

A bill for an act

relating to energy finance; appropriating money for activities of Departments of Commerce, Natural Resources, and Health, Pollution Control Agency, and Public Utilities Commission; providing for grants and fund transfers; modifying or adding provisions relating to financial institutions, investments of health savings accounts, mortgage originators, the Vehicle Protection Product Act, long-term care insurance, automobile insurance, an electronic licensing system and technology fees, allowable forms of collateral, securities regulation, charges billed by licensed health professionals, allocation of petroleum inspection fee for low-income weatherization assistance, delivery of home heating fuel, debt management services, the state energy city, energy savings, renewable energy research, a renewable hydrogen initiative, the Legislative Electric Energy Task Force, Clean Energy Resource Teams, landfill gas recovery, on-farm biogas recovery, nuisance liability of wind energy conversion systems, rural wind energy, petroleum violation escrow funds for K-12 school energy projects, renewable energy studies and reports, standards for hydrogen and fuel cells, hydrogen refueling stations, off-site renewable distributed generation, biofuel production permits, terrestrial and geologic carbon sequestration, dry cask storage at a nuclear power plant, utility charges and residential customers, the cold weather rule, a propane prepurchase program, and intervenor compensation for participants in proceedings before the Public Utilities Commission; requiring studies and reports; providing civil penalties; making technical and clarifying changes; amending Minnesota Statutes 2006, sections 13.712, by adding a subdivision; 45.011, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.19; 47.59, subdivision 6; 47.60, subdivision 2; 47.62, subdivision 1; 47.75, subdivision 1; 48.15, subdivision 4; 58.04, subdivisions 1, 2; 58.05; 58.06, subdivision 2, by adding a subdivision; 58.08, subdivision 3; 58.10, subdivision 1; 60K.55, subdivision 2; 65B.44, subdivisions 2, 3, 4, 5; 65B.47, subdivision 7; 65B.54, subdivision 1, by adding a subdivision; 80A.28, subdivision 1; 80A.65, subdivision 1; 82.24, subdivisions 1, 4; 82B.09, subdivision 1; 116C.779, subdivision 2; 118A.03, subdivision 2; 148.102, by adding a subdivision; 216B.097, subdivisions 1, 3; 216B.098, subdivision 4; 216B.16, subdivisions 10, 15; 216B.241, subdivision 6; 216B.812, subdivisions 1, 2; 216C.051, subdivisions 2, 9; 216C.41, subdivisions 1, 2, 3; 239.101, subdivision 3; 325E.311, subdivision 6; 325N.01; 332.54, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 1; 16C; 45; 58; 60K; 216B; 216C; 325E; 561; proposing coding for new law as Minnesota Statutes, chapters 59C; 332A; repealing Minnesota Statutes 2006, sections 46.043; 47.62, subdivision 5; 58.08, subdivision 1; 216B.095; 332.12; 332.13;

332.14; 332.15; 332.16; 332.17; 332.18; 332.19; 332.20; 332.21; 332.22;
332.23; 332.24; 332.25; 332.26; 332.27; 332.28; 332.29; Minnesota Rules,
parts 7831.0100; 7831.0200; 7831.0300; 7831.0400; 7831.0500; 7831.0600;
7831.0700; 7831.0800.

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

ARTICLE 1
ENERGY APPROPRIATIONS

Section 1. SUMMARY OF APPROPRIATIONS.

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

		<u>2008</u>		<u>2009</u>		<u>Total</u>
<u>General</u>	\$	<u>51,752,000</u>	\$	<u>33,518,000</u>	\$	<u>85,270,000</u>
<u>Petroleum Tank Cleanup</u>		<u>1,084,000</u>		<u>1,084,000</u>		<u>2,168,000</u>
<u>Workers' Compensation</u>		<u>835,000</u>		<u>835,000</u>		<u>1,670,000</u>
<u>Special Revenue</u>		<u>5,600,000</u>		<u>4,600,000</u>		<u>10,200,000</u>
<u>Total</u>	\$	<u>59,271,000</u>	\$	<u>40,037,000</u>	\$	<u>99,308,000</u>

Sec. 2. ENERGY FINANCE APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2008" and "2009" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2008, or June 30, 2009, respectively. "The first year" is fiscal year 2008. "The second year" is fiscal year 2009. "The biennium" is fiscal years 2008 and 2009. Appropriations for the fiscal year ending June 30, 2007, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2008 2009

Sec. 3. DEPARTMENT OF COMMERCE.

<u>Subdivision 1. Total Appropriation</u>		\$	<u>51,721,000</u>	\$	<u>33,695,000</u>
<u>Appropriations by Fund</u>					
	<u>2008</u>		<u>2009</u>		
<u>General</u>	<u>44,202,000</u>		<u>27,176,000</u>		
<u>Petroleum Cleanup</u>	<u>1,084,000</u>		<u>1,084,000</u>		

H.F. No. 1392, 1st Committee Engrossment - 85th Legislative Session (2007-2008)

3.1	<u>Workers'</u>		
3.2	<u>Compensation</u>	<u>835,000</u>	<u>835,000</u>
3.3	<u>Special Revenue</u>	<u>5,600,000</u>	<u>4,600,000</u>

3.4 The amounts that may be spent for each
3.5 purpose are specified in the following
3.6 subdivisions.

3.7	<u>Subd. 2. Financial Examinations</u>	<u>6,432,000</u>	<u>6,519,000</u>
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3.8	<u>Subd. 3. Petroleum Tank Release Cleanup</u>		
3.9	<u>Board</u>	<u>1,084,000</u>	<u>1,084,000</u>

3.10 This appropriation is from the petroleum
3.11 tank release cleanup fund.

3.12	<u>Subd. 4. Administrative Services</u>	<u>4,477,000</u>	<u>4,540,000</u>
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3.13	<u>Subd. 5. Market Assurance</u>	<u>6,902,000</u>	<u>6,999,000</u>
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3.14	<u>Appropriations by Fund</u>		
3.15	<u>General</u>	<u>6,067,000</u>	<u>6,164,000</u>
3.16	<u>Workers'</u>		
3.17	<u>Compensation</u>	<u>835,000</u>	<u>835,000</u>

3.18	<u>Subd. 6. Energy and Telecommunications</u>	<u>32,726,000</u>	<u>14,453,000</u>
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3.19	<u>Appropriations by Fund</u>		
3.20	<u>General</u>	<u>27,226,000</u>	<u>9,953,000</u>
3.21	<u>Special Revenue</u>	<u>5,500,000</u>	<u>4,500,000</u>

3.22 \$2,000,000 the first year and \$2,000,000 the
3.23 second year are for E85 cost-share grants.
3.24 Notwithstanding Minnesota Statutes, section
3.25 16A.28, this appropriation is available
3.26 until expended. The base appropriation for
3.27 these grants is \$2,000,000 each year in the
3.28 2010-2011 biennium. Funding for these
3.29 grants ends June 30, 2011. Up to ten percent
3.30 of the funds may be used for cost-share grants
3.31 for pumps dispensing fuel that contains at
3.32 least ten percent biodiesel fuel by volume.

3.33 The utility subject to Minnesota Statutes,
3.34 section 116C.779, shall transfer \$2,500,000
3.35 in fiscal year 2008 and \$2,500,000 in fiscal

4.1 year 2009 to the Department of Commerce
4.2 on a schedule to be determined by the
4.3 commissioner of commerce. The funds must
4.4 be deposited in the special revenue fund
4.5 and are appropriated to the commissioner
4.6 for grants to promote renewable energy
4.7 projects and community energy outreach and
4.8 assistance. Of the amounts identified:
4.9 (1) \$500,000 each year for capital grants for
4.10 on-farm biogas recovery facilities; eligible
4.11 projects will be selected in coordination
4.12 with the Department of Agriculture and the
4.13 Pollution Control Agency;
4.14 (2) \$500,000 each year to provide financial
4.15 rebates to new solar electricity projects;
4.16 (3) \$500,000 each year for continued funding
4.17 of community energy technical assistance
4.18 and outreach on renewable energy and
4.19 energy efficiency; and
4.20 (4) \$1,000,000 each year for technical
4.21 analysis and demonstration funding for
4.22 automotive technology projects, with a
4.23 special focus on plug-in hybrid electric
4.24 vehicles.
4.25 The utility subject to Minnesota Statutes,
4.26 section 116C.779, shall transfer \$3,000,000
4.27 in fiscal year 2008 and \$2,000,000 in fiscal
4.28 year 2009 to the Department of Commerce
4.29 on a schedule to be determined by the
4.30 commissioner of commerce. The funds must
4.31 be deposited in the special revenue fund and
4.32 are appropriated to the commissioner for
4.33 grants to provide competitive, cost-share
4.34 grants to fund renewable energy research in
4.35 Minnesota. These grants must be awarded

5.1 by a three-member panel made up of the
5.2 commissioners of commerce, pollution
5.3 control, and agriculture, or their designees.
5.4 Grant applications must be ranked and grants
5.5 issued according to how well the applications
5.6 meet state energy policy research goals
5.7 established by the commissioners, the quality
5.8 and experience of the research teams, the
5.9 cross-interdisciplinary and cross-institutional
5.10 nature of the research teams, and the ability
5.11 of the research team to leverage nonstate
5.12 funds.

5.13 \$3,000,000 the second year is for a grant to
5.14 the Board of Regents of the University of
5.15 Minnesota for the Initiative for Renewable
5.16 Energy and the Environment. The grant
5.17 is for the purposes set forth in Minnesota
5.18 Statutes, section 216B.241, subdivision 6.
5.19 The appropriation is available until spent.
5.20 The base budget for this grant to the Board
5.21 of Regents of the University of Minnesota
5.22 for the Initiative for Renewable Energy and
5.23 the Environment is \$5,000,000 each year in
5.24 the 2010-2011 fiscal biennium.

5.25 As a condition of this grant, beginning in
5.26 the 2010-2011 biennium, the Initiative for
5.27 Renewable Energy and the Environment
5.28 must set aside at least 15 percent of the
5.29 funds received annually under the grant for
5.30 qualified projects conducted at a rural campus
5.31 or experiment station. Any amount of the
5.32 set aside funds that has not been awarded to
5.33 a rural campus or experiment station at the
5.34 end of the fiscal year must revert back to the
5.35 initiative for its exclusive use.

6.1 \$10,000,000 the first year is for the renewable
6.2 hydrogen initiative in Minnesota Statutes,
6.3 section 216B.813, to fund the competitive
6.4 grant program included in that section. The
6.5 commissioner may use up to two percent of
6.6 the competitive grant program appropriation
6.7 for grant administration and to develop and
6.8 implement the renewable hydrogen road
6.9 map. This is a onetime appropriation and is
6.10 available until expended.

6.11 \$3,100,000 the first year is for deposit in the
6.12 rural wind energy development revolving
6.13 loan fund under Minnesota Statutes, section
6.14 216C.39. This appropriation does not cancel.
6.15 This is a onetime appropriation.

6.16 \$1,000,000 the first year and \$1,000,000 the
6.17 second year are for a grant to the Center for
6.18 Rural Policy and Development for the rural
6.19 wind energy development program in article
6.20 3. This is a onetime appropriation and is
6.21 available until expended.

6.22 \$50,000 the first year is a onetime
6.23 appropriation for a comprehensive technical,
6.24 economic, and environmental analysis of the
6.25 benefits to be derived from greater use in this
6.26 state of geothermal heat pump systems for
6.27 heating and cooling air and heating water.
6.28 The analysis must:

6.29 (1) estimate the extent of geothermal heat
6.30 pump systems currently installed in this state
6.31 in residential, commercial, and institutional
6.32 buildings;

6.33 (2) estimate energy and economic savings of
6.34 geothermal heat pump systems in comparison
6.35 with fossil fuel-based heating and cooling

7.1 systems, including electricity use, on a
7.2 capital cost and life-cycle cost basis, for both
7.3 newly constructed and retrofitted residential,
7.4 commercial, and institutional buildings;
7.5 (3) compare the emission of pollutants and
7.6 greenhouse gases from geothermal heat
7.7 pump systems and fossil fuel-based heating
7.8 and cooling systems;
7.9 (4) identify financial assistance available
7.10 from state and federal sources and Minnesota
7.11 utilities to defray the costs of installing
7.12 geothermal heat pump systems;
7.13 (5) identify Minnesota firms currently
7.14 manufacturing or installing the physical
7.15 components of geothermal heat pump
7.16 systems and estimate the economic
7.17 development potential in this state if demand
7.18 for such systems increases significantly;
7.19 (6) identify the barriers to more widespread
7.20 adoption of geothermal heat pump systems in
7.21 this state and suggest strategies to overcome
7.22 those barriers; and
7.23 (7) make recommendations for legislative
7.24 action.
7.25 Not later than March 15, 2008, the
7.26 commissioner shall submit the results of the
7.27 analysis in a report to the chairs of the senate
7.28 and house of representatives committees
7.29 with primary jurisdiction over energy policy.
7.30 \$45,000 the first year is a onetime
7.31 appropriation for a grant to Linden Hills
7.32 Power and Light for preliminary engineering
7.33 design work and other technical and legal
7.34 services required for a community digester

8.1 and neighborhood district heating and
8.2 cooling system demonstration project in the
8.3 Linden Hills neighborhood of Minneapolis.
8.4 Funds may be expended upon a determination
8.5 by the commissioner of commerce that the
8.6 project is technically and economically
8.7 feasible. A portion of the appropriation
8.8 may be used to expand the scope of the
8.9 project feasibility study to include portions
8.10 of adjacent communities including St. Louis
8.11 Park and Edina.
8.12 \$3,000,000 the first year is for the purpose
8.13 of the propane prepurchase program under
8.14 Minnesota Statutes, section 216B.0951. This
8.15 is a onetime appropriation and is available
8.16 for the biennium.
8.17 \$4,000,000 the first year is for a onetime
8.18 grant to the St. Paul Port Authority for
8.19 environmental review and permitting,
8.20 preliminary engineering, and development of
8.21 a steam-producing facility to be located in
8.22 St. Paul using fuels consistent with eligible
8.23 energy technologies as defined in Minnesota
8.24 Statutes, section 216B.1691.
8.25 Grant funds for the project may only
8.26 be expended when the commissioner of
8.27 commerce has reviewed and approved a
8.28 project plan that includes the following
8.29 elements:
8.30 (i) total project cost estimates;
8.31 (ii) cost estimates for project design and
8.32 engineering tasks;
8.33 (iii) a preliminary plan for fuel source
8.34 procurement from a renewable energy source

9.1	<u>as defined in Minnesota Statutes, section</u>			
9.2	<u>216B.243, subdivision 3a; and</u>			
9.3	<u>(iv) a preliminary financing plan for the</u>			
9.4	<u>entire project.</u>			
9.5	<u>\$150,000 the first year is appropriated to the</u>			
9.6	<u>commissioner of commerce for grants for</u>			
9.7	<u>demonstration projects of electric vehicles</u>			
9.8	<u>with advanced transmission technologies</u>			
9.9	<u>incorporating, if feasible, batteries,</u>			
9.10	<u>converters, and other components developed</u>			
9.11	<u>in Minnesota. Funds may be expended</u>			
9.12	<u>under the grants only if grantees enter into</u>			
9.13	<u>agreements specifying that commercial</u>			
9.14	<u>production of these vehicles and components</u>			
9.15	<u>will, to the extent possible, take place in</u>			
9.16	<u>Minnesota.</u>			
9.17	<u>Subd. 7. Telecommunications Access</u>			
9.18	<u>Minnesota</u>	<u>100,000</u>		<u>100,000</u>
9.19	<u>\$100,000 the first year and \$100,000</u>			
9.20	<u>the second year are appropriated to the</u>			
9.21	<u>commissioner of commerce for transfer</u>			
9.22	<u>to the commissioner of human services to</u>			
9.23	<u>supplement the ongoing operational expenses</u>			
9.24	<u>of the Minnesota Commission Serving</u>			
9.25	<u>Deaf and Hard-of-Hearing People. This</u>			
9.26	<u>appropriation is from the telecommunication</u>			
9.27	<u>access Minnesota fund, and is added to the</u>			
9.28	<u>commission's base.</u>			
9.29	Sec. 4. <u>PUBLIC UTILITIES COMMISSION</u>	<u>\$ 5,315,000</u>	<u>\$</u>	<u>5,342,000</u>
9.30	Sec. 5. <u>DEPARTMENT OF NATURAL</u>			
9.31	<u>RESOURCES</u>	<u>\$ 535,000</u>	<u>\$</u>	<u>0</u>
9.32	<u>\$475,000 the first year is a onetime</u>			
9.33	<u>appropriation for terrestrial and geologic</u>			
9.34	<u>carbon sequestration reports and studies in</u>			

10.1 article 4. Of this amount, the commissioner
10.2 shall make payments of \$385,000 to the
10.3 Board of Regents of the University of
10.4 Minnesota for the purposes of terrestrial
10.5 carbon sequestration activities, and \$90,000
10.6 to the Minnesota Geological Survey for the
10.7 purposes of geologic carbon sequestration
10.8 assessment.

10.9 \$60,000 the first year is a onetime
10.10 appropriation to the commissioner of natural
10.11 resources to conduct a feasibility study
10.12 in conjunction with U.S. Army Corps of
10.13 Engineers on the foundation and hydraulics
10.14 of the Rapidan Dam in Blue Earth County.
10.15 This appropriation must be equally matched
10.16 by Blue Earth County, and is available until
10.17 expended.

10.18 Sec. 6. POLLUTION CONTROL AGENCY \$ 700,000 \$ 0

10.19 \$400,000 the first year is a onetime
10.20 appropriation for a grant to the Koochiching
10.21 Economic Development Authority for
10.22 a feasibility study for a plasma torch
10.23 gasification facility that converts municipal
10.24 solid waste into energy and slag.

10.25 \$300,000 the first year is for the biomass
10.26 gasification facilities air emissions study for
10.27 the purpose of fully characterizing the air
10.28 emissions exerted from biomass gasification
10.29 facilities across a range of feedstocks. This
10.30 is a onetime appropriation.

10.31 Sec. 7. DEPARTMENT OF HEALTH \$ 1,000,000 \$ 1,000,000

10.32 \$1,000,000 the first year and \$1,000,000
10.33 the second year are appropriated to the
10.34 commissioner of health for grants for lead

11.1 environmental risk assessment conducted
11.2 by local units of government, as required
11.3 under Minnesota Statutes, section 144.9504,
11.4 subdivision 2, and lead cleanup. Of
11.5 these amounts, \$500,000 the first year
11.6 and \$500,000 the second year must be
11.7 awarded to the federally designated nonprofit
11.8 organization operating the Clear Corps
11.9 program. This is a onetime appropriation.

11.10 **ARTICLE 2**
11.11 **COMMERCE**

11.12 Section 1. Minnesota Statutes 2006, section 13.712, is amended by adding a
11.13 subdivision to read:

11.14 Subd. 3. **Vehicle protection product warrantors.** Financial information provided
11.15 to the commissioner of commerce by vehicle protection product warrantors is classified
11.16 under section 59C.05, subdivision 3.

11.17 **EFFECTIVE DATE.** This section is effective January 1, 2008.

11.18 Sec. 2. Minnesota Statutes 2006, section 45.011, subdivision 1, is amended to read:

11.19 Subdivision 1. **Scope.** As used in chapters 45 to 83, 155A, 332, 332A, 345, and
11.20 359, and sections 325D.30 to 325D.42, 326.83 to 326.991, and 386.61 to 386.78, unless
11.21 the context indicates otherwise, the terms defined in this section have the meanings given
11.22 them.

11.23 **EFFECTIVE DATE.** This section is effective January 1, 2008.

11.24 Sec. 3. **[45.24] LICENSE TECHNOLOGY FEES.**

11.25 (a) The commissioner may establish and maintain an electronic licensing database
11.26 system for license origination, renewal, and tracking the completion of continuing
11.27 education requirements by individual licensees who have continuing education
11.28 requirements, and other related purposes.

11.29 (b) The commissioner shall pay for the cost of operating and maintaining the
11.30 electronic database system described in paragraph (a) through a technology surcharge
11.31 imposed upon the fee for license origination and renewal, for individual licenses that
11.32 require continuing education.

12.1 (c) The surcharge permitted under paragraph (b) shall be up to \$40 for each two-year
12.2 licensing period, except as otherwise provided in paragraph (f), and shall be payable at the
12.3 time of license origination and renewal.

12.4 (d) The Commerce Department technology account is hereby created as an account
12.5 in the special revenue fund.

12.6 (e) The commissioner shall deposit the surcharge permitted under this section in
12.7 the account created in paragraph (d), and funds in the account are appropriated to the
12.8 commissioner in the amounts needed for purposes of this section.

12.9 (f) The commissioner shall temporarily reduce or suspend the surcharge as necessary
12.10 if the balance in the account created in paragraph (d) exceeds \$2,000,000 as of the end of
12.11 any calendar year and shall increase or decrease the surcharge as necessary to keep the
12.12 fund balance at an adequate level but not in excess of \$2,000,000.

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

12.14 Sec. 4. Minnesota Statutes 2006, section 46.04, subdivision 1, is amended to read:

12.15 Subdivision 1. **General.** The commissioner of commerce, referred to in chapters
12.16 46 to 59A, and ~~sections 332.12 to 332.29~~ chapter 332A, as the commissioner, is vested
12.17 with all the powers, authority, and privileges which, prior to the enactment of Laws 1909,
12.18 chapter 201, were conferred by law upon the public examiner, and shall take over all
12.19 duties in relation to state banks, savings banks, trust companies, savings associations, and
12.20 other financial institutions within the state which, prior to the enactment of chapter 201,
12.21 were imposed upon the public examiner. The commissioner of commerce shall exercise
12.22 a constant supervision, either personally or through the examiners herein provided for,
12.23 over the books and affairs of all state banks, savings banks, trust companies, savings
12.24 associations, credit unions, industrial loan and thrift companies, and other financial
12.25 institutions doing business within this state; and shall, through examiners, examine each
12.26 financial institution at least once every 24 calendar months. In satisfying this examination
12.27 requirement, the commissioner may accept reports of examination prepared by a federal
12.28 agency having comparable supervisory powers and examination procedures. With the
12.29 exception of industrial loan and thrift companies which do not have deposit liabilities
12.30 and licensed regulated lenders, it shall be the principal purpose of these examinations to
12.31 inspect and verify the assets and liabilities of each and so far investigate the character
12.32 and value of the assets of each institution as to determine with reasonable certainty that
12.33 the values are correctly carried on its books. Assets and liabilities shall be verified in
12.34 accordance with methods of procedure which the commissioner may determine to be
12.35 adequate to carry out the intentions of this section. It shall be the further purpose of

13.1 these examinations to assess the adequacy of capital protection and the capacity of the
13.2 institution to meet usual and reasonably anticipated deposit withdrawals and other cash
13.3 commitments without resorting to excessive borrowing or sale of assets at a significant
13.4 loss, and to investigate each institution's compliance with applicable laws and rules. Based
13.5 on the examination findings, the commissioner shall make a determination as to whether
13.6 the institution is being operated in a safe and sound manner. None of the above provisions
13.7 limits the commissioner in making additional examinations as deemed necessary or
13.8 advisable. The commissioner shall investigate the methods of operation and conduct of
13.9 these institutions and their systems of accounting, to ascertain whether these methods and
13.10 systems are in accordance with law and sound banking principles. The commissioner may
13.11 make requirements as to records as deemed necessary to facilitate the carrying out of the
13.12 commissioner's duties and to properly protect the public interest. The commissioner may
13.13 examine, or cause to be examined by these examiners, on oath, any officer, director,
13.14 trustee, owner, agent, clerk, customer, or depositor of any financial institution touching
13.15 the affairs and business thereof, and may issue, or cause to be issued by the examiners,
13.16 subpoenas, and administer, or cause to be administered by the examiners, oaths. In
13.17 case of any refusal to obey any subpoena issued under the commissioner's direction,
13.18 the refusal may at once be reported to the district court of the district in which the bank
13.19 or other financial institution is located, and this court shall enforce obedience to these
13.20 subpoenas in the manner provided by law for enforcing obedience to subpoenas of the
13.21 court. In all matters relating to official duties, the commissioner of commerce has the
13.22 power possessed by courts of law to issue subpoenas and cause them to be served and
13.23 enforced, and all officers, directors, trustees, and employees of state banks, savings banks,
13.24 trust companies, savings associations, and other financial institutions within the state,
13.25 and all persons having dealings with or knowledge of the affairs or methods of these
13.26 institutions, shall afford reasonable facilities for these examinations, make returns and
13.27 reports to the commissioner of commerce as the commissioner may require; attend and
13.28 answer, under oath, the commissioner's lawful inquiries; produce and exhibit any books,
13.29 accounts, documents, and property as the commissioner may desire to inspect, and in all
13.30 things aid the commissioner in the performance of duties.

13.31 **EFFECTIVE DATE.** This section is effective January 1, 2008.

13.32 Sec. 5. Minnesota Statutes 2006, section 46.05, is amended to read:

13.33 **46.05 SUPERVISION OVER FINANCIAL INSTITUTIONS.**

14.1 Every state bank, savings bank, trust company, savings association, debt
14.2 management services provider, and other financial institutions shall be at all times under
14.3 the supervision and subject to the control of the commissioner of commerce. If, and
14.4 whenever in the performance of duties, the commissioner finds it necessary to make a
14.5 special investigation of any financial institution under the commissioner's supervision,
14.6 and other than a complete examination, the commissioner shall make a charge therefor to
14.7 include only the necessary costs thereof. Such a fee shall be payable to the commissioner
14.8 on the commissioner's making a request for payment.

14.9 **EFFECTIVE DATE.** This section is effective January 1, 2008.

14.10 Sec. 6. Minnesota Statutes 2006, section 46.131, subdivision 2, is amended to read:

14.11 Subd. 2. **Assessment authority.** Each bank, trust company, savings bank, savings
14.12 association, regulated lender, industrial loan and thrift company, credit union, motor
14.13 vehicle sales finance company, debt ~~providing agency~~ management services provider and
14.14 insurance premium finance company organized under the laws of this state or required
14.15 to be administered by the commissioner of commerce shall pay into the state treasury its
14.16 proportionate share of the cost of maintaining the Department of Commerce.

14.17 **EFFECTIVE DATE.** This section is effective January 1, 2008.

14.18 Sec. 7. Minnesota Statutes 2006, section 47.19, is amended to read:

14.19 **47.19 CORPORATION MAY BE MEMBER OR STOCKHOLDER OF**
14.20 **FEDERAL AGENCY.**

14.21 Any corporation is hereby empowered and authorized to become a member of,
14.22 or stockholder in, any such agency, and to that end to purchase stock in, or securities
14.23 of, or deposit money with, such agency and/or to comply with any other conditions of
14.24 membership or credit; to borrow money from such agency upon such rates of interest, not
14.25 exceeding the contract rate of interest in this state, and upon such terms and conditions
14.26 as may be agreed upon by such corporation and such agency, for the purpose of making
14.27 loans, paying withdrawals, paying maturities, paying debts, and for any other purpose not
14.28 inconsistent with the objects of the corporation; provided, that the aggregate amount of the
14.29 indebtedness, so incurred by such corporation, which shall be outstanding at any time shall
14.30 not exceed ~~25~~ 35 percent of the then total assets of the corporation; to assign, pledge and
14.31 hypothecate its bonds, mortgages or other assets; and, in case of savings associations, to
14.32 repledge with such agency the shares of stock in such association which any owner thereof
14.33 may have pledged as collateral security, without obtaining the consent thereunto of such

15.1 owner, as security for the repayment of the indebtedness so created by such corporation
15.2 and as evidenced by its note or other evidence of indebtedness given for such borrowed
15.3 money; and to do any and all things which shall or may be necessary or convenient in
15.4 order to comply with and to obtain the benefits of the provisions of any act of Congress
15.5 creating such agency, or any amendments thereto.

15.6 Sec. 8. Minnesota Statutes 2006, section 47.59, subdivision 6, is amended to read:

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

15.12 (1) official fees and taxes;

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

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

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

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

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

15.23 (iv) fees for notarizing deeds and other documents;

15.24 (v) appraisal and credit report fees; and

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

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

15.32 (5) for a returned check or returned automatic payment withdrawal request, an
15.33 amount not in excess of the service charge limitation in section 604.113, except that, on
15.34 a loan transaction that is a consumer small loan as defined in section 47.60, subdivision
15.35 1, paragraph (a), in which cash is advanced in exchange for a personal check, the civil

16.1 penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded
16.2 or assessed against the borrower; and

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

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

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

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

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

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

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

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

16.35 (3) charges for any monthly or other periodic payment period in which the borrower
16.36 has exceeded or, except for the financial institution's dishonor would have exceeded,

17.1 the maximum approved credit limit, in an amount not in excess of the service charge
17.2 permitted in section 604.113;

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

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

17.7 (d) In addition to the finance charges and other additional charges permitted by this
17.8 section, a financial institution may contract for and receive a onetime loan administrative
17.9 fee not exceeding \$25 in connection with closed-end credit, which may be included in the
17.10 principal balance upon which the finance charge is computed. This paragraph applies only
17.11 to closed-end credit in an original principal amount of \$4,320 or less. The determination
17.12 of an original principal amount must exclude the administrative fee contracted for and
17.13 received according to this paragraph.

17.14 Sec. 9. Minnesota Statutes 2006, section 47.60, subdivision 2, is amended to read:

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

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

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

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

17.24 (4) for amounts in excess of \$250 and not greater than the maximum in subdivision
17.25 1, paragraph (a), a charge may be added equal to six percent of the loan proceeds with a
17.26 minimum of \$17.50 plus a \$5 administrative fee.

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

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

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

17.34 (e) On a loan transaction in which cash is advanced in exchange for a personal
17.35 check, a return check charge may be charged as authorized by section 604.113, subdivision

2, paragraph (a). The civil penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded or assessed against the borrower.

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

Sec. 10. Minnesota Statutes 2006, section 47.62, subdivision 1, is amended to read:

Subdivision 1. **General authority.** Any person may establish and maintain one or more electronic financial terminals. Any financial institution may provide for its customers the use of an electronic financial terminal by entering into an agreement with any person who has established and maintains one or more electronic financial terminals if that person authorizes use of the electronic financial terminal to all financial institutions on a nondiscriminatory basis pursuant to section 47.64. ~~Electronic financial terminals to be established and maintained in this state by financial institutions located in states other than Minnesota must file a notification to the commissioner as required in this section. The notification may be in the form lawfully required by the state regulator responsible for the examination and supervision of that financial institution. If there is no such requirement, then notification must be in the form required by this section for Minnesota financial institutions.~~

Sec. 11. Minnesota Statutes 2006, section 47.75, subdivision 1, is amended to read:

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

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

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

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

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

(b) The trustee or custodian may accept the trust funds if the funds are invested only in savings accounts or time deposits in the commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company, except that health savings accounts may also be invested in transaction accounts. Health savings accounts invested in transaction accounts shall not be subject to the restrictions in section 48.512, subdivision 3. All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

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

Sec. 12. Minnesota Statutes 2006, section 48.15, subdivision 4, is amended to read:

Subd. 4. **Retirement, health savings, and medical savings accounts.** (a) A state bank may act as trustee or custodian:

(1) of a self-employed retirement plan under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended;

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

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

(4) of an individual retirement account under the Federal Employee Retirement Income Security Act of 1974, as amended, if the bank's duties as trustee or custodian are essentially ministerial or custodial in nature and the funds are invested only (i) in the bank's own savings or time deposits, except that health savings accounts may also be invested in transaction accounts. Health savings accounts invested in transaction accounts shall not be subject to the restrictions in section 48.512, subdivision 3; or (ii) in any other assets at the direction of the customer if the bank does not exercise any investment discretion, invest the funds in collective investment funds administered by it, or provide any investment advice with respect to those account assets.

(b) Affiliated discount brokers may be utilized by the bank acting as trustee or custodian for self-directed IRAs, if specifically authorized and directed in appropriate documents. The relationship between the affiliated broker and the bank must be fully disclosed. Brokerage commissions to be charged to the IRA by the affiliated broker should be accurately disclosed. Provisions should be made for disclosure of any changes in commission rates prior to their becoming effective. The affiliated broker may not provide investment advice to the customer.

(c) All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

(d) The authority granted by this section is in addition to, and not limited by, section 47.75.

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

Sec. 13. 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: approval as a mortgagee by either the federal Department of Housing and Urban Development or the Federal National Mortgage Association; a minimum net worth, net of intangibles, of at least \$250,000; or 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~~

~~(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. 14. 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)~~ (2) a person servicing loans made with ~~its~~ the person's own funds, if no more than three such loans are made in any 12-month period;

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

~~(5) (4)~~ (4) an agency of the federal government, or of a state or municipal government;

~~(6) (5)~~ (5) an employee or employer pension plan making loans only to its participants;

22.1 ~~(7)~~ (6) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result
22.2 of a specific order issued by a court of competent jurisdiction; or
22.3 ~~(8)~~ (7) a person exempted by order of the commissioner.

22.4 Sec. 15. Minnesota Statutes 2006, section 58.05, is amended to read:

22.5 **58.05 EXEMPTIONS FROM LICENSE.**

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

22.9 Subd. 3. **Certificate of exemption.** A person must obtain a certificate of exemption
22.10 from the commissioner to qualify as an exempt person under section 58.04, subdivision
22.11 1, paragraph ~~(b)~~ (c), ~~as a real estate broker under clause (2), an insurance agent under~~
22.12 ~~clause (4),~~ a financial institution under clause ~~(6)~~ (2), or by order of the commissioner
22.13 under clause ~~(10)~~ (6); or under section 58.04, subdivision 2, paragraph (b), as a financial
22.14 institution under clause ~~(4)~~ (3), or by order of the commissioner under clause ~~(8)~~ (7).

22.15 Sec. 16. Minnesota Statutes 2006, section 58.06, subdivision 2, is amended to read:

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

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

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

22.27 (2) a surety bond or irrevocable letter of credit in the amount of not less than
22.28 \$100,000 in a form approved by the commissioner, issued by an insurance company
22.29 or bank authorized to do so in this state. The bond or irrevocable letter of credit must
22.30 be available for the recovery of expenses, fines, and fees levied by the commissioner
22.31 under this chapter and for losses incurred by borrowers. The bond or letter of credit must
22.32 be submitted with the license application, and evidence of continued coverage must be
22.33 submitted with each renewal. Any change in the bond or letter of credit must be submitted
22.34 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 as of a date 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

24.1 state or federal regulatory agency or by the Secretary of Housing and Urban Development
24.2 within the ten-year period immediately preceding submission of the application; and
24.3 ~~(f)~~ (6) other information required by the commissioner.

24.4 Sec. 17. Minnesota Statutes 2006, section 58.06, is amended by adding a subdivision
24.5 to read:

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

24.10 Sec. 18. Minnesota Statutes 2006, section 58.08, subdivision 3, is amended to read:

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

24.14 Sec. 19. Minnesota Statutes 2006, section 58.10, subdivision 1, is amended to read:

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

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

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

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

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

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

24.23 Sec. 20. **[58.115] EXAMINATIONS.**

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

24.27 Sec. 21. **[58.126] EDUCATION REQUIREMENT.**

24.28 No individual shall engage in residential mortgage origination or make residential
24.29 mortgage loans, whether as an employee or independent contractor, before the completion
24.30 of 15 hours of educational training which has been approved by the commissioner, and
24.31 covering state and federal laws concerning residential mortgage lending.

25.1 Sec. 22. [59C.01] SHORT TITLE.

25.2 This chapter may be cited as the Vehicle Protection Product Act.

25.3 **EFFECTIVE DATE.** This section is effective January 1, 2008.

25.4 Sec. 23. [59C.02] DEFINITIONS.

25.5 Subdivision 1. **Terms.** For purposes of this chapter, the terms defined in subdivisions
25.6 2 to 11 have the meanings given them.

25.7 Subd. 2. **Administrator.** "Administrator" means a third party other than the
25.8 warrantor who is designated by the warrantor to be responsible for the administration
25.9 of vehicle protection product warranties.

25.10 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

25.11 Subd. 4. **Department.** "Department" means the Department of Commerce.

25.12 Subd. 5. **Incidental costs.** "Incidental costs" means expenses specified in the
25.13 warranty incurred by the warranty holder related to the failure of the vehicle protection
25.14 product to perform as provided in the warranty. Incidental costs may include, without
25.15 limitation, insurance policy deductibles, rental vehicle charges, the difference between the
25.16 actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle,
25.17 sales taxes, registration fees, transaction fees, and mechanical inspection fees.

25.18 Subd. 6. **Service contract.** "Service contract" means a contract or agreement as
25.19 regulated under chapter 59B.

25.20 Subd. 7. **Vehicle protection product.** "Vehicle protection product" means a vehicle
25.21 protection device, system, or service that:

25.22 (1) is installed on or applied to a vehicle;

25.23 (2) is designed to prevent loss or damage to a vehicle from a specific cause; and

25.24 (3) includes a written warranty.

25.25 For purposes of this section, vehicle protection product includes, without limitation,
25.26 alarm systems; body part marking products; steering locks; window etch products; pedal
25.27 and ignition locks; fuel and ignition kill switches; and electronic, radio, and satellite
25.28 tracking devices.

25.29 Subd. 8. **Vehicle protection product warranty or warranty.** "Vehicle protection
25.30 product warranty" or "warranty" means, for the purposes of this chapter, a written
25.31 agreement by a warrantor that provides if the vehicle protection product fails to prevent
25.32 loss or damage to a vehicle from a specific cause, that the warranty holder must be
25.33 paid specified incidental costs by the warrantor as a result of the failure of the vehicle
25.34 protection product to perform pursuant to the terms of the warranty.

Subd. 9. **Vehicle protection product warrantor or warrantor.** "Vehicle protection product warrantor" or "warrantor," for the purposes of this chapter, means a person who is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty agreement. Warrantor does not include an authorized insurer providing a warranty reimbursement insurance policy.

Subd. 10. **Warranty holder.** "Warranty holder," for the purposes of this chapter, means the person who purchases a vehicle protection product or who is a permitted transferee.

Subd. 11. **Warranty reimbursement insurance policy.** "Warranty reimbursement insurance policy" means a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to, or to pay on behalf of, the warrantor all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties sold by the warrantor.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 24. **[59C.03] SCOPE AND EXEMPTIONS.**

(a) No vehicle protection product may be sold or offered for sale in this state unless the seller, warrantor, and administrator, if any, comply with the provisions of this chapter.

(b) Vehicle protection product warrantors and related vehicle protection product sellers and warranty administrators complying with this chapter are not required to comply with and are not subject to any other provision of chapters 59B to 72A, except that section 72A.20, subdivision 38, shall apply to vehicle protection product warranties in the same manner it applies to service contracts.

(c) Service contract providers who do not sell vehicle protection products are not subject to the requirements of this chapter and sales of vehicle protection products are exempt from the requirements of chapter 59B.

(d) Warranties, indemnity agreements, and guarantees that are not provided as a part of a vehicle protection product are not subject to the provisions of this chapter.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 25. **[59C.04] REGISTRATION AND FILING REQUIREMENTS OF WARRANTORS.**

Subdivision 1. **General requirement.** A person may not operate as a warrantor or represent to the public that the person is a warrantor unless the person is registered with the department on a form prescribed by the commissioner.

Subd. 2. **Registration records.** A registrant shall file a warrantor registration record annually and shall update it within 30 days of any change. A registration record must contain the following information:

(1) the warrantor's name, any fictitious names under which the warrantor does business in the state, principal office address, and telephone number;

(2) the name and address of the warrantor's agent for service of process in the state if other than the warrantor;

(3) the names of the warrantor's executive officer or officers directly responsible for the warrantor's vehicle protection product business;

(4) the name, address, and telephone number of any administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this state;

(5) a copy of the warranty reimbursement insurance policy or policies or other financial information required by section 59C.05;

(6) a copy of each warranty the warrantor proposes to use in this state; and

(7) a statement indicating under which provision of section 59C.05 the warrantor qualifies to do business in this state as a warrantor.

Subd. 3. **Registration fee.** The commissioner may charge each registrant a reasonable fee to offset the cost of processing the registration and maintaining the records in an amount not to exceed \$250 annually. The information in subdivision 2, clauses (1) and (2), must be made available to the public.

Subd. 4. **Renewal.** If a registrant fails to register by the renewal deadline, the commissioner shall give them written notice of the failure and the registrant will have 30 days to complete the renewal of the registration before the commissioner suspends the registration.

Subd. 5. **Exception.** An administrator or person who sells or solicits a sale of a vehicle protection product but who is not a warrantor shall not be required to register as a warrantor or be licensed under the insurance laws of this state to sell vehicle protection products.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 26. **[59C.05] FINANCIAL RESPONSIBILITY.**

Subdivision 1. **General requirements.** No vehicle protection product may be sold, or offered for sale in this state unless the warrantor meets either the requirements of subdivision 2 or 3 in order to ensure adequate performance under the warranty. No other financial security requirements or financial standards for warrantors is required.

Subd. 2. **Warranty reimbursement insurance policy.** The vehicle protection product warrantor shall be insured under a warranty reimbursement insurance policy issued by an insurer authorized to do business in this state which provides that:

(1) the insurer will pay to, or on behalf of the warrantor, 100 percent of all sums that the warrantor is legally obligated to pay according to the warrantor's contractual obligations under the warrantor's vehicle protection product warranty;

(2) a true and correct copy of the warranty reimbursement insurance policy has been filed with the commissioner by the warrantor; and

(3) the policy contains the provision required in section 59C.06.

Subd. 3. **Network or stockholder's equity.** (1) The vehicle protection product warrantor, or its parent company in accordance with clause (2), shall maintain a net worth or stockholders' equity of \$50,000,000; and

(2) the warrantor shall provide the commissioner with a copy of the warrantor's or the warrantor's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year or, if the warrantor does not file with the Securities and Exchange Commission, a copy of the warrantor or the warrantor's parent company's audited financial statements that shows a net worth of the warrantor or its parent company of at least \$50,000,000. If the warrantor's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the warrantor's financial stability requirement, then the parent company shall agree to guarantee the obligations of the warrantor relating to warranties issued by the warrantor in this state. The financial information provided to the commissioner under this paragraph is trade secret information for purposes of section 13.37.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 27. **[59C.06] WARRANTY REIMBURSEMENT POLICY REQUIREMENTS.**

No warranty reimbursement insurance policy may be issued, sold, or offered for sale in this state unless the policy meets the following conditions:

(1) the policy states that the issuer of the policy will reimburse, or pay on behalf of the vehicle protection product warrantor, all covered sums that the warrantor is legally obligated to pay, or will provide all service that the warrantor is legally obligated to perform according to the warrantor's contractual obligations under the provisions of the insured warranties sold by the warrantor;

(2) the policy states that in the event payment due under the terms of the warranty is not provided by the warrantor within 60 days after proof of loss has been filed according

to the terms of the warranty by the warranty holder, the warranty holder may file directly with the warranty reimbursement insurance company for reimbursement;

(3) the policy provides that a warranty reimbursement insurance company that insures a warranty is deemed to have received payment of the premium if the warranty holder paid for the vehicle protection product and the insurer's liability under the policy shall not be reduced or relieved by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer; and

(4) the policy has the following provisions regarding cancellation of the policy:

(i) the issuer of a reimbursement insurance policy shall not cancel the policy until a notice of cancellation in writing has been mailed or delivered to the commissioner and each insured warrantor;

(ii) the cancellation of a reimbursement insurance policy shall not reduce the issuer's responsibility for vehicle protection products sold prior to the date of cancellation; and

(iii) in the event an insurer cancels a policy that a warrantor has filed with the commissioner, the warrantor shall do either of the following:

(A) file a copy of a new policy with the commissioner, before the termination of the prior policy, providing no lapse in coverage following the termination of the prior policy; or

(B) discontinue offering warranties as of the termination date of the policy until a new policy becomes effective and is accepted by the commissioner.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 28. [59C.07] DISCLOSURE TO WARRANTY HOLDER.

A vehicle protection product warranty must not be sold or offered for sale in this state unless the warranty:

(1) states, "The obligations of the warrantor to the warranty holder are guaranteed under a warranty reimbursement insurance policy" if the warrantor elects to meet its financial responsibility obligations under section 59C.05, subdivision 2, or states "The obligations of the warrantor under this warranty are backed by the full faith and credit of the warrantor" if the warrantor elects to meet its financial responsibility obligations under section 59C.05, subdivision 3;

(2) states that in the event a warranty holder must make a claim against a party other than the warranty reimbursement insurance policy issuer, the warranty holder is entitled to make a direct claim against the insurer upon the failure of the warrantor to pay any claim or meet any obligation under the terms of the warranty within 60 days after proof of loss

has been filed with the warrantor, if the warrantor elects to meet its financial responsibility obligations under section 59C.05, subdivision 2;

(3) states the name and address of the issuer of the warranty reimbursement insurance policy, and this information need not be preprinted on the warranty form, but may be added to or stamped on the warranty, if the warrantor elects to meet its financial responsibility obligations under section 59C.05, subdivision 2;

(4) identifies the warrantor, the seller, and the warranty holder;

(5) sets forth the total purchase price and the terms under which it is to be paid, however, the purchase price is not required to be preprinted on the vehicle protection product warranty and may be negotiated with the consumer at the time of sale;

(6) sets forth the procedure for making a claim, including a telephone number;

(7) specifies the payments or performance to be provided under the warranty including payments for incidental costs expressed as either a fixed amount specified in the warranty or sales agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder, the manner of calculation or determination of payments or performance, and any limitations, exceptions, or exclusions;

(8) sets forth all of the obligations and duties of the warranty holder such as the duty to protect against any further damage to the vehicle, the obligation to notify the warrantor in advance of any repair, or other similar requirements, if any;

(9) sets forth any terms, restrictions, or conditions governing transferability and cancellation of the warranty, if any; and

(10) contains a disclosure that reads substantially as follows: "This agreement is a product warranty and is not insurance."

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 29. [59C.08] PROHIBITED ACTS.

(a) Unless licensed as an insurance company, a vehicle protection product warrantor shall not use in its name, contracts, or literature, any of the words "insurance," "casualty," "surety," "mutual," or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation, or any other vehicle protection product warrantor. A warrantor may use the term "guaranty" or similar word in the warrantor's name.

(b) A vehicle protection product seller or warrantor may not require as a condition of financing that a retail purchaser of a motor vehicle purchase a vehicle protection product.

EFFECTIVE DATE. This section is effective January 1, 2008.

31.1 Sec. 30. **[59C.09] RECORD KEEPING.**

31.2 (a) All vehicle protection product warrantors shall keep accurate accounts, books,
31.3 and records concerning transactions regulated under this chapter.

31.4 (b) A vehicle protection product warrantor's accounts, books, and records must
31.5 include:

31.6 (1) copies of all vehicle protection product warranties;

31.7 (2) the name and address of each warranty holder; and

31.8 (3) the dates, amounts, and descriptions of all receipts, claims, and expenditures.

31.9 (c) A vehicle protection product warrantor shall retain all required accounts, books,
31.10 and records pertaining to each warranty holder for at least two years after the specified
31.11 period of coverage has expired. A warrantor discontinuing business in this state shall
31.12 maintain its records until it furnishes the commissioner satisfactory proof that it has
31.13 discharged all obligations to warranty holders in this state.

31.14 **EFFECTIVE DATE.** This section is effective January 1, 2008.

31.15 Sec. 31. **[59C.10] COMMISSIONER'S POWERS AND DUTIES.**

31.16 Subdivision 1. **Examination and compliance powers.** The commissioner may
31.17 conduct examinations of warrantors, administrators, or other persons to enforce this
31.18 chapter and protect warranty holders in this state. Upon request of the commissioner, a
31.19 warrantor shall make available to the commissioner all accounts, books, and records
31.20 concerning vehicle protection products sold by the warrantor and transactions regulated
31.21 under this chapter that are necessary to enable the commissioner to reasonably determine
31.22 compliance or noncompliance with this chapter.

31.23 Subd. 2. **Enforcement authority.** The commissioner may take action that is
31.24 necessary or appropriate to enforce the provisions of this chapter and the commissioner's
31.25 rules and orders and to protect warranty holders in this state. The commissioner has the
31.26 enforcement authority in chapter 45 available to enforce the provisions of the chapter and
31.27 the rules adopted pursuant to it.

31.28 **EFFECTIVE DATE.** This section is effective January 1, 2008.

31.29 Sec. 32. **[59C.12] APPLICABILITY.**

31.30 This chapter applies to all vehicle protection products sold or offered for sale on
31.31 or after the effective date of this chapter. The failure of any person to comply with this
31.32 chapter before its effective date is not admissible in any court proceeding, administrative
31.33 proceeding, arbitration, or alternative dispute resolution proceeding and may not otherwise

be used to prove that the action of any person or the affected vehicle protection product was unlawful or otherwise improper. The adoption of this chapter does not imply that a vehicle protection product warranty was insurance before the effective date of this chapter. Nothing in this section may be construed to require the application of the penalty provisions where this section is not applicable.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 33. [60K.365] PRODUCER TRAINING REQUIREMENTS FOR LONG-TERM CARE PARTNERSHIP PROGRAM INSURANCE PRODUCTS.

(a) An individual may not sell, solicit, or negotiate long-term care insurance unless the individual is licensed as an insurance producer for accident and health or sickness insurance or life insurance and has completed an initial training course and ongoing training every 24 months thereafter. The training shall meet the requirements of paragraph (b).

(b) The initial training course required by this subdivision shall be no less than eight hours and the ongoing training courses required by this subdivision shall be no less than four hours every 24 months. The courses shall be approved by the Department of Commerce and may be approved as continuing education courses under section 60K.56. The courses shall consist of topics related to long-term care insurance, long-term care services, and, if applicable, qualified state long-term care insurance partnership programs, including but not limited to:

(1) state and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid;

(2) available long-term care services and providers;

(3) changes or improvements in long-term care services or providers;

(4) alternatives to the purchase of private long-term care insurance;

(5) the effect of inflation on benefits and the importance of inflation protection; and

(6) consumer suitability standards and guidelines.

The training required by this subdivision shall not include training that is insurer or company product specific or that includes any sales or marketing information, materials, or training, other than those required by state or federal law.

(c) Insurers shall obtain verification that a producer has received the training required by this subdivision before a producer is permitted to sell, solicit, or negotiate the insurer's long-term care insurance products. Insurers shall maintain records verifying

33.1 that the producer has received the training contained in this subdivision and make that
33.2 verification available to the commissioner upon request.

33.3 (d) Currently licensed producers must complete the initial training course by January
33.4 1, 2008.

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

33.6 Sec. 34. Minnesota Statutes 2006, section 60K.55, subdivision 2, is amended to read:

33.7 Subd. 2. **Licensing fees.** (a) In addition to fees provided for examinations and the
33.8 technology surcharge required under paragraph (d), each insurance producer licensed
33.9 under this chapter shall pay to the commissioner a fee of:

33.10 (1) \$50 for an initial life, accident and health, property, or casualty license issued to
33.11 an individual insurance producer, and a fee of \$50 for each renewal;

33.12 (2) \$50 for an initial variable life and variable annuity license issued to an individual
33.13 insurance producer, and a fee of \$50 for each renewal;

33.14 (3) \$50 for an initial personal lines license issued to an individual insurance
33.15 producer, and a fee of \$50 for each renewal;

33.16 (4) \$50 for an initial limited lines license issued to an individual insurance producer,
33.17 and a fee of \$50 for each renewal;

33.18 (5) \$200 for an initial license issued to a business entity, and a fee of \$200 for each
33.19 renewal; and

33.20 (6) \$500 for an initial surplus lines license, and a fee of \$500 for each renewal.

33.21 (b) Initial licenses issued under this chapter are valid for a period not to exceed 24
33.22 months and expire on October 31 of the renewal year assigned by the commissioner.

33.23 Each renewal insurance producer license is valid for a period of 24 months. Licensees
33.24 who submit renewal applications postmarked or delivered on or before October 15 of the
33.25 renewal year may continue to transact business whether or not the renewal license has been
33.26 received by November 1. Licensees who submit applications postmarked or delivered
33.27 after October 15 of the renewal year must not transact business after the expiration date
33.28 of the license until the renewal license has been received.

33.29 (c) All fees are nonreturnable, except that an overpayment of any fee may be
33.30 refunded upon proper application.

33.31 (d) In addition to the fees required under paragraph (a), individual insurance
33.32 producers shall pay, for each initial license and renewal, a technology surcharge of up to
33.33 \$40 under section 45.24, unless the commissioner has adjusted the surcharge as permitted
33.34 under that section.

34.1 **EFFECTIVE DATE.** This section is effective October 1, 2007.

34.2 Sec. 35. Minnesota Statutes 2006, section 65B.44, subdivision 2, is amended to read:

34.3 Subd. 2. **Medical expense benefits.** (a) Medical expense benefits shall reimburse
34.4 all reasonable expenses for necessary:

34.5 (1) medical, surgical, x-ray, optical, dental, chiropractic, and rehabilitative services,
34.6 including prosthetic devices and items that provide relief from any injury;

34.7 (2) prescription drugs;

34.8 (3) ambulance and all other transportation expenses incurred in traveling to receive
34.9 other covered medical expense benefits;

34.10 (4) sign interpreting and language translation services, other than such services
34.11 provided by a family member of the patient, related to the receipt of medical, surgical,
34.12 x-ray, optical, dental, chiropractic, hospital, extended care, nursing, and rehabilitative
34.13 services; and

34.14 (5) hospital, extended care, and nursing services.

34.15 (b) Hospital room and board benefits may be limited, except for intensive care
34.16 facilities, to the regular daily semiprivate room rates customarily charged by the institution
34.17 in which the recipient of benefits is confined.

34.18 (c) Such benefits shall also include necessary remedial treatment and services
34.19 recognized and permitted under the laws of this state for an injured person who relies
34.20 upon spiritual means through prayer alone for healing in accordance with that person's
34.21 religious beliefs.

34.22 (d) Medical expense loss includes medical expenses accrued prior to the death of a
34.23 person notwithstanding the fact that benefits are paid or payable to the decedent's survivors.

34.24 (e) Medical expense benefits for rehabilitative services shall be subject to the
34.25 provisions of section 65B.45.

34.26 Sec. 36. Minnesota Statutes 2006, section 65B.44, subdivision 3, is amended to read:

34.27 Subd. 3. **Disability and income loss benefits.** Disability and income loss benefits
34.28 shall provide compensation for 85 percent of the injured person's loss of present and future
34.29 gross income from inability to work proximately caused by the nonfatal injury subject
34.30 to a maximum of ~~\$250~~ \$500 per week. Loss of income includes the costs incurred by a
34.31 self-employed person to hire substitute employees to perform tasks which are necessary to
34.32 maintain the income of the injured person, which are normally performed by the injured
34.33 person, and which cannot be performed because of the injury.

If the injured person is unemployed at the time of injury and is receiving or is eligible to receive unemployment benefits under chapter 268, but the injured person loses eligibility for those benefits because of inability to work caused by the injury, disability and income loss benefits shall provide compensation for the lost benefits in an amount equal to the unemployment benefits which otherwise would have been payable, subject to a maximum of ~~\$250~~ \$500 per week.

Compensation under this subdivision shall be reduced by any income from substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work which the injured person was capable of performing but unreasonably failed to undertake.

For the purposes of this section "inability to work" means disability which prevents the injured person from engaging in any substantial gainful occupation or employment on a regular basis, for wage or profit, for which the injured person is or may by training become reasonably qualified. If the injured person returns to employment and is unable by reason of the injury to work continuously, compensation for lost income shall be reduced by the income received while the injured person is actually able to work. The weekly maximums may not be prorated to arrive at a daily maximum, even if the injured person does not incur loss of income for a full week.

For the purposes of this section, an injured person who is "unable by reason of the injury to work continuously" includes, but is not limited to, a person who misses time from work, including reasonable travel time, and loses income, vacation, or sick leave benefits, to obtain medical treatment for an injury arising out of the maintenance or use of a motor vehicle.

Sec. 37. Minnesota Statutes 2006, section 65B.44, subdivision 4, is amended to read:

Subd. 4. **Funeral and burial expenses.** Funeral and burial benefits shall be reasonable expenses not in excess of ~~\$2,000~~ \$5,000, including expenses for cremation or delivery under the Uniform Anatomical Gift Act (1987), sections 525.921 to 525.9224.

Sec. 38. Minnesota Statutes 2006, section 65B.44, subdivision 5, is amended to read:

Subd. 5. **Replacement service and loss.** Replacement service loss benefits shall reimburse all expenses reasonably incurred by or on behalf of the nonfatally injured person in obtaining usual and necessary substitute services in lieu of those that, had the injured person not been injured, the injured person would have performed not for income but for direct personal benefit or for the benefit of the injured person's household; if the nonfatally injured person normally, as a full time responsibility, provides care and

36.1 maintenance of a home with or without children, the benefit to be provided under this
36.2 subdivision shall be the reasonable value of such care and maintenance or the reasonable
36.3 expenses incurred in obtaining usual and necessary substitute care and maintenance of
36.4 the home, whichever is greater. These benefits shall be subject to a maximum of ~~\$200~~
36.5 \$600 per week. All replacement services loss sustained on the date of injury and the first
36.6 seven days thereafter is excluded in calculating replacement services loss.

36.7 Sec. 39. Minnesota Statutes 2006, section 65B.47, subdivision 7, is amended to read:

36.8 Subd. 7. **Adding policies together.** Unless a policyholder makes a specific election
36.9 not to have two or more policies added together the limit of liability for basic economic
36.10 loss benefits for two or more motor vehicles ~~may not~~ must be added together to determine
36.11 the limit of insurance coverage available to an injured person for any one accident. An
36.12 insurer shall notify policyholders that they may elect not to have two or more policies
36.13 added together.

36.14 Sec. 40. Minnesota Statutes 2006, section 65B.54, subdivision 1, is amended to read:

36.15 Subdivision 1. **Payment of basic economic loss benefits.** Basic economic loss
36.16 benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as
36.17 income loss, replacement services loss, survivor's economic loss, survivor's replacement
36.18 services loss, or medical or funeral expense is incurred. Benefits are overdue if not
36.19 paid within 30 days after the reparation obligor receives reasonable proof of the fact
36.20 and amount of loss realized, unless the reparation obligor elects to accumulate claims
36.21 for periods not exceeding 31 days and pays them within 15 days after the period of
36.22 accumulation. However, if the insurer notifies the insured that it is denying benefits, the
36.23 insured need not continue to provide the insurer with proof of the bills, losses, or expenses.
36.24 If reasonable proof is supplied as to only part of a claim, and the part totals \$100 or more,
36.25 the part is overdue if not paid within the time provided by this section. Medical or funeral
36.26 expense benefits may be paid by the reparation obligor directly to persons supplying
36.27 products, services, or accommodations to the claimant.

36.28 Sec. 41. Minnesota Statutes 2006, section 65B.54, is amended by adding a subdivision
36.29 to read:

36.30 Subd. 6. **Unethical practices.** (a) A licensed health care provider shall not initiate
36.31 direct contact, in person, over the telephone, or by other electronic means, with any person
36.32 who has suffered an injury arising out of the maintenance or use of an automobile, for the
36.33 purpose of influencing that person to receive treatment or to purchase any good or item

from the licensee or anyone associated with the licensee. This subdivision prohibits such direct contact whether initiated by the licensee individually or on behalf of the licensee by any employee, independent contractor, agent, or third party. This subdivision does not apply when an injured person voluntarily initiates contact with a licensee.

(b) This subdivision does not prohibit licensees from mailing advertising literature directly to such persons, so long as:

(1) the word "ADVERTISEMENT" appears clearly and conspicuously at the beginning of the written materials;

(2) the name of the individual licensee appears clearly and conspicuously within the written materials;

(3) the licensee is clearly identified as a licensed health care provider within the written materials; and

(4) the licensee does not initiate, individually or through any employee, independent contractor, agent, or third party, direct contact with the person after the written materials are sent.

(c) This subdivision does not apply to:

(1) advertising that does not involve direct contact with specific prospective patients, in public media such as telephone directories, professional directories, ads in newspapers and other periodicals, radio or television ads, Web sites, billboards, or similar media; or

(2) general marketing practices such as giving lectures; participating in special events, trade shows, or meetings of organizations; or making presentations relative to the benefits of chiropractic treatment; or

(3) contact with friends or relatives, or statements made in a social setting.

(d) A violation of this subdivision is grounds for the licensing authority to take disciplinary action against the licensee, including revocation in appropriate cases.

Sec. 42. Minnesota Statutes 2006, section 80A.28, subdivision 1, is amended to read:

Subdivision 1. **Registration or notice filing fee.** (a) There shall be a filing fee of \$100 for every application for registration or notice filing. There shall be an additional fee of one-tenth of one percent of the maximum aggregate offering price at which the securities are to be offered in this state, and the maximum combined fees shall not exceed \$300.

(b) When an application for registration is withdrawn before the effective date or a preeffective stop order is entered under section 80A.13, subdivision 1, all but the \$100 filing fee shall be returned. If an application to register securities is denied, the total of all fees received shall be retained.

(c) Where a filing is made in connection with a federal covered security under section 18(b)(2) of the Securities Act of 1933, there is a fee of \$100 for every initial filing. If the filing is made in connection with redeemable securities issued by an open end management company or unit investment trust, as defined in the Investment Company Act of 1940, there is an additional annual fee of 1/20 of one percent of the maximum aggregate offering price at which the securities are to be offered in this state during the notice filing period. The fee must be paid at the time of the initial filing and thereafter in connection with each renewal no later than July 1 of each year and must be sufficient to cover the shares the issuer expects to sell in this state over the next 12 months. If during a current notice filing the issuer determines it is likely to sell shares in excess of the shares for which fees have been paid to the commissioner, the issuer shall submit an amended notice filing to the commissioner under section 80A.122, subdivision 1, clause (3), together with a fee of 1/20 of one percent of the maximum aggregate offering price of the additional shares. Shares for which a fee has been paid, but which have not been sold at the time of expiration of the notice filing, may not be sold unless an additional fee to cover the shares has been paid to the commissioner as provided in this section and section 80A.122, subdivision 4a. If the filing is made in connection with redeemable securities issued by such a company or trust, there is no maximum fee for securities filings made according to this paragraph. If the filing is made in connection with any other federal covered security under Section 18(b)(2) of the Securities Act of 1933, there is an additional fee of one-tenth of one percent of the maximum aggregate offering price at which the securities are to be offered in this state, and the combined fees shall not exceed \$300. Beginning with fiscal year 2001 and continuing each fiscal year thereafter, as of the last day of each fiscal year, the commissioner shall determine the total amount of all fees that were collected under this paragraph in connection with any filings made for that fiscal year for securities of an open-end investment company on behalf of a security that is a federal covered security pursuant to section 18(b)(2) of the Securities Act of 1933. ~~To the extent the total fees collected by the commissioner in connection with these filings exceed \$25,000,000 in a fiscal year, the commissioner shall refund, on a pro rata basis, to all persons who paid any fees for that fiscal year, the amount of fees collected by the commissioner in excess of \$25,000,000.~~ No individual refund is required of amounts of \$100 or less for a fiscal year.

Sec. 43. Minnesota Statutes 2006, section 80A.65, subdivision 1, is amended to read:

Subdivision 1. **Registration or notice filing fee.** (a) There shall be a filing fee of \$100 for every application for registration or notice filing. There shall be an additional fee

of one-tenth of one percent of the maximum aggregate offering price at which the securities are to be offered in this state, and the maximum combined fees shall not exceed \$300.

(b) When an application for registration is withdrawn before the effective date or a preeffective stop order is entered under section 80A.54, all but the \$100 filing fee shall be returned. If an application to register securities is denied, the total of all fees received shall be retained.

(c) Where a filing is made in connection with a federal covered security under section 18(b)(2) of the Securities Act of 1933, there is a fee of \$100 for every initial filing. If the filing is made in connection with redeemable securities issued by an open end management company or unit investment trust, as defined in the Investment Company Act of 1940, there is an additional annual fee of 1/20 of one percent of the maximum aggregate offering price at which the securities are to be offered in this state during the notice filing period. The fee must be paid at the time of the initial filing and thereafter in connection with each renewal no later than July 1 of each year and must be sufficient to cover the shares the issuer expects to sell in this state over the next 12 months. If during a current notice filing the issuer determines it is likely to sell shares in excess of the shares for which fees have been paid to the administrator, the issuer shall submit an amended notice filing to the administrator under section 80A.50, together with a fee of 1/20 of one percent of the maximum aggregate offering price of the additional shares. Shares for which a fee has been paid, but which have not been sold at the time of expiration of the notice filing, may not be sold unless an additional fee to cover the shares has been paid to the administrator as provided in this section and section 80A.50. If the filing is made in connection with redeemable securities issued by such a company or trust, there is no maximum fee for securities filings made according to this paragraph. If the filing is made in connection with any other federal covered security under Section 18(b)(2) of the Securities Act of 1933, there is an additional fee of one-tenth of one percent of the maximum aggregate offering price at which the securities are to be offered in this state, and the combined fees shall not exceed \$300. ~~Beginning with fiscal year 2001 and continuing each fiscal year thereafter, as of the last day of each fiscal year, the administrator shall determine the total amount of all fees that were collected under this paragraph in connection with any filings made for that fiscal year for securities of an open-end investment company on behalf of a security that is a federal covered security pursuant to section 18(b)(2) of the Securities Act of 1933. To the extent the total fees collected by the administrator in connection with these filings exceed \$25,000,000 in a fiscal year, the administrator shall refund, on a pro rata basis, to all persons who paid any fees for that fiscal year, the amount of fees~~

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40.1 ~~collected by the administrator in excess of \$25,000,000.~~ No individual refund is required
40.2 of amounts of \$100 or less for a fiscal year.

40.3 Sec. 44. Minnesota Statutes 2006, section 82.24, subdivision 1, is amended to read:

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

40.5 (a) a fee of \$150 for each initial individual broker's license, and a fee of \$100 for
40.6 each renewal thereof;

40.7 (b) a fee of \$70 for each initial salesperson's license, and a fee of \$40 for each
40.8 renewal thereof;

40.9 (c) a fee of \$85 for each initial real estate closing agent license, and a fee of \$60
40.10 for each renewal thereof;

40.11 (d) a fee of \$150 for each initial corporate, limited liability company, or partnership
40.12 license, and a fee of \$100 for each renewal thereof;

40.13 (e) a fee for payment to the education, research and recovery fund in accordance
40.14 with section 82.43;

40.15 (f) a fee of \$20 for each transfer;

40.16 (g) a fee of \$50 for license reinstatement; ~~and~~

40.17 (h) a fee of \$20 for reactivating a corporate, limited liability company, or partnership
40.18 license without land; and

40.19 (i) in addition to the fees required under this subdivision, individual licensees under
40.20 clauses (a) and (b) shall pay, for each initial license and renewal, a technology surcharge
40.21 of up to \$40 under section 45.24, unless the commissioner has adjusted the surcharge
40.22 as permitted under that section.

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

40.24 Sec. 45. Minnesota Statutes 2006, section 82.24, subdivision 4, is amended to read:

40.25 Subd. 4. **Deposit of fees.** Unless otherwise provided by this chapter, all fees
40.26 collected under this chapter shall be deposited in the state treasury. The technology
40.27 surcharge shall be deposited as required under section 45.24.

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

40.29 Sec. 46. Minnesota Statutes 2006, section 82B.09, subdivision 1, is amended to read:

40.30 Subdivision 1. **Amounts.** (a) The following fees must be paid to the commissioner:

40.31 (1) \$150 for each initial individual real estate appraiser's license; and

40.32 (2) \$100 for each renewal.

41.1 (b) In addition to the fees required under this subdivision, individual real estate
41.2 appraisers shall pay a technology surcharge of up to \$40 under section 45.24, unless the
41.3 commissioner has adjusted the surcharge as permitted under that section.

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

41.5 Sec. 47. Minnesota Statutes 2006, section 118A.03, subdivision 2, is amended to read:

41.6 Subd. 2. **In lieu of surety bond.** The following are the allowable forms of collateral
41.7 in lieu of a corporate surety bond:

41.8 (1) United States government Treasury bills, Treasury notes, Treasury bonds;

41.9 (2) issues of United States government agencies and instrumentalities as quoted by a
41.10 recognized industry quotation service available to the government entity;

41.11 (3) general obligation securities of any state or local government with taxing powers
41.12 which is rated "A" or better by a national bond rating service, or revenue obligation
41.13 securities of any state or local government with taxing powers which is rated "AA" or
41.14 better by a national bond rating service;

41.15 (4) ~~unrated~~ general obligation securities of a local government with taxing powers
41.16 may be pledged as collateral against funds deposited by that same local government entity;

41.17 (5) irrevocable standby letters of credit issued by Federal Home Loan Banks to a
41.18 municipality accompanied by written evidence that the bank's public debt is rated "AA" or
41.19 better by Moody's Investors Service, Inc., or Standard & Poor's Corporation; and

41.20 (6) time deposits that are fully insured by any federal agency.

41.21 Sec. 48. Minnesota Statutes 2006, section 148.102, is amended by adding a subdivision
41.22 to read:

41.23 Subd. 3a. **Reparation obligors.** A reparation obligor as defined in section 65B.43,
41.24 subdivision 9, may submit any relevant information to the board in any case in which
41.25 the reparation obligor has reason to believe that charges being billed by a licensee are
41.26 fraudulent, unreasonable, or inconsistent with treatment actually received by the injured
41.27 party involved.

41.28 A reparation obligor that makes a report under this section shall provide the board
41.29 with any additional information, related to the reported activities, requested by the board.

41.30 Sec. 49. Minnesota Statutes 2006, section 239.101, subdivision 3, is amended to read:

41.31 Subd. 3. **Petroleum inspection fee.** (a) An inspection fee is imposed (1) on
41.32 petroleum products when received by the first licensed distributor, and (2) on petroleum
41.33 products received and held for sale or use by any person when the petroleum products

have not previously been received by a licensed distributor. The petroleum inspection fee is \$1 for every 1,000 gallons received. The commissioner of revenue shall collect the fee. The revenue from 81 cents of the fee is appropriated to the commissioner of commerce for the cost of operations of the Division of Weights and Measures, petroleum supply monitoring, and ~~the oil burner retrofit program~~ to make grants to providers of low-income weatherization services to install renewable energy equipment in households that are eligible for weatherization assistance under Minnesota's weatherization assistance program state plan. The remainder of the fee must be deposited in the general fund.

(b) The commissioner of revenue shall credit a person for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report as prescribed by the commissioner of revenue.

(c) The commissioner of revenue may collect the inspection fee along with any taxes due under chapter 296A.

Sec. 50. [325E.027] DISCRIMINATION PROHIBITION.

(a) No dealer or distributor of liquid propane gas or number 1 or number 2 fuel oil who has signed a low-income home energy assistance program vendor agreement with the department of commerce may refuse to deliver liquid propane gas or number 1 or number 2 fuel oil to any person located within the dealer's or distributor's normal delivery area who receives direct grants under the low-income home energy assistance program if:

(1) the person has requested delivery;

(2) the dealer or distributor has product available;

(3) the person requesting delivery is capable of making full payment at the time of delivery; and

(4) the person is not in arrears regarding any previous fuel purchase from that dealer or distributor.

(b) A dealer or distributor making delivery to a person receiving direct grants under the low-income home energy assistance program may not charge that person any additional costs or fees that would not be charged to any other customer and must make available to that person any discount program on the same basis as the dealer or distributor makes available to any other customer.

Sec. 51. Minnesota Statutes 2006, section 325E.311, subdivision 6, is amended to read:

Subd. 6. **Telephone solicitation.** "Telephone solicitation" means any voice communication over a telephone line for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether the communication is

made by a live operator, through the use of an automatic dialing-announcing device as defined in section 325E.26, subdivision 2, or by other means. Telephone solicitation does not include communications:

(1) to any residential subscriber with that subscriber's prior express invitation or permission; or

(2) by or on behalf of any person or entity with whom a residential subscriber has a prior or current business or personal relationship.

Telephone solicitation also does not include communications if the caller is identified by a caller identification service and the call is:

(i) by or on behalf of an organization that is identified as a nonprofit organization under state or federal law, unless the organization is a debt management services provider defined in section 332A.02;

(ii) by a person soliciting without the intent to complete, and who does not in fact complete, the sales presentation during the call, but who will complete the sales presentation at a later face-to-face meeting between the solicitor who makes the call and the prospective purchaser; or

(iii) by a political party as defined under section 200.02, subdivision 6.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 52. Minnesota Statutes 2006, section 325N.01, is amended to read:

325N.01 DEFINITIONS.

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

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

(1) stop or postpone the foreclosure sale;

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

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

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

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

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

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

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

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

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

(2) a person licensed as a debt ~~prorater under sections 332.12 to 332.29~~ management services provider under chapter 332A, when the person is acting as a debt ~~prorater~~ management services provider as defined in ~~these sections~~ that chapter;

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

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

(5) a person or the person's authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other 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.

(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 the 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:

(1) debt, budget, or financial counseling of any type;

(2) receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure;

(3) contacting creditors on behalf of an owner of a residence in foreclosure;

(4) arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure the owner's default and reinstate his or her obligation pursuant to section 580.30;

(5) arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure;

(6) advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court; or

(7) giving any advice, explanation, or instruction to an owner of a residence in foreclosure, which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of that obligation, or the postponement or avoidance of a sale of a residence in foreclosure, pursuant to a power of sale contained in any mortgage.

(f) "Residence in foreclosure" means residential real property consisting of one to four family dwelling units, one of which the owner occupies as his or her principal place of residence, and against which there is an outstanding notice of pendency of foreclosure,

recorded pursuant to section 580.032, or against which a summons and complaint has been served under chapter 581.

(g) "Owner" means the record owner of the residential real property in foreclosure at the time the notice of pendency was recorded, or the summons and complaint served.

(h) "Contract" means any agreement, or any term in any agreement, between a foreclosure consultant and an owner for the rendition of any service as defined in paragraph (e).

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 53. Minnesota Statutes 2006, section 332.54, subdivision 7, is amended to read:

Subd. 7. **Fees.** The fee for a credit services organization's registration is ~~\$100~~ \$1,000 for issuance or renewal for each location of business.

EFFECTIVE DATE; APPLICATION. This section is effective July 1, 2007, and applies to registrations issued or renewed on or after that date.

Sec. 54. **[332A.02] DEFINITIONS.**

Subdivision 1. **Scope.** Unless a different meaning is clearly indicated by the context, for the purposes of this chapter the terms defined in this section have the meanings given them.

Subd. 2. **Accreditation.** "Accreditation" means certification as an accredited credit counseling provider by the International Standards Organization or the Council on Accreditation.

Subd. 3. **Attorney general.** "Attorney general" means the attorney general of the state of Minnesota.

Subd. 4. **Commissioner.** "Commissioner" means commissioner of commerce.

Subd. 5. **Controlling or affiliated party.** "Controlling or affiliated party" means any person directly or indirectly controlling, controlled by, or under common control with another person.

Subd. 6. **Debt management services agreement.** "Debt management services agreement" means the written contract between the debt management services provider and the debtor.

Subd. 7. **Debt management services plan.** "Debt management services plan" means the debtor's individualized package of debt management services set forth in the debt management services agreement.

Subd. 8. **Debt management services provider.** "Debt management services provider" means any person offering or providing debt management services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. This term does not include services performed by the following when engaged in the regular course of their respective businesses and professions:

(1) attorneys at law, escrow agents, accountants, broker-dealers in securities;

(2) state or national banks, trust companies, savings associations, title insurance companies, insurance companies, and all other lending institutions duly authorized to transact business in Minnesota, provided no fee is charged for the service;

(3) persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt management, perform credit services for their employer;

(4) public officers acting in their official capacities and persons acting as a debt management services provider pursuant to court order;

(5) any person while performing services incidental to the dissolution, winding up, or liquidation of a partnership, corporation, or other business enterprise;

(6) the state, its political subdivisions, public agencies, and their employees;

(7) credit unions and collection agencies, provided no fee is charged for the service;

(8) "qualified organizations" designated as representative payees for purposes of the Social Security and Supplemental Security Income Representative Payee System and the federal Omnibus Budget Reconciliation Act of 1990, Public Law 101-508; and

(9) accelerated mortgage payment providers. "Accelerated mortgage payment providers" are persons who, after satisfying the requirements of sections 332.30 to 332.303, receive funds to make mortgage payments to a lender or lenders, on behalf of mortgagors, in order to exceed regularly scheduled minimum payment obligations under the terms of the indebtedness. The term does not include: (i) persons or entities described in clauses (1) to (8); (ii) mortgage lenders or servicers, industrial loan and thrift companies, or regulated lenders under chapter 56; or (iii) persons authorized to make loans under section 47.20, subdivision 1. For purposes of this clause and sections 332.30 to 332.303, "lender" means the original lender or that lender's assignee, whichever is the current mortgage holder.

Subd. 9. **Debt management services.** "Debt management services" means the provision of any one or more of the following:

(1) managing the financial affairs of an individual by distributing income or money to the individual's creditors;

(2) receiving funds for the purpose of distributing the funds among creditors in payment or partial payment of obligations of a debtor; or

(3) settling, adjusting, prorating, pooling, or liquidating the indebtedness of a debtor. Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt management services regardless of whether or not a fee is charged for such services.

Subd. 10. **Debtor.** "Debtor" means the person for whom the debt prorating service is performed.

Subd. 11. **Person.** "Person" means any individual, firm, partnership, association, or corporation.

Subd. 12. **Registrant.** "Registrant" means any person registered by the commissioner pursuant to this chapter and, where used in conjunction with an act or omission required or prohibited by this chapter, shall mean any person performing debt management services.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 55. **[332A.03] REQUIREMENT OF REGISTRATION.**

On or after August 1, 2007, it is unlawful for any person, whether or not located in this state, to operate as a debt management services provider or provide debt management services, including but not limited to offering, advertising, or executing or causing to be executed any debt management services or debt management services agreement, except as authorized by law without first becoming registered as provided in this chapter. A person who possesses a valid license as a debt prorater that was issued by the commissioner before August 1, 2007, is deemed to be registered as a debt management services provider until the date the debt prorater license expires, at which time the licensee must obtain a renewal as a debt management services provider in compliance with this chapter. Debt proraters who were not required to be licensed as debt proraters before August 1, 2007, may continue to provide debt management services without complying with this chapter to those debtors who entered into a contract to participate in a debt management plan before August 1, 2007, except that the debt prorater must comply with section 332A.13, subdivision 2.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 56. **[332A.04] REGISTRATION.**

49.1 Subdivision 1. **Form.** Application for registration to operate as a debt management
49.2 services provider in this state must be made in writing to the commissioner, under oath, in
49.3 the form prescribed by the commissioner, and must contain:

49.4 (1) the full name of each principal of the entity applying;

49.5 (2) the address, which must not be a post office box, and the telephone number and,
49.6 if applicable, e-mail address, of the applicant;

49.7 (3) identification of the trust account required under section 332A.13;

49.8 (4) consent to the jurisdiction of the courts of this state;

49.9 (5) the name and address of the registered agent authorized to accept service of
49.10 process on behalf of the applicant or appointment of the commissioner as the applicant's
49.11 agent for purposes of accepting service of process;

49.12 (6) disclosure of:

49.13 (i) whether any controlling or affiliated party has ever been convicted of a crime
49.14 or found civilly liable for an offense involving moral turpitude, including forgery,
49.15 embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to
49.16 defraud, or any other similar offense or violation, or any violation of a federal or state law
49.17 or regulation in connection with activities relating to the rendition of debt management
49.18 services or involving any consumer fraud, false advertising, deceptive trade practices, or
49.19 similar consumer protection law;

49.20 (ii) any judgments, private or public litigation, tax liens, written complaints,
49.21 administrative actions, or investigations by any government agency against the applicant
49.22 or any officer, director, manager, or shareholder owning more than five percent interest
49.23 in the applicant, unresolved or otherwise, filed or otherwise commenced within the
49.24 preceding ten years;

49.25 (iii) whether the applicant or any person employed by the applicant has had a record
49.26 of having defaulted in the payment of money collected for others, including the discharge
49.27 of debts through bankruptcy proceedings; and

49.28 (iv) whether the applicant's license or registration to provide debt management
49.29 services in any other state has ever been revoked or suspended;

49.30 (7) a copy of the applicant's standard debt management services agreement that the
49.31 applicant intends to execute with debtors;

49.32 (8) proof of accreditation of:

49.33 (i) the debt management services provider; and

49.34 (ii) all individuals employed by, under contract with, or otherwise agents of the
49.35 provider who offer to provide or provide debt management services; and

49.36 (9) any other information and material as the commissioner may require.

50.1 Subd. 2. **Term and scope of registration.** The registration must remain in full
50.2 force and effect for one calendar year or until it is surrendered by the licensee or revoked
50.3 or suspended by the commissioner. The registration is limited solely to the business
50.4 of providing debt management services.

50.5 Subd. 3. **Fees.** The registration application must be accompanied by payment of
50.6 \$1,000 as a registration fee.

50.7 Subd. 4. **Bond.** The registration application must be accompanied by payment of
50.8 the premium for a surety bond in which the applicant shall be the obligor, in a sum to be
50.9 determined by the commissioner but not less than \$5,000, and in which an insurance
50.10 company, which is duly authorized by the state of Minnesota to transact the business of
50.11 fidelity and surety insurance, shall be a surety. However, the commissioner may accept
50.12 a deposit in cash, or securities that may legally be purchased by savings banks or for
50.13 trust funds of an aggregate market value equal to the bond requirement, in lieu of the
50.14 surety bond. The cash or securities must be deposited with the commissioner of finance.
50.15 The commissioner may also require a fidelity bond in an appropriate amount covering
50.16 employees of any applicant. Each branch office or additional place of business of an
50.17 applicant must be bonded as provided in this subdivision. In determining the bond amount
50.18 necessary for the maintenance of any office, whether it is a surety bond, fidelity bond, or
50.19 both, the commissioner shall consider the financial responsibility, experience, character,
50.20 and general fitness of the debt management services provider and its operators and owners;
50.21 the volume of business handled or proposed to be handled; the location of the office
50.22 and the geographical area served or proposed to be served; and other information the
50.23 commissioner may deem pertinent based upon past performance, previous examinations,
50.24 annual reports, and manner of business conducted in other states.

50.25 Subd. 5. **Condition of bond.** The bond must run to the state of Minnesota for the
50.26 use of the state and of any person or persons who may have a cause of action against the
50.27 obligor arising out of the obligor's activities as a debt management services provider to
50.28 a debtor domiciled in this state. The bond must be conditioned that the obligor will not
50.29 commit any fraudulent act and will faithfully conform to and abide by the provisions of
50.30 this chapter and of all rules lawfully made by the commissioner under this chapter and
50.31 pay to the state and to any such person or persons any and all money that may become
50.32 due or owing to the state or to such person or persons from the obligor under and by
50.33 virtue of this chapter.

50.34 Subd. 6. **Right of action on bond.** If the registrant has failed to account to a debtor
50.35 or distribute to the debtor's creditors the amounts required by this chapter and the debt
50.36 management services agreement between the debtor and registrant, the debtor or the

51.1 debtor's legal representative or receiver, the commissioner, or the attorney general, shall
51.2 have, in addition to all other legal remedies, a right of action in the name of the debtor
51.3 on the bond or the security given under this section, for loss suffered by the debtor, not
51.4 exceeding the face amount of the bond or security, and without the necessity of joining
51.5 the registrant in the suit or action.

51.6 Subd. 7. **Registrant list.** The commissioner must maintain a list of registered debt
51.7 management services providers. The list must be made available to the public in written
51.8 form upon request and on the Department of Commerce Web site.

51.9 **EFFECTIVE DATE.** This section is effective January 1, 2008.

51.10 Sec. 57. **[332A.05] NONASSIGNMENT OF REGISTRATION.**

51.11 A registration must not be transferred or assigned without the consent of the
51.12 commissioner.

51.13 **EFFECTIVE DATE.** This section is effective January 1, 2008.

51.14 Sec. 58. **[332A.06] RENEWAL OF REGISTRATION.**

51.15 Each year, each registrant under the provisions of this chapter must, not more than
51.16 60 nor less than 30 days before its registration is to expire, apply to the commissioner for
51.17 renewal of its registration on a form prescribed by the commissioner. The application must
51.18 be signed by the registrant under penalty of perjury, contain current information on all
51.19 matters required in the original application, and be accompanied by a payment of \$250.
51.20 The registrant must maintain a continuous surety bond that satisfies the requirements of
51.21 section 332A.04, subdivision 4, provided that the commissioner may require a different
51.22 amount that is at least equal to the largest amount that has accrued in the registrant's trust
51.23 account during the previous year. The renewal is effective for one year.

51.24 **EFFECTIVE DATE.** This section is effective January 1, 2008.

51.25 Sec. 59. **[332A.07] OTHER DUTIES OF REGISTRANT.**

51.26 Subdivision 1. **Requirement to update information.** A registrant must update any
51.27 information required by this chapter provided in its original or renewal application not
51.28 later than 90 days after the date the events precipitating the update occurred.

51.29 Subd. 2. **Inspection of debtor of registration.** Each registrant must maintain a
51.30 copy of its registration in its files. The registrant must allow a debtor, upon request, to
51.31 inspect the registration.

52.1 **EFFECTIVE DATE.** This section is effective January 1, 2008.

52.2 Sec. 60. **[332A.08] DENIAL OF REGISTRATION.**

52.3 The commissioner, with notice to the applicant by certified mail sent to the address
52.4 listed on the application, may deny an application for a registration upon finding that
52.5 the applicant:

52.6 (1) has submitted an application required under section 332A.04 that contains
52.7 incorrect, misleading, incomplete, or materially untrue information. An application is
52.8 incomplete if it does not include all the information required in section 332A.04;

52.9 (2) has failed to pay any fee or pay or maintain any bond required by this chapter,
52.10 or failed to comply with any order, decision, or finding of the commissioner made under
52.11 and within the authority of this chapter;

52.12 (3) has violated any provision of this chapter or any rule or direction lawfully made
52.13 by the commissioner under and within the authority of this chapter;

52.14 (4) or any controlling or affiliated party has ever been convicted of a crime or found
52.15 civilly liable for an offense involving moral turpitude, including forgery, embezzlement,
52.16 obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any
52.17 other similar offense or violation, or any violation of a federal or state law or regulation
52.18 in connection with activities relating to the rendition of debt management services or
52.19 any consumer fraud, false advertising, deceptive trade practices, or similar consumer
52.20 protection law;

52.21 (5) has had a registration or license previously revoked or suspended in this state or
52.22 any other state or the applicant or licensee has been permanently or temporarily enjoined
52.23 by any court of competent jurisdiction from engaging in or continuing any conduct or
52.24 practice involving any aspect of the debt management services provider business; or
52.25 any controlling or affiliated party has been an officer, director, manager, or shareholder
52.26 owning more than a ten percent interest in a debt management services provider whose
52.27 registration has previously been revoked or suspended in this state or any other state, or
52.28 who has been permanently or temporarily enjoined by any court of competent jurisdiction
52.29 from engaging in or continuing any conduct or practice involving any aspect of the debt
52.30 management services provider business;

52.31 (6) has made any false statement or representation to the commissioner;

52.32 (7) is insolvent;

52.33 (8) refuses to fully comply with an investigation or examination of the debt
52.34 management services provider by the commissioner;

53.1 (9) has improperly withheld, misappropriated, or converted any money or properties
53.2 received in the course of doing business;

53.3 (10) has failed to have a trust account with an actual cash balance equal to or greater
53.4 than the sum of the escrow balances of each debtor's account;

53.5 (11) has defaulted in making payments to creditors on behalf of debtors as required
53.6 by agreements between the provider and debtor; or

53.7 (12) has used fraudulent, coercive, or dishonest practices, or demonstrated
53.8 incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere.

53.9 **EFFECTIVE DATE.** This section is effective January 1, 2008.

53.10 Sec. 61. **[332A.09] SUSPENDING, REVOKING, OR REFUSING TO RENEW**
53.11 **REGISTRATION.**

53.12 Subdivision 1. **Procedure.** The commissioner may revoke, suspend, or refuse
53.13 to renew any registration issued under this chapter, or may levy a civil penalty under
53.14 section 45.027, or any combination of actions, if the debt management services provider
53.15 or any controlling or affiliated person has committed any act or omission for which the
53.16 commissioner could have refused to issue an initial registration or renew an existing
53.17 registration. Revocation of or refusal to renew a registration must be upon notice and
53.18 hearing as prescribed in the Administrative Procedure Act, sections 14.57 to 14.69. The
53.19 notice must set a time for hearing before the commissioner not less than 20 nor more than
53.20 30 days after service of the notice, provided the registrant may waive the 20-day minimum.
53.21 The commissioner may, in the notice, suspend the registration for a period not to exceed 60
53.22 days. Unless the notice states that the registration is suspended, pending the determination
53.23 of the main issue, the registrant may continue to transact business until the final decision of
53.24 the commissioner. If the registration is suspended, the commissioner shall hold a hearing
53.25 and render a final determination within ten days of a request by the registrant. If the
53.26 commissioner fails to do so, the suspension shall terminate and be of no force or effect.

53.27 Subd. 2. **Notification of interested persons.** After the notice and hearing required
53.28 in subdivision 1, upon issuing an order suspending or revoking a registration or refusing to
53.29 renew a registration, the commissioner may notify all individuals who have contracts with
53.30 the affected registrant and all creditors who have agreed to a debt management services
53.31 plan that the registration has been revoked and that the order is subject to appeal.

53.32 Subd. 3. **Receiver for funds of sanctioned registrant.** When an order is issued
53.33 revoking or refusing to renew a registration, the commissioner may apply for, and the
53.34 district court must appoint, a receiver to temporarily or permanently receive the assets of
53.35 the registrant pending a final determination of the validity of the order.

54.1 **EFFECTIVE DATE.** This section is effective January 1, 2008.

54.2 Sec. 62. **[332A.10] WRITTEN DEBT MANAGEMENT SERVICES**
54.3 **AGREEMENT.**

54.4 Subdivision 1. **Written agreement required.** A debt management services provider
54.5 may not perform any debt management services or receive any money related to a debt
54.6 management plan until the provider has obtained a debt management services agreement
54.7 that contains all terms of the agreement between the debt management services provider
54.8 and the debtor. A debt management services agreement must be in writing, dated, and
54.9 signed by the debt management services provider and the debtor. The registrant must
54.10 furnish the debtor with a copy of the signed contract upon execution.

54.11 Subd. 2. **Actions prior to written agreement.** No person may provide debt
54.12 management services for a debtor unless the person first has:

54.13 (1) provided the debtor individualized counseling and educational information
54.14 that, at a minimum, addresses managing household finances, managing credit and debt,
54.15 budgeting, and personal savings strategies;

54.16 (2) prepared in writing and provided to the debtor, in a form that the debtor may
54.17 keep, an individualized financial analysis and a proposed debt management plan listing the
54.18 debtor's known debts with specific recommendations regarding actions the debtor should
54.19 take to reduce or eliminate the amount of the debts, including written disclosure that
54.20 debt management services are not suitable for all debtors and that there are other ways,
54.21 including bankruptcy, to deal with indebtedness;

54.22 (3) made a determination supported by an individualized financial analysis that the
54.23 debtor can reasonably meet the requirements of the proposed debt management plan
54.24 and that there is a net tangible benefit to the debtor of entering into the proposed debt
54.25 management plan; and

54.26 (4) prepared, in a form the debtor may keep, a written list identifying all known
54.27 creditors of the debtor that the provider reasonably expects to participate in the plan
54.28 and the creditors, including secured creditors, that the provider reasonably expects not
54.29 to participate.

54.30 Subd. 3. **Required terms.** (a) Each debt management services agreement must
54.31 contain the following terms, which must be disclosed prominently and clearly in bold print
54.32 on the front page of the agreement, segregated by bold lines from all other information on
54.33 the page:

54.34 (1) the fee amount to be paid by the debtor and whether the initial fee amount is
54.35 refundable or nonrefundable;

- 55.1 (2) the monthly fee amount or percentage to be paid by the debtor; and
55.2 (3) the total amount of fees reasonably anticipated to be paid by the debtor over
55.3 the term of the agreement.
- 55.4 (b) Each debt management services agreement must also contain the following:
55.5 (1) a disclosure that if the amount of debt owed is increased by interest, late fees,
55.6 over the limit fees, and other amounts imposed by the creditors, the length of the debt
55.7 management services agreement will be extended and remain in force and that the total
55.8 dollar charges agreed upon may increase at the rate agreed upon in the original contract
55.9 agreement;
- 55.10 (2) a prominent statement describing the terms upon which the debtor may cancel
55.11 the contract as set forth in section 332A.11;
- 55.12 (3) a detailed description of all services to be performed by the debt management
55.13 services provider for the debtor;
- 55.14 (4) the debt management services provider's refund policy; and
55.15 (5) the debt management services provider's principal business address and the name
55.16 and address of its agent in this state authorized to receive service of process.
- 55.17 Subd. 4. **Prohibited terms.** The following terms shall not be included in the debt
55.18 management services agreement:
- 55.19 (1) a hold harmless clause;
55.20 (2) a confession of judgment, or a power of attorney to confess judgment against the
55.21 debtor or appear as the debtor in any judicial proceeding;
- 55.22 (3) a waiver of the right to a jury trial, if applicable, in any action brought by
55.23 or against a debtor;
- 55.24 (4) an assignment of or an order for payment of wages or other compensation for
55.25 services;
- 55.26 (5) a provision in which the debtor agrees not to assert any claim or defense arising
55.27 out of the debt management services agreement;
- 55.28 (6) a waiver of any provision of this chapter or a release of any obligation required
55.29 to be performed on the part of the debt management services provider; or
- 55.30 (7) a mandatory arbitration clause.
- 55.31 Subd. 5. **New debt management services agreements; modification of existing**
55.32 **agreements.** (a) Separate and additional debt management services agreements that
55.33 comply with this chapter may be entered into by the debt management services provider
55.34 and the debtor provided that no additional initial fee may be charged by the debt
55.35 management services provider.

56.1 (b) Any modification of an existing debt management services agreement, including
56.2 any increase in the number or amount of debts included in the debt management service,
56.3 must be in writing and signed by both parties. No fees, charges, or other consideration
56.4 may be demanded from the debtor for the modification, other than an increase in the
56.5 amount of the monthly maintenance fee established in the original debt management
56.6 services agreement.

56.7 **EFFECTIVE DATE.** This section is effective January 1, 2008.

56.8 Sec. 63. **[332A.11] RIGHT TO CANCEL.**

56.9 Subdivision 1. **Debtor's right to cancel.** A debtor has the right to cancel the debt
56.10 management services agreement without cause at any time upon ten days' written notice to
56.11 the debt management services provider. In the event of cancellation, the debt management
56.12 services provider must, within ten days of the cancellation, notify the debtor's creditors of
56.13 the cancellation and provide a refund of all unexpended funds paid by or for the debtor to
56.14 the debt management services provider.

56.15 Subd. 2. **Notice of debtor's right to cancel.** A debt management services
56.16 agreement must contain, on its face, in an easily readable typeface immediately adjacent
56.17 to the space for signature by the debtor, the following notice: "Right To Cancel: You have
56.18 the right to cancel this contract at any time on ten days' written notice."

56.19 Subd. 3. **Automatic termination.** Upon the payment of all listed debts and
56.20 fees, the debt management services agreement must automatically terminate, and all
56.21 unexpended funds paid by or for the debtor to the debt management services provider
56.22 must be immediately returned to the debtor.

56.23 Subd. 4. **Debt management services provider's right to cancel.** A debt
56.24 management services provider may cancel a debt management services agreement
56.25 with good cause upon 30 days' written notice to the debtor. Within ten days after the
56.26 cancellation, the debt management services provider must: (1) notify the debtor's creditors
56.27 of the cancellation; and (2) return to the debtor all unexpended funds paid by or for the
56.28 debtor.

56.29 **EFFECTIVE DATE.** This section is effective January 1, 2008.

56.30 Sec. 64. **[332A.12] BOOKS, RECORDS, AND INFORMATION.**

56.31 Subdivision 1. **Records retention.** Every registrant must keep, and use in the
56.32 registrant's business, such books, accounts, and records, including electronic records, as
56.33 will enable the commissioner to determine whether the registrant is complying with this

chapter and of the rules, orders, and directives adopted by the commissioner under this chapter. Every registrant must preserve such books, accounts, and records for at least six years after making the final entry on any transaction recorded therein. Examinations of the books, records, and method of operations conducted under the supervision of the commissioner shall be done at the cost of the registrant. The cost must be assessed as determined under section 46.131.

Subd. 2. **Statements to debtors.** Each registrant must maintain and must make available records and accounts that will enable each debtor to ascertain the amounts paid to the creditors of the debtor. A statement showing amounts received from the debtor, disbursements to each creditor, amounts which any creditor has agreed to accept as payment in full for any debt owed the creditor by the debtor, charges deducted by the registrant, and such other information as the commissioner may prescribe, must be furnished by the registrant to the debtor at least monthly and, in addition, upon any cancellation or termination of the contract. In addition to the statements required by this subdivision, each debtor must have reasonable access, without cost, by electronic or other means, to information in the registrant's files applicable to the debtor. These statements, records, and accounts must otherwise remain confidential except for duly authorized state and government officials, the commissioner, the attorney general, the debtor, and the debtor's representative and designees. Each registrant must prepare and retain in the file of each debtor a written analysis of the debtor's income and expenses to substantiate that the plan of payment is feasible and practicable.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 65. [332A.13] FEES, PAYMENTS, AND CONSENT OF CREDITORS.

Subdivision 1. **Origination fee; credit background report cost.** The registrant may charge a nonrefundable origination fee of not more than \$50, which may be retained by the registrant from the initial amount paid by the debtor to the registrant.

Subd. 2. **Monthly maintenance fee.** The registrant may charge a periodic fee for account maintenance or other purposes, but only if the fee is reasonable for the services provided and does exceed the lesser of 15 percent of the monthly payment amount or \$75.

Subd. 3. **Additional fees unauthorized.** A registrant may not impose any fee or other charge or receive any funds or other payment other than the initial fee or monthly maintenance fee authorized by this section.

Subd. 4. **Amount of periodic payments retained.** The registrant may retain as payment for the fees authorized by this section no more than 15 percent of any periodic payment made to the registrant by the debtor. The remaining 85 percent must be disbursed

58.1 to listed creditors under and in accordance with the debt management services agreement.
58.2 No fees or charges may be received or retained by the registrant for any handling of
58.3 recurring payments. Recurring payments include current rent, mortgage, utility, telephone,
58.4 maintenance as defined in section 518.27, child support, insurance premiums, and such
58.5 other payments as the commissioner may by rule prescribe.

58.6 Subd. 5. **Advance payments.** No fees or charges may be received or retained for
58.7 any payments by the debtor made more than the following number of days in advance
58.8 of the date specified in the debt management services agreement on which they are due:
58.9 (1) 42 days in the case of contracts requiring monthly payments; (2) 15 days in the case
58.10 of agreements requiring biweekly payments; or (3) seven days in the case of agreements
58.11 requiring weekly payments. For those agreements which do not require payments in
58.12 specified amounts, a payment is deemed an advance payment to the extent it exceeds
58.13 twice the average regular payment previously made by the debtor under that contract. This
58.14 subdivision does not apply when the debtor intends to use the advance payments to satisfy
58.15 future payment of obligations due within 30 days under the contract. This subdivision
58.16 supersedes any inconsistent provision of this chapter.

58.17 Subd. 6. **Consent of creditors.** A registrant must actively seek to obtain the consent
58.18 of all creditors to the debt management services plan set forth in the debt management
58.19 services agreement. Consent by a creditor may be express and in writing, or may be
58.20 evidenced by acceptance of a payment made under the debt management services plan
58.21 set forth in the contract. The registrant must notify the debtor within ten days after any
58.22 failure to obtain the required consent and of the debtor's right to cancel without penalty.
58.23 The notice must be in a form as the commissioner shall prescribe. Nothing contained in
58.24 this section is deemed to require the return of any origination fee and any fees earned by
58.25 the registrant prior to cancellation or default.

58.26 Subd. 7. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt
58.27 management services plan, or refuses to participate in a debt management services plan,
58.28 the registrant must promptly notify the debtor of the withdrawal or refusal. In no case
58.29 may this notice be provided more than 15 days after the debt management services plan
58.30 learns of the creditor's decision to withdraw from or refuse to participate in a plan. This
58.31 notice must include the identity of the creditor withdrawing from the plan, the amount of
58.32 the monthly payment to that creditor, and the right of the debtor to cancel the agreement
58.33 under section 332A.11.

58.34 Subd. 8. **Payments held in trust.** The registrant must maintain a separate trust
58.35 account and deposit in the account all payments received from the moment that they are
58.36 received, except that the registrant may commingle the payment with the registrant's

59.1 own property or funds, but only to the extent necessary to ensure the maintenance of a
59.2 minimum balance if the financial institution at which the trust account is held requires
59.3 a minimum balance to avoid the assessment of fees or penalties for failure to maintain
59.4 a minimum balance. All disbursements, whether to the debtor or to the creditors of the
59.5 debtor, or to the registrant, must be made from such account.

59.6 Subd. 9. **Timely payment of creditors.** The registrant must disburse any funds
59.7 paid by or on behalf of a debtor to creditors of the consumer within 42 days after receipt
59.8 of the funds, or earlier if necessary to comply with the due date in the contract between
59.9 the debtor and the creditor, unless the reasonable payment of one or more of the debtor's
59.10 obligations requires that the funds be held for a longer period so as to accumulate a sum
59.11 certain, or where the debtor's payment is returned for insufficient funds or other reason
59.12 that makes the withholding of such payments in the net interest of the debtor.

59.13 **EFFECTIVE DATE.** This section is effective January 1, 2008.

59.14 **Sec. 66. [332A.14] PROHIBITIONS.**

59.15 A registrant shall not:

59.16 (1) purchase from a creditor any obligation of a debtor;

59.17 (2) use, threaten to use, seek to have used, or seek to have threatened the use of any
59.18 legal process, including but not limited to garnishment and repossession of personal
59.19 property, against any debtor while the debt management services agreement between the
59.20 registrant and the debtor remains executory;

59.21 (3) advise a debtor to stop paying a creditor until a debt management services plan is
59.22 in place;

59.23 (4) require as a condition of performing debt management services the purchase of
59.24 any services, stock, insurance, commodity, or other property or any interest therein either
59.25 by the debtor or the registrant;

59.26 (5) compromise any debts unless the prior written approval of the debtor has been
59.27 obtained to such compromise and unless such compromise inures solely to the benefit
59.28 of the debtor;

59.29 (6) receive from any debtor as security or in payment of any fee a promissory note
59.30 or other promise to pay or any mortgage or other security, whether as to real or personal
59.31 property;

59.32 (7) lend money or provide credit to any debtor if any interest or fee is charged,
59.33 or directly or indirectly collect any fee for referring, advising, procuring, arranging, or
59.34 assisting a consumer in obtaining any extension of credit or other debtor service from a
59.35 lender or services provider;

(8) structure a debt management services agreement that would result in negative amortization of any debt in the plan;

(9) engage in any unfair, deceptive, or unconscionable act or practice in connection with any service provided to any debtor;

(10) offer, pay, or give any material cash fee, gift, bonus, premium, reward, or other compensation to any person for referring any prospective customer to the registrant or for enrolling a debtor in a debt management services plan, or provide any other incentives for employees or agents of the debt management services provider to induce debtors to enter into a debt management plan;

(11) receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person on the debtor's behalf in connection with activities as a registrant, provided that this paragraph does not apply to a registrant which is a bona fide nonprofit corporation duly organized under chapter 317A or under the similar laws of another state;

(12) enter into a contract with a debtor unless a thorough written budget analysis indicates that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan;

(13) in any way charge or purport to charge or provide any debtor credit insurance in conjunction with any contract or agreement involved in the debt management services plan;

(14) operate or employ a person who is an employee or owner of a collection agency or process-serving business; or

(15) require or attempt to require payment of a sum that the registrant states, discloses, or advertises to be a voluntary contribution from the debtor.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 67. [332A.16] ADVERTISEMENT OF DEBT MANAGEMENT SERVICES PLANS.

No debt management services provider may make false, deceptive, or misleading statements or omissions about the rates, terms, or conditions of an actual or proposed debt management services plan or its debt management services, or create the likelihood of consumer confusion or misunderstanding regarding its services, including but not limited to the following:

(1) represent that the debt management services provider is a nonprofit, not-for-profit, or has similar status or characteristics if some or all of the debt management services will

61.1 be provided by a for-profit company that is a controlling or affiliated party to the debt
61.2 management services provider; or

61.3 (2) make any communication that gives the impression that the debt management
61.4 services provider is acting on behalf of a government agency.

61.5 **EFFECTIVE DATE.** This section is effective January 1, 2008.

61.6 Sec. 68. **[332A.17] DEBT MANAGEMENT SERVICES AGREEMENT**
61.7 **RESCISSION.**

61.8 Any debtor has the right to rescind any debt management services agreement with
61.9 a debt management services provider that commits a material violation of this chapter.

61.10 On rescission, all fees paid to the debt management services provider or any other person
61.11 other than creditors of the debtor must be returned to the debtor entering into the debt
61.12 management services agreement within ten days of rescission of the debt management
61.13 services agreement.

61.14 **EFFECTIVE DATE.** This section is effective January 1, 2008.

61.15 Sec. 69. **[332A.18] ENFORCEMENT; REMEDIES.**

61.16 Subdivision 1. **Violation a deceptive practice.** A violation of any of the provisions
61.17 of this chapter is considered an unfair or deceptive trade practice under section 8.31,
61.18 subdivision 1. A private right of action under section 8.31 by an aggrieved debtor is in
61.19 the public interest.

61.20 Subd. 2. **Private right of action.** (a) A debt management services provider who
61.21 fails to comply with any of the provisions of this chapter is liable under this section in
61.22 an individual action for the sum of: (i) actual, incidental, and consequential damages
61.23 sustained by the debtor as a result of the failure; and (ii) statutory damages of up to \$1,000.

61.24 (b) A debt management services provider who fails to comply with any of the
61.25 provisions of this chapter is liable under this section in a class action for the sum of: (i) the
61.26 amount that each named plaintiff could recover under paragraph (a), clause (i); and (ii)
61.27 such amount as the court may allow for all other class members.

61.28 (c) In determining the amount of statutory damages, the court shall consider, among
61.29 other relevant factors:

61.30 (1) the frequency, nature, and persistence of noncompliance;

61.31 (2) the extent to which the noncompliance was intentional; and

61.32 (3) in the case of a class action, the number of debtors adversely affected.

(d) A plaintiff or class successful in a legal or equitable action under this section is entitled to the costs of the action, plus reasonable attorney fees.

Subd. 3. **Injunctive relief.** A debtor may sue a debt management services provider for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of any provision of this chapter. A court must grant injunctive relief on a showing that the debt management services provider has violated any provision of this chapter, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the debt management services provider violated any provision of this chapter.

Subd. 4. **Remedies cumulative.** The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

Subd. 5. **Public enforcement.** The attorney general shall enforce this chapter under section 8.31.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 70. **[332A.19] INVESTIGATION.**

The commissioner may examine the books and records of every registrant and of any person engaged in the business of providing debt management services as defined in section 332A.02 at any reasonable time. The commissioner once during any calendar year may require the submission of an audit prepared by a certified public accountant of the books and records of each registrant. If the registrant has, within one year previous to the commissioner's demand, had an audit prepared for some other purpose, this audit may be submitted to satisfy the requirement of this section. The commissioner may investigate any complaint concerning violations of this chapter and may require the attendance and sworn testimony of witnesses and the production of documents.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 71. **LICENSE RENEWAL EXTENSION.**

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

Sec. 72. **REPEALER.**

(a) Minnesota Statutes 2006, sections 46.043; 47.62, subdivision 5; and 58.08, subdivision 1, are repealed.

(b) Minnesota Statutes 2006, sections 332.12; 332.13; 332.14; 332.15; 332.16; 332.17; 332.18; 332.19; 332.20; 332.21; 332.22; 332.23; 332.24; 332.25; 332.26; 332.27; 332.28; and 332.29, are repealed effective January 1, 2008.

ARTICLE 3 ENERGY

Section 1. [1.1499] STATE ENERGY CITY.

The city of Elk River is designated as the state energy city.

Sec. 2. [16C.141] EMPLOYEE SUGGESTIONS; ENERGY SAVINGS INCENTIVE PROGRAM.

Subdivision 1. **Creation of program.** The commissioner of administration must implement a program using best practices and develop policies under which state employees may receive cash awards for making suggestions that result in documented cost savings to state agencies from reduced energy usage in state-owned buildings. The cash awards must be an amount equal to half the amount of the energy costs saved by agencies in the year immediately following the implementation of the employee suggestion, up to \$1,000 per suggestion. The program must include methods for documenting submission of suggestions and for documenting savings achieved as a result of these suggestions.

Subd. 2. **Funding.** To the extent necessary to fund the program under this section, the commissioner of administration, with approval of the commissioner of finance, may transfer a portion of the documented cost savings resulting from a suggestion under this section from the general services revolving fund to an energy savings reward account. Money in the energy savings reward account is appropriated to the commissioner for purposes of making cash rewards and paying the commissioner's incentive program developments costs and administrative expenses under this section.

Subd. 3. **Report to legislature.** The commissioner of administration shall report to the chairs of the senate and house of representatives committees with jurisdiction over energy policy by January 1, 2008, on the development of the incentive program, and by January 15 each year thereafter on the implementation of this section, including the ideas submitted and energy savings realized.

Subd. 4. **Minnesota State Colleges and Universities.** This section does not apply to the Minnesota State Colleges and Universities, except to the extent the Board of Trustees of the Minnesota State Colleges and Universities provides that the section does apply.

64.1 Subd. 5. **Repeal.** This section is repealed July 1, 2009.

64.2 Sec. 3. Minnesota Statutes 2006, section 116C.779, subdivision 2, is amended to read:

64.3 Subd. 2. **Renewable energy production incentive.** (a) Until January 1, 2018, up to
64.4 ~~\$10,900,000~~ \$11,400,000 annually must be allocated from available funds in the account
64.5 to fund renewable energy production incentives. \$9,400,000 of this annual amount is for
64.6 incentives for up to 200 megawatts of electricity generated by wind energy conversion
64.7 systems that are eligible for the incentives under section 216C.41. ~~The balance of this~~
64.8 ~~amount.~~ Up to ~~\$1,500,000~~ \$1,000,000 annually; may be used for production incentives for
64.9 on-farm biogas recovery facilities and landfill gas recovery facilities that are eligible for
64.10 the incentive under section 216C.41 or for production incentives for other renewables, to
64.11 be provided in the same manner as under section 216C.41. Of this amount, no more than
64.12 \$500,000 may be used for production incentives for landfill gas recovery facilities. Up
64.13 to \$1,000,000 may be used for grants for qualified on-farm biogas recovery facilities as
64.14 provided in section 216C.42. Any portion of the ~~\$10,900,000~~ \$11,400,000 not expended
64.15 in any calendar year for the incentive is available for other spending purposes under this
64.16 section. This subdivision does not create an obligation to contribute funds to the account.

64.17 (b) The Department of Commerce shall determine eligibility of projects under
64.18 section 216C.41 for the purposes of this subdivision. At least quarterly, the Department of
64.19 Commerce shall notify the public utility of the name and address of each eligible project
64.20 owner and the amount due to each project under section 216C.41. The public utility shall
64.21 make payments within 15 working days after receipt of notification of payments due.

64.22 Sec. 4. Minnesota Statutes 2006, section 216B.241, subdivision 6, is amended to read:

64.23 Subd. 6. **Renewable energy research.** (a) A public utility that owns a nuclear
64.24 generation facility in the state shall spend five percent of the total amount that utility
64.25 is required to spend under this section to support basic and applied research and
64.26 demonstration activities at the University of Minnesota Initiative for Renewable Energy
64.27 and the Environment for the development of renewable energy sources and technologies.
64.28 The utility shall transfer the required amount to the University of Minnesota on or before
64.29 July 1 of each year and that annual amount shall be deducted from the amount of money the
64.30 utility is required to spend under this section. The University of Minnesota shall transfer
64.31 at least ten percent of these funds to at least one rural campus or experiment station.

64.32 (b) ~~Research~~ Activities funded under this subdivision ~~shall~~ may include, but are
64.33 not limited to:

~~(1) development of environmentally sound production, distribution, and use of energy, chemicals, and materials from renewable sources;~~

~~(2) processing and utilization of agricultural and forestry plant products and other bio-based, renewable sources as a substitute for fossil-fuel-based energy, chemicals, and materials using a variety of means including biocatalysis, biorefining, and fermentation;~~

~~(3) conversion of state wind resources to hydrogen for energy storage and transportation to areas of energy demand;~~

~~(4) improvements in scalable hydrogen fuel cell technologies; and~~

~~(5) production of hydrogen from bio-based, renewable sources; and sequestration of carbon.~~

(1) environmentally sound production of energy from a renewable energy source including biomass;

(2) environmentally sound production of hydrogen from biomass and any other renewable energy source for energy storage and energy utilization;

(3) development of energy conservation and efficient energy utilization technologies;

(4) energy storage technologies; and

(5) analysis of policy options to facilitate adoption of technologies that use or produce a renewable energy source.

(c) Notwithstanding other law to the contrary, the utility may, but is not required to, spend more than two percent of its gross operating revenues from service provided in this state under this section or section 216B.2411.

(d) For the purposes of this subdivision:

(1) "renewable energy source: means hydro, wind, solar, biomass and geothermal energy, and microorganisms used as an energy source; and

(2) "biomass" means plant and animal material, agricultural and forest residues, mixed municipal solid waste, and sludge from wastewater treatment.

(e) This subdivision expires June 30, 2008 2010.

Sec. 5. Minnesota Statutes 2006, section 216B.812, subdivision 1, is amended to read:

Subdivision 1. **Early purchase and deployment of renewable hydrogen, fuel cells, and related technologies by the state.** (a) The Department of Commerce₂ in ~~conjunction~~ coordination with the Department of Administration and the Pollution Control Agency, shall identify opportunities for ~~demonstrating the use of~~ deploying renewable hydrogen, fuel cells, and related technologies within state-owned facilities, vehicle fleets, and operations in ways that demonstrate their commercial performance and economics.

(b) The Department of Commerce shall recommend to the Department of Administration, ~~when feasible,~~ the purchase and ~~demonstration~~ deployment of hydrogen, fuel cells, and related technologies, when feasible, in ways that strategically contribute to realizing Minnesota's hydrogen economy goal as set forth in section 216B.8109, and which contribute to the following nonexclusive list of objectives:

- (1) provide needed performance data to the marketplace;
- (2) identify code and regulatory issues to be resolved;
- (3) foster economic development and job creation in the state;
- (4) raise public awareness of renewable hydrogen, fuel cells, and related technologies; or
- (5) reduce emissions of carbon dioxide and other pollutants.

(c) The Department of Commerce and the Pollution Control Agency shall also recommend to the Department of Administration changes to the state's procurement guidelines and contracts in order to facilitate the purchase and deployment of cost-effective renewable hydrogen, fuel cells, and related technologies by all levels of government.

Sec. 6. Minnesota Statutes 2006, section 216B.812, subdivision 2, is amended to read:

Subd. 2. **Pilot projects.** (a) In consultation with appropriate representatives from state agencies, local governments, universities, businesses, and other interested parties, the Department of Commerce shall report back to the legislature by November 1, 2005, and every two years thereafter, with a slate of proposed pilot projects that contribute to realizing Minnesota's hydrogen economy goal as set forth in section 216B.8109. The Department of Commerce must consider the following nonexclusive list of priorities in developing the proposed slate of pilot projects:

- (1) ~~demonstrate~~ deploy "bridge" technologies such as hybrid-electric, off-road, and fleet vehicles running on hydrogen or fuels blended with hydrogen;
- (2) ~~develop~~ lead to cost-competitive, on-site renewable hydrogen production technologies;
- (3) demonstrate nonvehicle applications for hydrogen;
- (4) improve the cost and efficiency of hydrogen from renewable energy sources; and
- (5) improve the cost and efficiency of hydrogen production using direct solar energy without electricity generation as an intermediate step.

(b) For ~~all demonstrations~~ deployment projects that do not involve a demonstration component, individual system components of the technology ~~must~~ should, if feasible, meet commercial performance standards and systems modeling must be completed to predict

67.1 commercial performance, risk, and synergies. In addition, the proposed pilots should meet
67.2 as many of the following criteria as possible:

- 67.3 (1) advance energy security;
- 67.4 (2) capitalize on the state's native resources;
- 67.5 (3) result in economically competitive infrastructure being put in place;
- 67.6 (4) be located where it will link well with existing and related projects and be
67.7 accessible to the public, now or in the future;
- 67.8 (5) demonstrate multiple, integrated aspects of renewable hydrogen infrastructure;
- 67.9 (6) include an explicit public education and awareness component;
- 67.10 (7) be scalable to respond to changing circumstances and market demands;
- 67.11 (8) draw on firms and expertise within the state where possible;
- 67.12 (9) include an assessment of its economic, environmental, and social impact; and
- 67.13 (10) serve other needs beyond hydrogen development.

67.14 Sec. 7. **[216B.813] MINNESOTA RENEWABLE HYDROGEN INITIATIVE.**

67.15 Subdivision 1. Road map. The Department of Commerce shall coordinate and
67.16 administer directly or by contract the Minnesota renewable hydrogen initiative. If the
67.17 department decides to contract for its duties under this section, it must contract with a
67.18 nonpartisan, nonprofit organization within the state to develop the road map. The initiative
67.19 may be run as a public-private partnership representing business, academic, governmental,
67.20 and nongovernmental organizations. The initiative must oversee the development and
67.21 implementation of a renewable hydrogen road map, including appropriate technology
67.22 deployments, that achieve the hydrogen goal of section 216B.013. The road map should
67.23 be compatible with the United States Department of Energy's National Hydrogen Energy
67.24 Roadmap and be based on an assessment of marketplace economics and the state's
67.25 opportunities in hydrogen, fuel cells, and related technologies, so as to capitalize on
67.26 strengths. The road map should establish a vision, goals, general timeline, strategies for
67.27 working with industry, and measurable milestones for achieving the state's renewable
67.28 hydrogen goal. The road map should describe how renewable hydrogen and fuel cells fit
67.29 in Minnesota's overall energy system, and should help foster a consistent, predictable, and
67.30 prudent investment environment. The department must report to the legislature on the
67.31 progress in implementing the road map by November 1 of each odd-numbered year.

67.32 Subd. 2. Grants. (a) The commissioner of commerce shall operate a competitive
67.33 grant program for projects to assist the state in attaining its renewable hydrogen energy
67.34 goals. The commissioner of commerce shall assemble an advisory committee made up of
67.35 industry, university, government, and nongovernment organizations to:

68.1 (1) help identify the most promising technology deployment projects for public
68.2 investment;

68.3 (2) advise on the technical specifications for those projects; and

68.4 (3) make recommendations on project grants.

68.5 (b) The commissioner shall give preference to project concepts included in the
68.6 department's most recent biennial report: Strategic Demonstration Projects to Accelerate
68.7 the Commercialization of Renewable Hydrogen and Related Technologies in Minnesota.
68.8 Projects eligible for funding must combine one or more of the hydrogen production
68.9 options listed in the department's report with an end use that has significant commercial
68.10 potential, preferably high visibility, and relies on fuel cells or related technologies. Each
68.11 funded technology deployment must include an explicit education and awareness-raising
68.12 component, be compatible with the renewable hydrogen deployment criteria defined in
68.13 section 216B.812, and receive 50 percent of its total cost from nonstate sources. The 50
68.14 percent requirement does not apply for recipients that are public institutions.

68.15 Sec. 8. Minnesota Statutes 2006, section 216C.051, subdivision 2, is amended to read:

68.16 Subd. 2. **Establishment.** (a) There is established a Legislative Electric Energy Task
68.17 Force to study future electric energy sources and costs and to make recommendations
68.18 for legislation for an environmentally and economically sustainable and advantageous
68.19 electric energy supply.

68.20 (b) The task force consists of:

68.21 (1) ten members of the house of representatives including the chairs of the
68.22 Environment and Natural Resources Committee and ~~Regulated Industries Subcommittee~~
68.23 the Energy Finance and Policy Division and eight members to be appointed by the speaker
68.24 of the house, four of whom must be from the minority caucus; and

68.25 (2) ten members of the senate including the chairs of the Environment, Energy and
68.26 Natural Resources Budget Division and ~~Jobs, Energy, and Community Development~~
68.27 Utilities, Technology and Communications committees and eight members to be appointed
68.28 by the Subcommittee on Committees, four of whom must be from the minority caucus.

68.29 (c) The task force may employ staff, contract for consulting services, and may
68.30 reimburse the expenses of persons requested to assist it in its duties other than state
68.31 employees or employees of electric utilities. The director of the Legislative Coordinating
68.32 Commission shall assist the task force in administrative matters. The task force shall
68.33 elect cochair, one member of the house and one member of the senate from among the
68.34 committee and subcommittee chairs named to the committee. The task force members

69.1 from the house shall elect the house cochair, and the task force members from the senate
69.2 shall elect the senate cochair.

69.3 Sec. 9. Minnesota Statutes 2006, section 216C.051, subdivision 9, is amended to read:

69.4 Subd. 9. **Expiration.** This section is repealed June 30, ~~2007~~ 2008.

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

69.6 Sec. 10. **[216C.385] CLEAN ENERGY RESOURCE TEAMS.**

69.7 Subdivision 1. **Findings.** The legislature finds that community-based energy
69.8 programs are an effective means of implementing improved energy practices including
69.9 conservation, greater efficiency in energy use, and the production and use of renewable
69.10 resources such as wind, solar, biomass, and biofuels. Further, community-based energy
69.11 programs are found to be a public purpose for which public money may be spent.

69.12 Subd. 2. **Mission, organization, and membership.** The Clean Energy Resource
69.13 Teams (CERT's) project is an innovative state, university, and nonprofit partnership that
69.14 serves as a catalyst for community energy planning and projects. The mission of CERT's
69.15 is to give citizens a voice in the energy planning process by connecting them with the
69.16 necessary technical resources to identify and implement community-scale renewable
69.17 energy and energy efficiency projects. In 2003, the Department of Commerce designated
69.18 the CERT's project as a statewide collaborative venture and recognized six regional teams
69.19 based on their geography: Central, Northeast, Northwest, Southeast, Southwest, and
69.20 West-Central. Membership of CERT's may include but is not limited to representatives
69.21 of utilities; federal, state, and local governments; small business; labor; senior citizens;
69.22 academia; and other interested parties. The Department of Commerce may certify
69.23 additional Clean Energy Resource Teams by regional geography, including teams in
69.24 the Twin Cities metropolitan area.

69.25 Subd. 3. **Powers and duties.** In order to develop and implement community-based
69.26 energy programs, a Clean Energy Resource Team may:

69.27 (1) analyze social and economic impacts caused by energy expenditures;

69.28 (2) analyze regional renewable and energy efficiency resources and opportunities;

69.29 (3) link community members and community energy projects to the knowledge
69.30 and capabilities of the University of Minnesota, the State Energy Office, nonprofit
69.31 organizations, and regional community members, among others;

69.32 (4) plan, set priorities for, provide technical assistance to, and catalyze local energy
69.33 efficiency and renewable energy projects that help to meet state energy policy goals and
69.34 maximize local economic development opportunities;

(5) provide a broad-based resource and communications network that links local, county, and regional energy efficiency and renewable energy project efforts around the state (both interregional and intraregional);

(6) seek, accept, and disburse grants and other aids from public or private sources for purposes authorized in this subdivision;

(7) provides a convening and networking function within CERT's regions to facilitate education, knowledge formation, and project replication; and

(8) exercise other powers and duties imposed on it by statute, charter, or ordinance.

Subd. 4. **Department assistance.** The commissioner, via the Clean Energy Resource Teams, may provide professional, technical, organizational, and financial assistance to regions and communities to develop and implement community energy programs and projects, within available resources.

Sec. 11. [216C.39] RURAL WIND ENERGY DEVELOPMENT REVOLVING LOAN FUND.

Subdivision 1. **Establishment.** A rural wind energy development revolving loan fund is established as an account in the special revenue fund in the state treasury. The commissioner of finance shall credit to the account the amounts authorized under this section and appropriations and transfers to the account. Earnings, such as interest, dividends, and any other earnings arising from fund assets, must be credited to the account.

Subd. 2. **Purpose.** The rural wind energy development revolving loan fund is created to provide financial assistance, through partnership with local owners and communities, in developing community wind energy projects that meet the specifications of section 216B.1612, subdivision 2, paragraph (f).

Subd. 3. **Expenditures.** Money in the fund is appropriated to the commissioner of commerce, and may be used to make loans to qualifying owners of wind energy projects, as defined in section 216B.1612, subdivision 2, paragraph (f), to assist in funding wind studies and transmission interconnection studies. The loans must be structured for repayment within 30 days after the project begins commercial operations or two years from the date the loan is issued, whichever is sooner.

Subd. 4. **Limitations.** A loan may not be approved for an amount exceeding \$100,000. This limit applies to all money loaned to a single project or single entity, whether paid to one or more qualifying owners and whether paid in one or more fiscal years.

Subd. 5. **Administration; eligible projects.** (a) Applications for a loan under this section must be made in a manner and on forms prescribed by the commissioner.

71.1 Loans to eligible projects must be made in the order in which complete applications are
71.2 received by the commissioner. Loan funds must be disbursed to an applicant within ten
71.3 days of submission of a payment request by the applicant that demonstrates a payment
71.4 due to the Midwest Independent System Operator. Interest payable on the loan amount
71.5 may not exceed 1.5 percent per annum.

71.6 (b) A project is eligible for a loan under this program if:

71.7 (1) the project has completed an adequate interconnection feasibility study that
71.8 indicates the project may be interconnected with system upgrades of less than ten percent
71.9 of the estimated project costs;

71.10 (2) the project has a signed power purchase agreement with an electric utility or
71.11 provides evidence that the project is under serious consideration for such an agreement by
71.12 an electric utility;

71.13 (3) the ownership and structure of the project allows it to qualify as a
71.14 community-based energy development (C-BED) project under section 216B.1612, and the
71.15 developer commits to obtaining and maintaining C-BED status; and

71.16 (4) the commissioner has determined that sufficient funds are available to make a
71.17 loan to the project.

71.18 Sec. 12. Minnesota Statutes 2006, section 216C.41, subdivision 1, is amended to read:

71.19 Subdivision 1. **Definitions.** (a) Unless otherwise provided, the definitions in this
71.20 subdivision apply to this section.

71.21 (b) "Qualified hydroelectric facility" means a hydroelectric generating facility in
71.22 this state that:

71.23 (1) is located at the site of a dam, if the dam was in existence as of March 31,
71.24 1994; and

71.25 (2) begins generating electricity after July 1, 1994, or generates electricity after
71.26 substantial refurbishing of a facility that begins after July 1, 2001.

71.27 (c) "Qualified wind energy conversion facility" means a wind energy conversion
71.28 system in this state that:

71.29 (1) produces two megawatts or less of electricity as measured by nameplate rating
71.30 and begins generating electricity after December 31, 1996, and before July 1, 1999;

71.31 (2) begins generating electricity after June 30, 1999, produces two megawatts or
71.32 less of electricity as measured by nameplate rating, and is:

71.33 (i) owned by a resident of Minnesota or an entity that is organized under the laws
71.34 of this state, is not prohibited from owning agricultural land under section 500.24, and
71.35 owns the land where the facility is sited;

- 72.1 (ii) owned by a Minnesota small business as defined in section 645.445;
- 72.2 (iii) owned by a Minnesota nonprofit organization;
- 72.3 (iv) owned by a tribal council if the facility is located within the boundaries of
- 72.4 the reservation;
- 72.5 (v) owned by a Minnesota municipal utility or a Minnesota cooperative electric
- 72.6 association; or
- 72.7 (vi) owned by a Minnesota political subdivision or local government, including,
- 72.8 but not limited to, a county, statutory or home rule charter city, town, school district, or
- 72.9 any other local or regional governmental organization such as a board, commission, or
- 72.10 association; or
- 72.11 (3) begins generating electricity after June 30, 1999, produces seven megawatts or
- 72.12 less of electricity as measured by nameplate rating, and:
- 72.13 (i) is owned by a cooperative organized under chapter 308A other than a Minnesota
- 72.14 cooperative electric association; and
- 72.15 (ii) all shares and membership in the cooperative are held by an entity that is not
- 72.16 prohibited from owning agricultural land under section 500.24.
- 72.17 (d) "Qualified on-farm biogas recovery facility" means an anaerobic digester system
- 72.18 that:
- 72.19 (1) is located at the site of an agricultural operation; and
- 72.20 (2) is owned by an entity that is not prohibited from owning agricultural land under
- 72.21 section 500.24 and that owns or rents the land where the facility is located.
- 72.22 (e) "Anaerobic digester system" means a system of components that processes
- 72.23 animal waste based on the absence of oxygen and produces gas used to generate electricity.
- 72.24 (f) "Qualified landfill gas recovery facility" means a landfill that is operating or
- 72.25 closed, that generates gas from the decomposition of organic matter, and that installs a
- 72.26 system to collect the gas after July 1, 2007.

72.27 Sec. 13. Minnesota Statutes 2006, section 216C.41, subdivision 2, is amended to read:

72.28 Subd. 2. **Incentive payment; appropriation.** (a) Incentive payments must be made

72.29 according to this section to (1) a qualified on-farm biogas recovery facility, (2) the owner

72.30 or operator of a qualified hydropower facility or qualified wind energy conversion facility

72.31 for electric energy generated and sold by the facility, (3) a publicly owned hydropower

72.32 facility for electric energy that is generated by the facility and used by the owner of the

72.33 facility outside the facility, ~~or~~ (4) the owner of a publicly owned dam that is in need of

72.34 substantial repair, for electric energy that is generated by a hydropower facility at the

72.35 dam and the annual incentive payments will be used to fund the structural repairs and

73.1 replacement of structural components of the dam, or to retire debt incurred to fund those
73.2 repairs, or (5) a qualified landfill gas recovery facility.

73.3 (b) Payment may only be made upon receipt by the commissioner of commerce of
73.4 an incentive payment application that establishes that the applicant is eligible to receive an
73.5 incentive payment and that satisfies other requirements the commissioner deems necessary.
73.6 The application must be in a form and submitted at a time the commissioner establishes.

73.7 (c) There is annually appropriated from the renewable development account
73.8 under section 116C.779 to the commissioner of commerce sums sufficient to make the
73.9 payments required under this section, in addition to the amounts funded by the renewable
73.10 development account as specified in subdivision 5a.

73.11 Sec. 14. Minnesota Statutes 2006, section 216C.41, subdivision 3, is amended to read:

73.12 Subd. 3. **Eligibility window.** Payments may be made under this section only for:

73.13 (a) electricity generated from:

73.14 (1) ~~from~~ a qualified hydroelectric facility that is operational and generating
73.15 electricity before December 31, 2009;

73.16 (2) ~~from~~ a qualified wind energy conversion facility that is operational and
73.17 generating electricity before January 1, 2008; or

73.18 (3) ~~from~~ a qualified on-farm biogas recovery facility from July 1, 2001, through
73.19 December 31, 2017; and

73.20 (b) gas generated from:

73.21 (1) a qualified on-farm biogas recovery facility from July 1, 2007, through December
73.22 31, 2017; or

73.23 (2) a qualified landfill gas recovery facility from July 1, 2007, through December
73.24 31, 2017.

73.25 Sec. 15. **[216C.42] ON-FARM BIOGAS RECOVERY GRANTS.**

73.26 Subdivision 1. Definitions. For the purpose of this section, the following terms
73.27 have the meanings given.

73.28 (a) "Qualified on-farm biogas recovery facility" means an anaerobic digester system
73.29 that:

73.30 (1) is located at the site of an agricultural operation;

73.31 (2) is owned by an entity that is not prohibited from owning agricultural land under
73.32 section 500.24 and that owns or rents the land where the facility is located; and

73.33 (3) is owned by a qualified owner as defined in section 216B.1612, subdivision 2,
73.34 paragraph (c).

(b) "Anaerobic digester system" means a system of components that processes animal waste based on the absence of oxygen and produces gas.

(c) "Commissioner" means the commissioner of agriculture.

Subd. 2. **Eligibility.** Subject to the availability of funds, the commissioner must approve grants to a qualified owner of a qualified on-farm biogas recovery facility for the total installed costs of capital investments associated with the facility, up to a maximum of \$500,000.

Subd. 3. **Application.** Application for a grant under this section must be made by a qualified owner to the commissioner on a form the commissioner prescribes by rule. The commissioner must review each application to determine:

(1) whether the application is complete;

(2) whether the information, calculations, and estimates contained in the application are appropriate, accurate, and reasonable;

(3) whether the project is eligible for a grant;

(4) the amount of the grant for which the project is eligible; and

(5) other funding sources the owner proposes to use to finance the project in addition to a grant authorized by this section.

An applicant may submit only one grant application each year under this section.

Subd. 4. **Additional information.** During application review, the commissioner may request additional information about a proposed project, including information on project cost. Failure to provide information requested disqualifies a grant application.

Subd. 5. **Public accessibility of grant application data.** Data contained in an application submitted to the commissioner for a grant under this section, including supporting technical documentation, is classified as public data not on individuals under section 13.02, subdivision 14.

Subd. 6. **Rules.** The commissioner must adopt rules necessary to implement this section. The rules must contain at a minimum:

(1) standards for project eligibility;

(2) criteria for reviewing grant applications; and

(3) procedures and guidelines for program monitoring and evaluation.

Subd. 7. **Right of first refusal.** A utility that provides electric service at retail in the area where the qualified on-farm biogas recovery facility is located has the right of first refusal for any gas produced by a qualified on-farm biogas recovery facility that has received a grant under this section. A utility's right of first refusal expires if:

(1) within 45 days after the qualified owner files an incentive payment application with the commissioner, the utility fails to send a letter of intent to the qualified owner indicating the utility's willingness to negotiate a purchase agreement; or

(2) the parties enter negotiations but fail to reach agreement within 120 days after the qualified owner files an incentive payment application with the commissioner.

Subd. 8. **Eligibility toward renewable energy objective.** Any gas generated by a qualified on-farm biogas recovery facility awarded a grant under this section that is purchased by a utility may be counted toward the utility's renewable energy objective under section 216B.1691, subdivision 2.

Subd. 9. **Appropriation.** Up to \$1,000,000 is appropriated annually from the renewable development account through fiscal year 2015 to the commissioner of agriculture for the purpose of providing grants to qualified on-farm biogas recovery facilities.

Sec. 16. [561.20] NUISANCE LIABILITY OF WIND ENERGY CONVERSION SYSTEMS.

Subdivision 1. **Definition.** For the purposes of this section, "wind energy conversion system" has the meaning given in section 216C.06.

Subd. 2. **Wind energy conversion system not a nuisance.** (a) A wind energy conversion system is not and does not become a private or public nuisance after two years from the date it begins generating electricity as a matter of law if the system:

(1) complies with all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for it; and

(2) operates according to generally accepted practices.

(b) For a period of two years from the date it begins generating electricity, there is a rebuttable presumption that a wind energy conversion system in compliance with the requirements of paragraph (a) is not a public or private nuisance.

(c) This subdivision does not apply:

(1) to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition that is a public nuisance; or

(2) to any enforcement action brought by a local unit of government related to zoning under chapter 394 or 462.

Subd. 3. **Existing contracts.** This section must not be construed to invalidate any contracts or commitments made before the effective date of this section.

Subd. 4. **Severability.** If a provision of this section, or application thereof to any person or set of circumstances, is held invalid or unconstitutional, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provision or application. To that end, the provisions of this section are declared to be severable.

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

Sec. 17. **PETROLEUM VIOLATION ESCROW FUNDS.**

(a) Petroleum violation escrow funds appropriated to the commissioner of commerce by Laws 1988, chapter 686, article 1, section 38, for state energy loan programs for schools, hospitals, and public buildings must be used for grants to kindergarten through grade 12 schools to develop energy conservation or renewable energy projects. A grant may not exceed \$500,000. The commissioner must endeavor to award grants throughout the regions of the state. No more than one grant may be awarded in a county, unless an insufficient number of applications is received from schools located in other counties to exhaust available funds.

(b) The commissioner of commerce must petition the federal Department of Energy for a waiver from any federal regulation that limits the proportion of federal funds expended on state energy programs that may be spent on energy efficiency.

(c) For purposes of this subdivision, "renewable energy" means wind, solar, hydroelectric with a capacity of less than 60 megawatts, geothermal, hydrogen, fuel cells made from renewable resources, herbaceous crops, agricultural crops, agricultural waste, and aquatic plant matter.

EFFECTIVE DATE. This section is effective the day after the commissioner of commerce receives the waiver described in paragraph (b).

Sec. 18. **RURAL WIND ENERGY DEVELOPMENT PROGRAM.**

(a) The Center for Rural Policy and Development shall make a grant to a nonprofit organization with experience dealing with energy and community wind issues to design and implement a rural wind energy development assistance program. The program must be designed to maximize rural economic development and stabilize rural community institutions, including hospitals and schools, by increasing the income of local residents and increasing local tax revenues. The grant may be disbursed in two installments. The program must provide assistance to rural entities seeking to develop wind generation projects that meet the specifications of Minnesota Statutes, section 216B.1612, subdivision

2, paragraph (f), and to sell the electricity the projects produce. Among other strategies, the program may consider aggregating rural entities and others into groups with the size and market power necessary to plan and develop significant rural wind energy projects.

(b) The program must provide assistance that includes, but is not limited to:

(1) providing legal, engineering, and financial services;

(2) identifying target communities with favorable wind resources, community interest, and local political support;

(3) providing assistance to reserve, obtain, and ensure the maintenance over time of wind turbines;

(4) creating market opportunities for utilities to meet their renewable energy standard obligations through purchases from rural community wind projects;

(5) assisting in negotiating fair power purchase agreements;

(6) facilitating transmission interconnection and delivery of energy from community wind projects; and

(7) lowering the market risk facing potential wind investors by supporting all phases of project development.

The grantee must demonstrate an ability to sustain program functions with ongoing revenue from sources other than state funding and shall provide a 35 percent grant match.

The grant must be awarded on a competitive basis. The center must use best practices regarding grant management functions, including selection and monitoring of the grantee, compliance review, and financial oversight. Grant management fees are limited to 2.5 percent of the grant.

Sec. 19. UNIFORM CODES AND STANDARDS FOR HYDROGEN, FUEL CELLS, AND RELATED TECHNOLOGIES; RECOMMENDATIONS AND REPORT.

(a) The commissioner of labor and industry, in consultation with the Department of Commerce and other relevant public and private interests, shall develop recommendations regarding the adoption of uniform codes and standards for hydrogen infrastructure, fuel cells, and related technologies, and report those recommendations to the legislature by December 31, 2008.

(b) The goal of the recommendations is to have all regulatory jurisdictions in the state have the same safety standards with regard to the production, storage, transportation, distribution, and use of hydrogen, fuel cells, and related technologies. The commissioner's recommendations must, without limitation, include:

(1) codes and standards that already exist for hydrogen, fuel cells, and related technologies, and how the state should formalize their use;

(2) codes and standards still under development by various official standard-making bodies;

(3) gaps between existing codes and standards, those under development, and those that may still be needed but are not yet being developed;

(4) the need for, and estimated cost of, additional education and training for emergency management and code officials;

(5) any changes needed to environmental and other permitting processes to accommodate the commercialization of hydrogen, fuel cells, and related technologies; and

(6) recommendations on appropriate codes and standards for educational and research institutions.

Sec. 20. **HYDROGEN REFUELING STATION GRANTS.**

In addition to the purposes specified in Laws 2005, chapter 97, article 13, section 4, for which the commissioner of commerce may make grants, the commissioner may make grants under that law for the purpose of developing, deploying, and encouraging commercially promising renewable hydrogen production systems and hydrogen end uses in partnership with industry. The authority of the commissioner to make grants and assessments under Laws 2005, chapter 97, article 13, section 4, continues until the authorized grants and assessments are made.

Sec. 21. **OFF-SITE RENEWABLE DISTRIBUTED GENERATION.**

The commissioner of commerce shall convene a broad group of interested stakeholders to evaluate the feasibility and potential for the interconnection and parallel operation of off-site renewable distributed generation in a manner consistent with Minnesota Statutes, sections 216B.37 to 216B.43, and shall issue recommendations to the chairs of the house of representatives and senate committees with jurisdiction over energy issues by February 1, 2008.

ARTICLE 4
ENVIRONMENT

Section 1. **BIOFUEL PERMITTING REPORT.**

By January 15, 2008, the Pollution Control Agency, the commissioner of natural resources, and the Environmental Quality Board shall report to the house of representatives and senate committees and divisions with jurisdiction over agriculture and environment

79.1 policy and budget on the process to issue permits for biofuel production facilities. The
79.2 report shall include:

79.3 (1) information on the timing of the permits and measures taken to improve the
79.4 timing of the permitting process;

79.5 (2) recommended changes to statutes, rules, or procedures to improve the biofuel
79.6 facility permitting process and reduce the groundwater needed for production; and

79.7 (3) other information or analysis that may be helpful in understanding or improving
79.8 the biofuel production facility permitting process.

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

79.10 Sec. 2. **DEFINITIONS.**

79.11 Subdivision 1. **Terrestrial carbon sequestration.** "Terrestrial carbon sequestration"
79.12 means the long-term storage of carbon in soil and vegetation to prevent its collection in
79.13 the atmosphere as carbon dioxide.

79.14 Subd. 2. **Geologic carbon sequestration.** "Geologic carbon sequestration" means
79.15 injecting carbon dioxide into underground geologic formations where it can be stored for
79.16 long periods of time to prevent its escape to the atmosphere.

79.17 Sec. 3. **TERRESTRIAL CARBON SEQUESTRATION ACTIVITIES.**

79.18 Subdivision 1. **Study; scope.** The Board of Regents of the University of Minnesota
79.19 is requested to conduct a study assessing the potential capacity for carbon sequestration in
79.20 Minnesota's terrestrial systems. The study must:

79.21 (1) conduct a statewide inventory and construct a database of lands across several
79.22 land types, such as forests, agricultural lands, peatlands, and wetlands, that have the
79.23 potential to sequester significant quantities of carbon and of lands that currently contain
79.24 large stocks of carbon that are at risk of being emitted to the atmosphere as a result of
79.25 changes in land use and climate;

79.26 (2) quantify the ability of various land use practices, such as the growth of different
79.27 species of crops, grasses, and trees, to sequester carbon and their impacts on other
79.28 ecological services of value, including air and water quality, biodiversity, and wildlife
79.29 habitat;

79.30 (3) identify a network of benchmark monitoring sites to measure the impact of
79.31 long-term, large-scale factors, such as changes in climate, carbon dioxide levels, and land
79.32 use, on the terrestrial carbon sequestration capacity of various land types, to improve
79.33 understanding of carbon-terrestrial interactions and dynamics;

(4) identify long-term demonstration projects to measure the impact of deliberate sequestration practices, including the establishment of biofuel production systems, on forest, agricultural, wetland, and prairie ecosystems; and

(5) evaluate current state policies and programs that affect the levels of terrestrial sequestration on public and private lands and identify gaps and recommend policy changes to increase sequestration rates.

Subd. 2. **Coordination of terrestrial carbon sequestration activities.** Planning and implementation of the study described in subdivision 1 will be coordinated by the Minnesota Terrestrial Carbon Sequestration Initiative, a task force consisting of representatives from the University of Minnesota, the Department of Agriculture, the Board of Water and Soil Resources, the Department of Commerce, the Department of Natural Resources, and the Pollution Control Agency and agricultural, forestry, conservation, and business stakeholders.

Subd. 3. **Contracting.** The University of Minnesota may contract with another party to perform any of the tasks listed in subdivision 1.

Subd. 4. **Report.** The commissioner of natural resources must submit a report with the results of the study to the senate and house of representatives committees with jurisdiction over environmental and energy policies no later than February 1, 2008.

Sec. 4. GEOLOGIC CARBON SEQUESTRATION ASSESSMENT.

Subdivision 1. **Study; scope.** (a) The Minnesota Geological Survey shall conduct a study assessing the potential capacity for geologic carbon sequestration in the Midcontinent Rift system in Minnesota. The study must assess the potential of porous and permeable sandstone layers deeper than one kilometer below the surface that are capped by less permeable shale and must identify potential risks to carbon storage, such as areas of low permeability in injection zones, low storage capacity, and potential seal failure. The study must identify the most promising formations and geographic areas for physical analysis of carbon sequestration potential. The study must review geologic maps, published reports and surveys, and any relevant unpublished raw data with respect to attributes that are pertinent for the long-term sequestration of carbon in geologic formations, in particular, those that bear on formation injectivity, capacity, and seal effectiveness. The study must examine the following characteristics of key sedimentary units within the Midcontinent Rift system in Minnesota:

(1) likely depth, temperature, and pressure;

(2) physical properties, including the ability to contain and transmit fluids;

(3) the type of rocks present;

81.1 (4) structure and geometry, including folds and faults; and

81.2 (5) hydrogeology, including water chemistry and water flow.

81.3 (b) The commissioner of natural resources, in consultation with the Minnesota
81.4 Geological Survey, shall contract for a study to estimate the properties of the Midcontinent
81.5 Rift system in Minnesota, as described in paragraph (a), clauses (1) to (5), through the
81.6 use of computer models developed for similar geologic formations located outside of
81.7 Minnesota which have been studied in greater detail.

81.8 Subd. 2. **Consultation.** The Minnesota Geological Survey shall consult with the
81.9 Minnesota Mineral Coordinating Committee, established in Minnesota Statutes, section
81.10 93.0015, in planning and implementing the study design.

81.11 Subd. 3. **Report.** The commissioner of natural resources must submit a report
81.12 with the results of the study to the senate and house of representatives committees with
81.13 jurisdiction over environmental and energy policies no later than February 1, 2008.

81.14 Sec. 5. **STAY EXTENDED; DRY CASK STORAGE AT MONTICELLO.**

81.15 The stay of a Public Utilities Commission decision to approve an application for
81.16 a certificate of need for additional dry cask storage at the Monticello nuclear power
81.17 generating facility, imposed under Minnesota Statutes, section 116C.83, subdivision 3,
81.18 is extended until June 1, 2008.

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

81.20 **ARTICLE 5**

81.21 **HEATING ASSISTANCE AND UTILITIES**

81.22 **Section 1. [216B.091] MONTHLY REPORTS.**

81.23 (a) Each public utility must report the following data on residential customers to the
81.24 commission monthly, in a format determined by the commission:

81.25 (1) number of customers;

81.26 (2) number and total amount of accounts past due;

81.27 (3) average customer past due amount;

81.28 (4) total revenue received from the low-income home energy assistance program and
81.29 other sources contributing to the bills of low-income persons;

81.30 (5) average monthly bill;

81.31 (6) total sales revenue;

81.32 (7) total write-offs due to uncollectible bills;

81.33 (8) number of disconnection notices mailed;

- 82.1 (9) number of accounts disconnected for nonpayment;
82.2 (10) number of accounts reconnected to service; and
82.3 (11) number of accounts that remain disconnected, grouped by the duration of
82.4 disconnection, as follows:
82.5 (i) 1-30 days;
82.6 (ii) 31-60 days; and
82.7 (iii) more than 60 days.
82.8 (b) Monthly reports for October through April must also include the following data:
82.9 (1) number of cold weather protection requests;
82.10 (2) number of payment arrangement requests received and granted;
82.11 (3) number of right to appeal notices mailed to customers;
82.12 (4) number of reconnect request appeals withdrawn;
82.13 (5) number of occupied heat-affected accounts disconnected for 24 hours or more
82.14 for electric and natural gas service separately;
82.15 (6) number of occupied non-heat-affected accounts disconnected for 24 hours or
82.16 more for electric and gas service separately;
82.17 (7) number of customers granted cold weather rule protection;
82.18 (8) number of customers disconnected who did not request cold weather rule
82.19 protection; and
82.20 (9) number of customers disconnected who requested cold weather rule protection.
82.21 (c) The data reported under paragraphs (a) and (b) is presumed to be accurate upon
82.22 submission and must be made available through the commission's electronic filing system.

82.23 **Sec. 2. [216B.0951] PROPANE PREPURCHASE PROGRAM.**

82.24 Subdivision 1. **Establishment.** The commissioner of commerce shall operate, or
82.25 contract to operate, a propane fuel prepurchase fuel program. The commissioner may
82.26 contract at any time of the year to purchase the lesser of one-third of the liquid propane
82.27 fuel consumed by low-income home energy assistance program recipients during the
82.28 previous heating season or the amount that can be purchased with available funds. The
82.29 propane fuel prepurchase program must be available statewide through each local agency
82.30 that administers the energy assistance program. The commissioner may decide to limit or
82.31 not engage in prepurchasing if the commissioner finds that there is a reasonable likelihood
82.32 that prepurchasing will not provide fuel-cost savings.

82.33 Subd. 2. **Hedge account.** The commissioner may establish a hedge account with
82.34 realized program savings due to prepurchasing. The account must be used to compensate
82.35 program recipients an amount up to the difference in cost for fuel provided to the recipient

83.1 if winter-delivered fuel prices are lower than the prepurchase or summer-fill price. No
83.2 more than ten percent of the aggregate prepurchase program savings may be used to
83.3 establish the hedge account.

83.4 Subd. 3. **Report.** The Department of Commerce shall issue a report by June 30,
83.5 2008, made available electronically on its Web site and in print upon request, that contains
83.6 the following information:

- 83.7 (1) the cost per gallon of prepurchased fuel;
83.8 (2) the total gallons of fuel prepurchased;
83.9 (3) the average cost of propane each month between October and the following April;
83.10 (4) the number of energy assistance program households receiving prepurchased
83.11 fuel; and
83.12 (5) the average savings accruing or benefit increase provided to energy assistance
83.13 households.

83.14 Sec. 3. **[216B.096] COLD WEATHER RULE; PUBLIC UTILITIES.**

83.15 Subdivision 1. **Scope.** This section applies only to residential customers of a
83.16 public utility.

83.17 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given
83.18 them in this subdivision.

83.19 (b) "Cold weather period" means the period from October 15 through April 15 of
83.20 the following year.

83.21 (c) "Customer" means a residential customer of a utility.

83.22 (d) "Customer's income" means the actual monthly income of the customer or the
83.23 average monthly income of the customer computed on a calendar year basis, whichever is
83.24 less, and does not include any amount received for energy assistance.

83.25 (e) "Disconnection" means the involuntary loss of utility heating service as a result
83.26 of a physical act by a utility to discontinue service. Disconnection includes installation of
83.27 a service or load limiter or any device that limits or interrupts utility service in any way.

83.28 (f) "Household income" means the combined income, as defined in section 290A.03,
83.29 subdivision 3, of all residents of the customer's household, computed on an annual basis.
83.30 Household income does not include any amount received for energy assistance.

83.31 (g) "Reasonably timely payment" means payment within seven calendar days of
83.32 agreed-upon due dates.

83.33 (h) "Reconnection" means the restoration of utility heating service after it has been
83.34 disconnected.

84.1 (i) "Third party notice" means a commission-approved notice containing, at a
84.2 minimum, the following information:

84.3 (1) a statement that the utility will send a copy of any future notice of proposed
84.4 disconnection of utility heating service to a third party designated by the residential
84.5 customer;

84.6 (2) instructions on how to request this service; and

84.7 (3) a statement that the residential customer should contact the person the customer
84.8 intends to designate as the third party contact before providing the utility with the party's
84.9 name.

84.10 (j) "Utility" means a public utility as defined in section 216B.02.

84.11 (k) "Utility heating service" means natural gas or electricity used as a primary
84.12 heating source, including electricity service necessary to operate gas heating equipment.

84.13 (l) "Working days" means Mondays through Fridays, excluding legal holidays.

84.14 Subd. 3. **Utility obligations before cold weather period.** (a) Each year, between
84.15 September 1 and October 15, each utility must notify all customers of the provisions of
84.16 this section. Notice must also be provided to all new residential customers when service is
84.17 initiated. Notice must, at a minimum, include:

84.18 (1) an explanation of the customer's rights and responsibilities under subdivision 5;

84.19 (2) an explanation of no-cost and low-cost methods to reduce the consumption
84.20 of energy; and

84.21 (3) a third party notice.

84.22 (b) Also, each year, between September 1 and October 15, each utility must attempt
84.23 to contact, establish a payment agreement, and reconnect utility heating service to all
84.24 customers who were disconnected after the preceding heating season. A record must be
84.25 made of all contacts and attempted contacts.

84.26 Subd. 4. **Notice before disconnection during cold weather period.** Before
84.27 disconnecting utility heating service during the cold weather period, a utility must provide
84.28 notice to a customer, in easy-to-understand language, that contains the following:

84.29 (1) the date of the scheduled disconnection;

84.30 (2) the amount due;

84.31 (3) ways to avoid disconnection;

84.32 (4) information regarding payment agreements;

84.33 (5) a statement explaining the customer's rights and responsibilities, including the
84.34 right to appeal a determination by the utility that the customer is not eligible for protection
84.35 and the right to request commission intervention if the utility and customer cannot arrive
84.36 at a mutually acceptable payment agreement;

85.1 (6) a list of local energy assistance and weatherization providers in each county
85.2 served by the utility; and

85.3 (7) a third party notice.

85.4 Subd. 5. **Cold weather rule.** (a) During the cold weather period, a utility may
85.5 not disconnect and must reconnect a customer whose household income is at or below
85.6 50 percent of the state median income if the customer enters into and makes reasonably
85.7 timely payments under a mutually acceptable payment agreement with the utility that is
85.8 based on the financial resources and circumstances of the household; provided that, a
85.9 utility may not require a customer to pay more than ten percent of the customer's income
85.10 toward current and past utility bills for utility heating service.

85.11 (b) A utility may accept more than ten percent of the household income as the
85.12 payment arrangement amount if agreed to by the customer.

85.13 (c) The customer or a designated third party may request a modification of the terms
85.14 of a payment agreement previously entered into if the customer's financial circumstances
85.15 have changed or the customer is unable to make reasonably timely payments. The utility
85.16 may refer to commission staff a customer who requests more than two modifications of a
85.17 payment agreement during a single cold weather rule period if no payments have been
85.18 made.

85.19 (d) The payment agreement terminates at the expiration of the cold weather period
85.20 unless a longer period is mutually agreed to by the customer and the utility.

85.21 Subd. 6. **Verification of income.** (a) In verifying a customer's household income,
85.22 a utility may:

85.23 (1) accept the signed statement of a customer that the customer is income eligible;

85.24 (2) obtain income verification from a local energy assistance provider or a
85.25 government agency;

85.26 (3) consider one or more of the following:

85.27 (i) the most recent income tax return filed by members of the customer's household;

85.28 (ii) for each employed member of the customer's household, paycheck stubs for the
85.29 last two months or a written statement from the employer reporting wages earned during
85.30 the preceding two months;

85.31 (iii) a customer's Medicaid card, documentation that the customer receives food
85.32 stamps, or a food support eligibility document;

85.33 (iv) documentation that the customer receives a pension from the Department of
85.34 Human Services, the Social Security Administration, the Veteran's Administration, or
85.35 other pension provider;

(v) a letter showing the customer's dismissal from a job or other documentation of unemployment; or

(vi) other documentation that supports the customer's declaration of income eligibility.

(b) A customer who receives energy assistance benefits under any federal, state, or county government programs in which eligibility is defined as household income at or below 50 percent of state median income is deemed to be automatically eligible for protection under this section and no other verification of income may be required.

Subd. 7. **Prohibitions and requirements.** During the cold weather period:

(a) A utility may not charge a deposit or delinquency charge to a customer who has entered into a payment agreement or a customer who has appealed to the commission under subdivision 8.

(b) A utility may not disconnect service during the following periods:

(1) during the pendency of any appeal under subdivision 8;

(2) earlier than ten working days after a utility has deposited in first class mail, or seven working days after a utility has personally served, the notice required under subdivision 4 to a customer in an occupied dwelling;

(3) earlier than ten working days after the utility has deposited in first class mail the notice required under subdivision 4 to the recorded billing address of the customer, if the utility has reasonably determined from an on-site inspection that the dwelling is unoccupied;

(4) on a Friday, unless the utility makes personal contact with, and offers a payment agreement to, the customer;

(5) on a Saturday, Sunday, holiday, or the day before a holiday;

(6) when utility offices are closed;

(7) when no utility personnel are available to resolve disputes, enter into payment agreements, accept payments, and reconnect service; or

(8) when commission offices are closed.

(c) Also, a utility may not discontinue service until the utility investigates whether the dwelling is actually occupied. At a minimum, the investigation must include one visit by the utility to the dwelling during normal working hours. If no contact is made and there is reason to believe that the dwelling is occupied, the utility must attempt a second contact during nonbusiness hours. If personal contact is made, the utility representative must provide notice required under subdivision 4 and, if the utility representative is not authorized to enter into a payment agreement, the telephone number the customer can call to establish a payment agreement.

87.1 (d) Each utility must reconnect utility service if, following disconnection, the
87.2 dwelling is found to be occupied and the customer agrees to enter into a payment
87.3 agreement or appeals to the commission because the customer and the utility are unable to
87.4 agree on a payment agreement.

87.5 Subd. 8. **Disputes; customer appeals.** (a) A utility must provide the customer
87.6 and any designated third party with a commission-approved written notice of the right
87.7 to appeal:

87.8 (1) upon a utility determination that the customer's household income is more than
87.9 50 percent of state median household income; or

87.10 (2) when the utility and customer are unable to agree on the establishment or
87.11 modification of a payment agreement.

87.12 (b) A customer's appeal must be filed with the commission no later than seven
87.13 working days after the customer's receipt of a personally served disconnection notice, or
87.14 within ten working days after the utility has deposited a first class mail notice. If no
87.15 disconnection notice has been issued, an appeal may be filed at any time.

87.16 (c) The commission must determine all customer appeals on an informal basis,
87.17 within 30 calendar days of receipt of a customer's written appeal. In making its
87.18 determination, the commission must consider one or more of the factors in subdivision 6,
87.19 paragraph (a), clauses (2) and (3).

87.20 (d) Notwithstanding any other law, following an appeals decision adverse to the
87.21 customer, a utility may not disconnect utility heating service for seven working days
87.22 after the utility has personally served a disconnection notice, or for ten working days
87.23 after the utility has deposited a first class mail notice. The notice must contain, in
87.24 easy-to-understand language, the date on or after which disconnection will occur, the
87.25 reason for disconnection, and ways to avoid disconnection.

87.26 Subd. 9. **Utility appeals.** A utility may file an appeal of the commission's informal
87.27 determination under subdivision 8 within 14 working days after it is issued. An appeal
87.28 must be in writing, on forms prescribed by the commission. A copy of the appeal and a
87.29 commission-approved letter explaining that the customer may have service disconnected
87.30 must be mailed by the utility to the local human services or social services agency and
87.31 the local energy assistance provider on the same day as the utility mails its appeal to
87.32 the commission.

87.33 Subd. 10. **Reporting.** Annually on November 1, a utility must file with the
87.34 commission a report specifying the number of utility heating service customers whose
87.35 service is disconnected or remains disconnected as of October 1 and October 15. If

88.1 customers remain disconnected on October 15, a utility must file a report each week
88.2 between November 1 and the end of the cold weather period specifying:

88.3 (1) the number of utility heating service customers that are or remain disconnected
88.4 from service; and

88.5 (2) the number of utility heating service customers that are reconnected to service
88.6 each week. The utility may discontinue weekly reporting if the number of utility heating
88.7 service customers that are or remain disconnected reaches zero before the end of the
88.8 cold weather period.

88.9 Sec. 4. Minnesota Statutes 2006, section 216B.097, subdivision 1, is amended to read:

88.10 Subdivision 1. **Application; notice to residential customer.** (a) A municipal utility
88.11 or a cooperative electric association must not disconnect and must reconnect the utility
88.12 service of a residential customer during the period between October 15 and April 15 if
88.13 the disconnection affects the primary heat source for the residential unit ~~when~~ and all of
88.14 the following conditions are met:

88.15 ~~(1) the customer has declared inability to pay on forms provided by the utility. For~~
88.16 ~~the purposes of this clause, a customer that is receiving energy assistance is deemed~~
88.17 ~~to have demonstrated an inability to pay;~~

88.18 ~~(2)~~ The household income of the customer is ~~less than~~ at or below 50 percent of the
88.19 state median household income~~;~~. A municipal utility or cooperative electric association
88.20 utility may (i) verify income on forms it provides or (ii) obtain

88.21 ~~(3)~~ verification of income ~~may be conducted by~~ from the local energy assistance
88.22 provider ~~or the utility, unless the~~. A customer is deemed ~~automatically eligible for to meet~~
88.23 the income requirements of this clause ~~protection against disconnection as a recipient of~~
88.24 if the customer receives any form of public assistance, including energy assistance, that
88.25 uses an income eligibility ~~in an amount~~ threshold set at or below ~~the income eligibility in~~
88.26 ~~clause (2);~~ 50 percent of the state median household income.

88.27 ~~(4)~~ (2) A customer ~~whose account is current for the billing period immediately prior~~
88.28 ~~to October 15 or who, at any time, enters into~~ and makes reasonably timely payments
88.29 under a payment schedule agreement that considers the financial resources of the
88.30 household ~~and is reasonably current with payments under the schedule; and.~~

88.31 ~~(5) the~~ (3) A customer receives referrals to energy assistance programs,
88.32 weatherization, conservation, or other programs likely to reduce the customer's energy
88.33 bills.

89.1 (b) A municipal utility or a cooperative electric association must, between August
89.2 15 and October 15 of each year, notify all residential customers of the provisions of this
89.3 section.

89.4 Sec. 5. Minnesota Statutes 2006, section 216B.097, subdivision 3, is amended to read:

89.5 Subd. 3. **Restrictions if disconnection necessary.** (a) If a residential customer must
89.6 be involuntarily disconnected between October 15 and April 15 for failure to comply with
89.7 the provisions of subdivision 1, the disconnection must not occur:

89.8 (1) on a Friday or on the day before a holiday, unless the customer declines to enter
89.9 into a payment agreement offered that day in person or via personal contact by telephone
89.10 by a municipal utility or cooperative electric association;

89.11 (2) on a weekend, holiday, or the day before a holiday;

89.12 (3) when utility offices are closed; or

89.13 (4) after the close of business on a day when disconnection is permitted, unless
89.14 a field representative of a municipal utility or cooperative electric association who is
89.15 authorized to enter into a payment agreement, accept payment, and continue service,
89.16 offers a payment agreement to the customer.

89.17 Further, the disconnection must not occur until at least 20 days after the notice required
89.18 in subdivision 2 has been mailed to the customer or 15 days after the notice has been
89.19 personally delivered to the customer.

89.20 (b) If a customer does not respond to a disconnection notice, the customer must
89.21 not be disconnected until the utility investigates whether the residential unit is actually
89.22 occupied. If the unit is found to be occupied, the utility must immediately inform the
89.23 occupant of the provisions of this section. If the unit is unoccupied, the utility must give
89.24 seven days' written notice of the proposed disconnection to the local energy assistance
89.25 provider before making a disconnection.

89.26 (c) If, prior to disconnection, a customer appeals a notice of involuntary
89.27 disconnection, as provided by the utility's established appeal procedure, the utility must
89.28 not disconnect until the appeal is resolved.

89.29 Sec. 6. Minnesota Statutes 2006, section 216B.098, subdivision 4, is amended to read:

89.30 Subd. 4. **Undercharges.** (a) A utility shall offer a payment agreement to customers
89.31 who have been undercharged if no culpable conduct by the customer or resident of
89.32 the customer's household caused the undercharge. The agreement must cover a period
89.33 equal to the time over which the undercharge occurred or a different time period that is
89.34 mutually agreeable to the customer and the utility, except that the duration of a payment

90.1 agreement offered by a utility to a customer whose household income is at or below 50
90.2 percent of state median household income must consider the financial circumstances of
90.3 the customer's household.

90.4 (b) No interest or delinquency fee may be charged ~~under this~~ as part of an
90.5 undercharge agreement under this subdivision.

90.6 (c) If a customer inquiry or complaint results in the utility's discovery of the
90.7 undercharge, the utility may bill for undercharges incurred after the date of the inquiry
90.8 or complaint only if the utility began investigating the inquiry or complaint within a
90.9 reasonable time after when it was made.

90.10 Sec. 7. Minnesota Statutes 2006, section 216B.16, subdivision 10, is amended to read:

90.11 Subd. 10. **Intervenor ~~payment~~ compensation.** (a) An organization or individual
90.12 granted formal intervenor status by the commission is eligible to receive compensation.

90.13 (b) The commission may order a utility to ~~pay all or a portion of a party's intervention~~
90.14 compensate all or part of an eligible intervenor's reasonable costs ~~not to exceed \$20,000~~
90.15 ~~per intervenor in any proceeding~~ of participation in a general rate case that comes before
90.16 the commission when the commission finds that the intervenor has materially assisted
90.17 the commission's deliberation ~~and the intervenor has insufficient financial resources to~~
90.18 ~~afford the costs of intervention~~ and when a lack of compensation would present financial
90.19 hardship to the intervenor. Compensation may not exceed \$50,000 for a single intervenor
90.20 in any proceeding. For the purpose of this subdivision, "materially assisted" means that
90.21 the intervenor's participation and presentation was useful and seriously considered, or
90.22 otherwise substantially contributed to the commission's deliberations in the proceeding.

90.23 (c) In determining whether an intervenor has materially assisted the commission's
90.24 deliberation, the commission must consider, at a minimum, whether:

90.25 (1) the intervenor represented an interest that would not otherwise have been
90.26 adequately represented;

90.27 (2) the evidence or arguments presented or the positions taken by the intervenor
90.28 were an important factor in producing a fair decision;

90.29 (3) the intervenor's position promoted a public purpose or policy;

90.30 (4) the evidence presented, arguments made, issues raised, or positions taken by the
90.31 intervenor would not have been a part of the record without the intervenor's participation;
90.32 and

90.33 (5) the administrative law judge or the commission adopted, in whole or in part, a
90.34 position advocated by the intervenor.

91.1 (d) In determining whether the absence of compensation would present financial
91.2 hardship to the intervenor, the commission must consider:

91.3 (1) whether the costs presented in the intervenor's claim reflect reasonable fees for
91.4 attorneys and expert witnesses and other reasonable costs; and

91.5 (2) the ratio between the costs of intervention and the intervenor's unrestricted funds.

91.6 (e) An intervenor seeking compensation must file a request and an affidavit of service
91.7 with the commission, and serve a copy of the request on each party to the proceeding.

91.8 The request must be filed 30 days after the later of (1) the expiration of the period within
91.9 which a petition for rehearing, amendment, vacation, reconsideration, or reargument must
91.10 be filed or (2) the date the commission issues an order following rehearing, amendment,
91.11 vacation, reconsideration, or reargument.

91.12 (f) The compensation request must include:

91.13 (1) the name and address of the intervenor or representative of the nonprofit
91.14 organization the intervenor is representing;

91.15 (2) if necessary, proof of the organization's nonprofit, tax-exempt status;

91.16 (3) the name and docket number of the proceeding for which compensation is
91.17 requested;

91.18 (4) a list of actual annual revenues and expenses of the organization the intervenor is
91.19 representing for the preceding year and projected revenues, revenue sources, and expenses
91.20 for the current year;

91.21 (5) the organization's balance sheet for the preceding year and a current monthly
91.22 balance sheet;

91.23 (6) an itemization of intervenor costs and the total compensation request; and

91.24 (7) a narrative explaining why additional organizational funds cannot be devoted
91.25 to the intervention.

91.26 (g) Within 30 days after service of the request for compensation, a party may file
91.27 a response, together with an affidavit of service, with the commission. A copy of the
91.28 response must be served on the intervenor and all other parties to the proceeding.

91.29 (h) Within 15 days after the response is filed, the intervenor may file a reply with
91.30 the commission. A copy of the reply and an affidavit of service must be served on all
91.31 other parties to the proceeding.

91.32 (i) If additional costs are incurred as a result of additional proceedings following
91.33 the commission's initial order, the intervenor may file an amended request within 30
91.34 days after the commission issues an amended order. Paragraphs (e) to (h) apply to an
91.35 amended request.

92.1 (j) The commission must issue a decision on intervenor compensation within 60
92.2 days of a filing by an intervenor.

92.3 (k) A party may request reconsideration of the commission's compensation decision
92.4 within 30 days of the decision.

92.5 (l) If the commission issues an order requiring payment of intervenor compensation,
92.6 the utility that was the subject of the proceeding must pay the compensation to the
92.7 intervenor, and file with the commission proof of payment, within 30 days after the later
92.8 of (1) the expiration of the period within which a petition for reconsideration of the
92.9 commission's compensation decision must be filed or (2) the date the commission issues
92.10 an order following reconsideration of its order on intervenor compensation.

92.11 Sec. 8. Minnesota Statutes 2006, section 216B.16, subdivision 15, is amended to read:

92.12 Subd. 15. **Low-income affordability programs.** (a) The commission ~~may~~ must
92.13 consider ability to pay as a factor in setting utility rates and may establish affordability
92.14 programs for low-income residential ratepayers in order to ensure affordable, reliable, and
92.15 continuous service to low-income utility customers. By September 1, 2007, a public
92.16 utility serving low-income residential ratepayers who use natural gas for heating must
92.17 file an affordability program with the commission. For purposes of this subdivision,
92.18 "low-income residential ratepayers" means ratepayers who receive energy assistance from
92.19 the low-income home energy assistance program (LIHEAP).

92.20 (b) ~~The purpose of the low-income programs is to~~ Any affordability program the
92.21 commission orders a utility to implement must:

92.22 (1) lower the percentage of income that participating low-income households devote
92.23 to energy bills;~~to;~~

92.24 (2) increase participating customer payments;~~and to~~ over time by increasing the
92.25 frequency of payments;

92.26 (3) decrease or eliminate participating customer arrears;

92.27 (4) lower the utility costs associated with customer account collection activities; and

92.28 (5) coordinate the program with other available low-income bill payment assistance
92.29 and conservation resources.

92.30 In ordering ~~low-income~~ affordability programs, the commission may require public
92.31 utilities to file program evaluations,~~including the coordination of other available~~
92.32 ~~low-income bill payment and conservation resources and~~ that measure the effect of the
92.33 affordability program on:

92.34 (1) ~~reducing~~ the percentage of income that participating households devote to energy
92.35 bills;

93.1 (2) service disconnections; and

93.2 (3) frequency of customer payment behavior payments, utility collection costs,
93.3 arrearages, and bad debt.

93.4 (c) The commission must issue orders necessary to implement, administer, and
93.5 evaluate affordability programs, and to allow a utility to recover program costs, including
93.6 administrative costs, on a timely basis. The commission may not allow a utility to recover
93.7 administrative costs, excluding start-up costs, in excess of five percent of total program
93.8 costs, or program evaluation costs in excess of two percent of total program costs. The
93.9 commission must permit deferred accounting, with carrying costs, for recovery of program
93.10 costs incurred during the period between general rate cases.

93.11 (d) Public utilities may use information collected or created for the purpose of
93.12 administering energy assistance to administer affordability programs.

93.13 Sec. 9. **RULES; INSTRUCTION TO COMMISSION AND REVISOR.**

93.14 Subdivision 1. **Public Utilities Commission.** The commission must amend
93.15 Minnesota Rules, chapters 7820 and 7831, to conform with the provisions of Minnesota
93.16 Statutes, section 216B.096, as authorized under Minnesota Statutes, section 14.388,
93.17 subdivision 1, clause (3).

93.18 Subd. 2. **Revisor of statutes.** The revisor of statutes shall change the reference from
93.19 "216B.095" to "216B.096" wherever found in Minnesota Rules, chapter 7820.

93.20 Sec. 10. **REPEALER.**

93.21 (a) Minnesota Rules, parts 7831.0100; 7831.0200; 7831.0300; 7831.0400;
93.22 7831.0500; 7831.0600; 7831.0700; and 7831.0800, are repealed as they pertain to a
93.23 general rate case for a gas or electric utility held before the commission.

93.24 (b) Minnesota Statutes 2006, section 216B.095, is repealed.