formalities~~ City, town, and county approval. ~~On the plat shall be written an instrument of dedication, which shall be signed and acknowledged by the owner of the land. All signatures on the plat shall be written with black ink (not ball point). The instrument shall contain a full and accurate description of the land platted and set forth what part of the land is dedicated, and also to whom, and for what purpose these parts are dedicated. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been or will be correctly placed in the ground as shown or stated, and that the outside boundary lines are correctly designated on the plat. If there are no wet lands or public highways to be designated in accordance with section 505.02, the surveyor shall so state. The certificate shall be sworn to before any officer authorized to administer an oath. The plat~~ Plats shall, except in cities whose charters provide for official supervision of plats by municipal officers or bodies, together with an abstract and certificate of title, be presented for approval to the council of the city or town board of towns wherein there reside over 5,000 people in which the land is located; and, if the land is located outside the limits of any city, or such town, then to the board of county commissioners of the county in which the land is located. Plats used to delineate existing parcels or supplement minor

37.1 subdivision procedures may be approved by a local government official designated by the
37.2 local elected governmental unit.

37.3 Sec. 6. Minnesota Statutes 2006, section 505.04, is amended to read:

37.4 **505.04 REAL ESTATE TAXES; RECORDING; COPIES.**

37.5 Every plat, when duly certified, signed, and acknowledged, as provided in section
37.6 ~~505.03~~ 505.021, and upon presentation of a certificate from the ~~county treasurer~~ authorized
37.7 county official that the current year's taxes have been paid, shall be ~~filed and~~ recorded in
37.8 the office of the county recorder- or registrar of titles, or both, if the plat contains both
37.9 nonregistered and registered property. An exact transparent reproducible copy shall, at the
37.10 discretion of the county recorder or registrar of titles, be provided to the county recorder or
37.11 registrar of titles, or both, if the plat contains both nonregistered and registered property.
37.12 The official plat shall be labeled "OFFICIAL PLAT" and any copy shall be labeled "copy."
37.13 The official plat and any copy shall be placed under the direct supervision of the county
37.14 recorder or registrar of titles, or both, if the plat contains both nonregistered and registered
37.15 property, and be open to inspection by the public. In counties having a full-time county
37.16 surveyor who operates an office on a full-time basis, the exact copy may be placed under
37.17 the direct supervision of the county surveyor and be open to inspection by the public.
37.18 Upon request of the county auditor of the county wherein the land is situated, the county
37.19 recorder or registrar of titles shall cause a reproduction copy of the official plat, or of the
37.20 exact copy, to be made and filed with such county auditor, at the expense of the county.

37.21 Sec. 7. Minnesota Statutes 2006, section 505.08, subdivision 2, is amended to read:

37.22 Subd. 2. **Public certified copies.** The copies of the official plat or of the exact
37.23 reproducible copy shall be compared and certified to by the county recorder or registrar
37.24 of titles in the manner in which certified copies of records are issued in the recorder's or
37.25 registrar's office, and the copy thereof shall be ~~bound in a proper volume~~ for the use of
37.26 the general public and anyone shall have access to and may inspect such certified copy
37.27 ~~at their pleasure~~ during normal business hours. When the plat includes both registered
37.28 and nonregistered land ~~two~~ copies thereof shall be so certified and ~~bound, one~~ available
37.29 for such general public use in each of the offices of the county recorder and registrar
37.30 of titles; provided, however, that only one such copy so certified ~~and bound~~ shall be
37.31 provided for general public use in those counties wherein the ~~office quarters~~ offices of
37.32 the county recorder and registrar of titles are one and the same. When ~~the~~ any copy, or
37.33 any part thereof, shall become ~~unintelligible~~ illegible from use or wear or otherwise, ~~at~~
37.34 ~~the request of the county recorder it shall be the duty of the county surveyor~~ it shall be

the duty of the county recorder or registrar of titles or county surveyor, depending upon where the copy resides, to make a reproduction copy of the official plat, or the exact transparent reproducible copy ~~under the direct supervision of the county recorder, who shall.~~ It shall be the responsibility of the county recorder or registrar of titles to compare the copy, certify that it is a correct copy thereof, by proper certificate as ~~above~~ set forth ~~above~~, and it shall be ~~bound in the volume, and under the page, and made available in the place of the discarded illegible copy.~~ ~~In counties not having a county surveyor the county recorder shall employ a licensed land surveyor to make such reproduction copy, at the expense of the county.~~ The county recorder shall receive as a fee for filing these plats, as aforesaid described, pursuant to section 357.18, subdivision 1. Reproductions from the exact transparent reproducible copy shall be available to any person upon request and the cost of such reproductions shall be paid by the person making such request. If a copy of the official plat is requested the county recorder shall prepare it and duly certify that it is a copy of the official plat and the cost of such copy shall be paid by the person making such request.

Sec. 8. Minnesota Statutes 2006, section 505.1792, subdivision 2, is amended to read:

Subd. 2. **Requirements.** ~~Said plats shall be uniform in size measuring 20 by 30 inches from outer edge to outer edge. A border line shall be placed one-half inch inside the outer edges of the plat or map on the top, bottom, and right hand side; a border line shall be placed two inches inside the outer edge on the left hand side. A north arrow and scale of the plat shall be shown on the plat which scale shall be of such dimension that the plat may be easily interpreted. The plat may consist of more than one sheet but if more than one sheet, they shall be numbered progressively and match lines of the right-of-way shall be indicated on each sheet. An official and one or more identical copies of each plat shall be prepared in black on white mat photographic card stock with double cloth back mounting or material of equal quality. One exact reproducible copy of the official plat shall be prepared on linen tracing cloth by a photographic process or on material of equal quality. The plat on white card stock shall be labeled "Official Plat" and the reproducible copy shall be labeled "Reproducible Copy of Official Plat". The reproducible copy shall be compared with the official plat and certified to by the county recorder in the manner in which certified copies of records are issued in the recorder's office, and the copies shall be bound in a proper volume for the use of the general public. The official plat may be inspected by any member of the public but only in the presence of the county recorder or the registrar of titles or a deputy. Any member of the public may have made a copy of the official plat by paying to the proper officer the cost of reproduction together with a fee of~~

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~~50 cents for certification by the filing officer. Reproductions from the exact transparent reproducible copy shall be available to any person upon request and the cost of such reproductions shall be paid by the person making such request. If the abutting property is abstract property the plat shall be filed with the county recorder, if registered property, with the registrar of titles, if both registered and nonregistered property, then with both the county recorder and the registrar of titles, and when so filed with the registrar of titles, the registrar shall enter a reference to said plat as a memorial on all certificates of title of registered lands which abut the right-of-way shown on the map or plat filed.~~

~~In counties having microfilming capabilities, a plat may be prepared on sheets of suitable mylar or on linen tracing cloth by photographic process or on material of equal quality. The plat shall be labeled "Official Plat." Notwithstanding any other provisions of this subdivision to the contrary, no other copies of the plat need to be filed. The map or plat shall be prepared in compliance with section 505.021, subdivisions 1 and 5, and recorded in compliance with section 505.04.~~

Sec. 9. Minnesota Statutes 2006, section 510.02, is amended to read:

510.02 AREA AND VALUE; HOW LIMITED.

The homestead may include any quantity of land not exceeding 160 acres, and not included in the laid out or platted portion of any city. If the homestead is within the laid out or platted portion of a city, its area must not exceed one-half of an acre. ~~The value of the homestead exemption~~ amount of the exemption per homestead, whether the exemption is claimed ~~jointly or individually~~ by one or more debtors, may not exceed \$200,000 or, if the homestead is used primarily for agricultural purposes, \$500,000, exclusive of the limitations set forth in section 510.05.

Sec. 10. Minnesota Statutes 2006, section 510.05, is amended to read:

510.05 LIMITATIONS.

~~Such~~ The amount of the homestead exemption shall not be reduced by and shall not extend to any mortgage lawfully obtained thereon, to any valid lien for taxes or assessments, to a claim filed pursuant to section 256B.15 or section 246.53 ~~or~~ to any charge arising under the laws relating to laborers or material suppliers' liens, or to any charge obtained pursuant to a valid waiver of the homestead exemption.

Sec. 11. Minnesota Statutes 2006, section 541.051, subdivision 2, is amended to read:

Subd. 2. **Action allowed; limitation.** Notwithstanding the provisions of subdivision 1, in the case of an action which accrues during the ninth or tenth year after substantial

completion of the construction, an action to recover damages may be brought within two years after the date on which the action accrued, but in no event may an action be brought more than 12 years after substantial completion of the construction-, except for an action for contribution or indemnity which may be brought no more than 14 years after substantial completion of the construction.

Sec. 12. Minnesota Statutes 2006, section 550.175, subdivision 1, is amended to read:

Subdivision 1. **Order directing sale of real property.** The executing creditor must obtain an order from the court directing a sale of the real property that includes a homestead before service of the notice of execution on real property containing the homestead of the debtor. The order shall contain the following findings:

(1) whether the real property is the homestead of a nondebtor;

(2) the amount of the debtor's homestead exemption, if any; and

(3) whether the fair market value of the real property exceeds the sum of the debtor's homestead exemption and the present encumbrances.

If the court finds that there is no nondebtor with a valid homestead interest in the real property and that the fair market value of the homestead real property exceeds the sum of the debtor's homestead exemption and the present encumbrances, the court shall order a sale of the real property for cash or cash equivalents to the extent of the homestead exemption.

Subd. 1a. Notification of homestead designation. If real property is to be sold on execution and the property contains a portion of the homestead of the debtor, the debtor must be notified by the executing creditor that the homestead may be sold and redeemed separately from the remaining property. The notice in subdivision 2 must be included in the notice of execution served on the debtor under section 550.19.

Sec. 13. Minnesota Statutes 2006, section 550.175, subdivision 4, is amended to read:

Subd. 4. **Sale of property.** (a) If the sheriff receives a homestead property designation under subdivision 3, the sheriff must offer and sell the designated homestead property, and the remaining property, separately, unless the executing creditor denies the right to the exemption, objects to the property designated, or claims the value exceeds the exemption.

(b) If the executing creditor is dissatisfied with the homestead property designation or the debtor's valuation of the property, upon proper motion to the district court of the county in which any part of the property is located, the executing creditor is entitled to a court approved designation of the homestead and a court determination of value. The

court shall either approve the debtor's designation or cause the property to be surveyed and order a homestead designation consistent with the standards of subdivision 3 and require an appraisal of fair market value, as applicable. The court's designation of the homestead property must conform to the debtor's request, to the extent not inconsistent with the standards of subdivision 3.

(c) The court, in determining appraised value, shall review any appraisals provided by the debtor and executing creditor and may require a court appointed independent appraisal. The appraisals shall evaluate the property's fair market value, net of reasonable costs of sale.

(d) If the court determines that the property claimed as a homestead exceeds in value the amount of the homestead exemption or if the court determines that the property cannot be divided without material injury, the court shall order the sale of the entire property, including the designated homestead. ~~Out of the proceeds of the sale, the court shall pay the debtor the amount of the homestead exemption and apply the balance of the proceeds of the sale on the execution~~ for cash or cash equivalents to the extent of the homestead exemption.

(e) At the sale, no bid may be accepted unless it exceeds the amount of the homestead exemption. If no bid exceeds the exemption, the homestead is exempt.

(f) The cost of any court ordered survey or appraisal and of the sale must be collected on the execution, if the debtor designated as the debtor's homestead a greater quantity of property, property of greater value than the debtor was entitled to, or designated a parcel that does not meet the standards of subdivision 3. In all other cases, the costs shall be borne by the executing creditor.

Sec. 14. Minnesota Statutes 2006, section 550.175, is amended by adding a subdivision to read:

Subd. 6. **Real property not subject to execution.** Real property that includes a homestead as defined under section 510.01 is not subject to execution under this chapter if there is a nondebtor with:

(1) homestead rights under sections 507.02 and 510.01 to 510.04;

(2) rights as a joint tenant or life tenant; or

(3) rights to take the homestead under section 524.2-402.

Sec. 15. Minnesota Statutes 2006, section 550.18, is amended to read:

550.18 NOTICE OF SALE.

Before the sale of property on execution notice shall be given as follows:

(1) if the sale be of personal property, by giving ten days posted notice of the time and place thereof;

(2) if the sale be of real property, on execution or on judgment, by six weeks posted and published notice of the time and place thereof, describing the property with sufficient certainty to enable a person of common understanding to identify it.

(3) A judgment creditor shall record a certified copy of the order directing sale of real property issued pursuant to section 550.175, if the real property is a homestead, with the county recorder or registrar of titles as appropriate in the county in which the real property is located before the first date of publication of the notice of sale required under clause (2).

An officer who sells without such notice shall forfeit \$100 to the party aggrieved, in addition to paying actual damages; and a person who before the sale or the satisfaction of the execution, and without the consent of the parties, takes down or defaces the notice posted, shall forfeit \$50; but the validity of the sale shall not be affected by either act, either as to third persons or parties to the action.

Sec. 16. Minnesota Statutes 2006, section 550.19, is amended to read:

550.19 SERVICE ON JUDGMENT DEBTOR.

~~At or before the time of posting notice of sale, the officer shall serve a copy of the execution and inventory, and of such notice, upon the judgment debtor, if the debtor be a resident of the county, in the manner required by law for the service of a summons in a civil action.~~ A judgment creditor must, at least four weeks before the appointed time of sale, serve a copy of the notice of sale in like manner as a summons in a civil action in the district court upon the judgment debtor if the judgment debtor is a resident of the county and upon any person in possession of the homestead other than the judgment debtor. In addition, the notice of sale must also be served upon all persons who have recorded a request for notice in accordance with section 580.032.

Sec. 17. [550.206] REPORT OF SALE OF HOMESTEAD ON EXECUTION; CONFIRMATION; RESALE.

Upon sale of a homestead on execution, the sheriff shall file a report of the sale with the court. Upon the filing of the report of sale, the court shall grant an order confirming the sale, or, if it appears upon due examination that justice has not been done, the court may order a resale on terms the court determines are just. Upon confirmation of the sale and execution of the certificate of sale, the sheriff shall pay the judgment debtor the amount of the homestead exemption and apply the balance of the proceeds of the sale to the execution. The sheriff shall pay any surplus thereafter in the manner provided in section 580.09.

Sec. 18. Minnesota Statutes 2006, section 550.22, is amended to read:

550.22 CERTIFICATE OF SALE OF REALTY.

When a sale of real property is made upon execution, or pursuant to a judgment or order of a court, unless otherwise specified therein, the officer shall execute and deliver to the purchaser a certificate containing:

(1) a description of the execution, judgment, or order;

(2) a description of the property;

(3) the date of the sale and the name of the purchaser;

(4) the price paid for each parcel separately;

(5) if subject to redemption, the time allowed by law therefor;

(6) the amount of the debtor's homestead exemption, if any, as determined under section 550.175.

Such certificate shall be executed, acknowledged, and recorded in the manner provided by law for a conveyance of real property, shall be prima facie evidence of the facts ~~therein~~ stated, and, upon expiration of the time for redemption, shall operate as a conveyance to the purchaser of all the right, title, and interest of the person whose property is sold in and to the same, at the date of the lien upon which the same was sold. Any person desiring to perpetuate evidence that any real property sold under this section was not homestead real property may procure an affidavit by the person enforcing the judgment, or that person's attorney, or someone having knowledge of the facts, setting forth that the real property was not homestead real property. The affidavit shall be recorded by the county recorder or registrar of titles, and the affidavit and certified copies of the affidavit shall be prima facie evidence of the facts stated in the affidavit.

Sec. 19. Minnesota Statutes 2006, section 550.24, is amended to read:

550.24 REDEMPTION OF REALTY.

(a) Upon the sale of real property, if the estate sold is less than a leasehold of two years' unexpired term, the sale is absolute. In all other cases the property sold, or any portion thereof which has been sold separately, is subject to redemption as provided in this section.

(b) The judgment debtor, the debtor's heirs, successors, legal representatives, or assigns may redeem within one year after the day of sale, or order confirming sale if the property is a homestead, by paying, to the purchaser or the officer making the sale, the amount for which the property was sold with interest at the judgment rate and if the purchaser is a creditor having a prior lien, the amount thereof, with interest at the judgment rate together with any costs as provided in sections 582.03 and 582.031.

(c) If there is no redemption during the debtor's redemption period, creditors having a lien, legal or equitable, on the property or some part thereof, subsequent to that on which it was sold may redeem in the manner provided for redemption by creditors of the mortgagor in section 580.24, in the order of their respective liens.

(d) If the property is abandoned during the judgment debtor's redemption period, the person holding the sheriff's certificate may request that the court reduce the judgment debtor's redemption period to five weeks using the procedures provided for a foreclosure by action in section 582.032, subdivision 5.

Sec. 20. Minnesota Statutes 2006, section 580.24, is amended to read:

580.24 REDEMPTION BY CREDITOR.

(a) If no redemption is made by the mortgagor, the mortgagor's personal representatives or assigns, the most senior creditor having a legal or equitable lien upon the mortgaged premises, or some part of it, subsequent to the foreclosed mortgage, may redeem within seven days after the expiration of the redemption period determined under section 580.23 or 582.032, whichever is applicable; and each subsequent creditor having a lien may redeem, in the order of priority of their respective liens, within seven days after the time allowed the prior lienholder by paying the amount required under this section. However, no creditor is entitled to redeem unless, within the period allowed for redemption by the mortgagor, the creditor:

(1) records with each county recorder and registrar of titles where the foreclosed mortgage is recorded a notice of the creditor's intention to redeem;

(2) records in each office where the notice is recorded all documents necessary to create the lien on the mortgaged premises and to evidence the creditor's ownership of the lien; and

(3) after complying with clauses (1) and (2), delivers to the sheriff who conducted the foreclosure sale or the sheriff's successor in office a copy of each of the documents required to be recorded under clauses (1) and (2), with the office, date and time of filing for record stated on the first page of each document.

The sheriff shall maintain for public inspection all documents delivered to the sheriff and shall note the date of delivery on each document. The sheriff may charge a fee of \$100 for the documents delivered to the sheriff relating to each lien. The sheriff shall maintain copies of documents delivered to the sheriff for a period of six months after the end of the mortgagor's redemption period.

(b) Saturdays, Sundays, legal holidays, and the first day following the expiration of the prior redemption period must be included in computing the seven-day redemption

period. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day must be omitted from the computation. The order of redemption by judgment creditors subsequent to the foreclosed mortgage shall be determined by the order in which their judgments were entered as memorials on the certificate of title for the foreclosed premises or docketed in the office of the district court administrator if the property is not registered under chapter 508 or 508A, regardless of the homestead status of the property. All mechanic's lienholders who have coordinate liens shall have one combined seven-day period to redeem.

(c) The amount required to redeem from the holder of the sheriff's certificate of sale is the amount required under section 580.23. The amount required to redeem from a person holding a certificate of redemption is:

- (1) the amount paid to redeem as shown on the certificate of redemption; plus
- (2) interest on that amount to the date of redemption; plus
- (3) the amount claimed due on the person's lien, as shown on the affidavit under section 580.25, clause (3).

The amount required to redeem may be paid to the holder of the sheriff's certificate of sale or the certificate of redemption, as the case may be, or to the sheriff for the holder.

Sec. 21. **REPEALER.**

Minnesota Statutes 2006, sections 505.02; and 505.08, subdivisions 1, 2a, and 3, are repealed.

Sec. 22. **EFFECTIVE DATE; APPLICATION.**

Section 1 is effective the day following final enactment and applies to causes of action pending on, or commenced on or after, that date. Section 11 is effective retroactively from June 30, 2006.