

A bill for an act

relating to commerce; regulating real estate transactions; defining terms;
regulating closing agents; amending Minnesota Statutes 2006, sections 60A.06,
subdivision 1; 68A.04; 82.17, subdivision 3; 82.49.

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

Section 1. Minnesota Statutes 2006, section 60A.06, subdivision 1, is amended to read:

Subdivision 1. **Statutory lines.** Insurance corporations may be authorized to
transact in any state or territory in the United States, in the Dominion of Canada, and in
foreign countries, when specified in their charters or certificates of incorporation, either as
originally granted or as thereafter amended, any of the following kinds of business, upon
the stock plan, or upon the mutual plan when the formation of such mutual companies is
otherwise authorized by law; and business trusts as authorized by law of this state shall
only be authorized to transact in this state the following kind of business hereinafter
specified in clause (7) hereof when specified in their "declaration of trust":

(1) To insure against loss or damage to property on land and against loss of rents
and rental values, leaseholds of buildings, use and occupancy and direct or consequential
loss or damage caused by fire, smoke or smudge, water or other fluid or substance,
lightning, windstorm, tornado, cyclone, earthquake, collapse and slippage, rain, hail,
frost, snow, freeze, change of temperature, weather or climatic conditions, excess or
deficiency of moisture, floods, the rising of waters, oceans, lakes, rivers or their tributaries,
bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped
power, electrical power interruption or electrical breakdown from any cause, railroad
equipment, motor vehicles or aircraft, accidental injury to sprinklers, pumps, conduits
or containers or other apparatus erected for extinguishing fires, explosion, whether fire

H.F. No. 3888, 1st Engrossment - 2007-2008th Legislative Session (2007-2008)

ensues or not, except explosions on risks specified in clause (3); provided, however, that there may be insured hereunder the following: (a) explosion of any kind originating outside the insured building or outside of the building containing the property insured, (b) explosion of pressure vessels which do not contain steam or which are not operated with steam coils or steam jackets; and (c) risks under home owners multiple peril policies;

(2)(a) To insure vessels, freight, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debt, bottomry and respondentia interest, and every insurance appertaining to or connected with risks of transportation and navigation on and under water, on land or in the air;

(b) To insure all personal property floater risks;

(3) To insure against any loss from either direct or indirect damage to any property or interest of the assured or of another, resulting from the explosion of or injury to

(a) any boiler, heater or other fired pressure vessel; (b) any unfired pressure vessel;

(c) pipes or containers connected with any of said boilers or vessels; (d) any engine, turbine, compressor, pump or wheel; (e) any apparatus generating, transmitting or using electricity; (f) any other machinery or apparatus connected with or operated by any of the previously named boilers, vessels or machines; and including the incidental power to make inspections of and to issue certificates of inspection upon, any such boilers, apparatus, and machinery, whether insured or otherwise;

(4) To make contracts of life and endowment insurance, to grant, purchase, or dispose of annuities or endowments of any kind; and, in such contracts, or in contracts supplemental thereto to provide for additional benefits in event of death of the insured by accidental means, total permanent disability of the insured, or specific dismemberment or disablement suffered by the insured, or acceleration of life or endowment or annuity benefits in advance of the time they would otherwise be payable;

(5)(a) To insure against loss or damage by the sickness, bodily injury or death by accident of the assured or dependents, or those for whom the assured has assumed a portion of the liability for the loss or damage, including liability for payment of medical care costs or for provision of medical care;

(b) To insure against the legal liability, whether imposed by common law or by statute or assumed by contract, of employers for the death or disablement of, or injury to, employees;

(6) To guarantee the fidelity of persons in fiduciary positions, public or private, or to act as surety on official and other bonds, and for the performance of official or other obligations;

H.F. No. 3888, 1st Engrossment - 2007-2008th Legislative Session (2007-2008)

(7) To insure owners and others interested in real estate ~~against loss or damage, by reason of defective titles, encumbrances, or otherwise~~ or personal property as described in section 68A.04;

(8) To insure against loss or damage by breakage of glass, located or in transit;

(9)(a) To insure against loss by burglary, theft, or forgery;

(b) To insure against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptance or any other valuable paper or document, resulting from any cause, except while in the custody or possession of and being transported by any carrier for hire or in the mail;

(c) To insure individuals by means of an all risk type of policy commonly known as the "personal property floater" against any kind and all kinds of loss of or damage to, or loss of use of, any personal property other than merchandise;

(d) To insure against loss or damage by water or other fluid or substance;

(10) To insure against loss from death of domestic animals and to furnish veterinary service;

(11) To guarantee merchants and those engaged in business, and giving credit, from loss by reason of giving credit to those dealing with them; this shall be known as credit insurance;

(12) To insure against loss or damage to automobiles or other vehicles or aircraft and their contents, by collision, fire, burglary, or theft, and other perils of operation, and against liability for damage to persons, or property of others, by collision with such vehicles or aircraft, and to insure against any loss or hazard incident to the ownership, operation, or use of motor or other vehicles or aircraft;

(13) To insure against liability for loss or damage to the property or person of another caused by the insured or by those for whom the insured is responsible, including insurance of medical, hospital, surgical, funeral or other related expense of the insured or other person injured, irrespective of legal liability of the insured, when issued with or supplemental to policies of liability insurance;

(14) To insure against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire;

(15) To insure against attorneys fees, court costs, witness fees and incidental expenses incurred in connection with the use of the professional services of attorneys at law.

Sec. 2. Minnesota Statutes 2006, section 68A.04, is amended to read:

68A.04 DEFINITION OF DIRECT RISK PREMIUMS DEFINITIONS.

4.1 Subdivision 1. **Direct risk premiums.** For purposes of this chapter, "direct risk
4.2 premiums" means the charge for title insurance made by a title insurance company or its
4.3 agents according to the company's rate filing approved by the commissioner of commerce
4.4 without a deduction for commissions paid to or retained by the agent and is that portion of
4.5 the fee charged by a title insurance company to an insured or an applicant for insurance
4.6 for the assumption by the title insurance company of the risk created by the issuance
4.7 of the title insurance policy. Direct risk premiums of a title insurance company do not
4.8 include any other charge or fee for abstracting, searching, or examining the title, or for
4.9 escrow, closing, or other related services.

4.10 Subd. 2. **Title insurance.** For purposes of this chapter, "title insurance" means
4.11 insuring owners of real or personal property, the holders of liens, interests or encumbrances
4.12 thereon, or others interested therein, against loss or damage suffered by reason of liens,
4.13 encumbrances upon, defects in, or the unmarketability of the title to the property; the
4.14 invalidity, impairment, lack of priority, or unenforceability of any liens or encumbrances
4.15 on the property; or the doing, or proposing to do, any business in substance equivalent to
4.16 any of the foregoing whether or not designed to evade the provisions of this chapter.

4.17 Sec. 3. Minnesota Statutes 2006, section 82.17, subdivision 3, is amended to read:

4.18 Subd. 3. **Closing agent; real estate closing agent.** "Closing agent" or "real estate
4.19 closing agent" means any person whether or not acting as an agent for a title company, a
4.20 licensed attorney, real estate broker, or real estate salesperson, who for another and with or
4.21 without a commission, fee, or other valuable consideration or with or without the intention
4.22 or expectation of receiving a commission, fee, or other valuable consideration, directly or
4.23 indirectly provides closing services incident to the sale, trade, lease, or loan of residential
4.24 real estate, including drawing or assisting in drawing papers incident to the sale, trade,
4.25 lease, or loan of residential real estate, or advertises or claims to be engaged in these
4.26 activities. A notary public who acknowledges a signature on a deed, mortgage, or other
4.27 residential closing document is a closing agent if the notary public performs any other
4.28 service or assistance in connection with the residential closing.

4.29 Sec. 4. Minnesota Statutes 2006, section 82.49, is amended to read:

4.30 **82.49 TABLE FUNDING.**

4.31 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this
4.32 subdivision have the meanings given them.

4.33 (b) "Closing agent" has the meaning given in section 82.17, subdivision 3.

(c) "Collected funds" means funds deposited, finally settled, and credited to the closing agent's escrow account.

~~(d) "Established business relationship" means that the closing agent has performed at least 25 residential closings on behalf of the lender.~~

~~(e)~~ (d) "Federally insured financial institution" means an institution in which monetary deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration.

~~(f)~~ (e) "Lender" means a person who makes residential mortgage loans including a person who engages in table funding. "Lender" does not include any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended, if the organization is exempt from tax under section 501(a) of the Internal Revenue Code of 1986, as amended. "Lender" does not include a state or any political subdivision of a state.

~~(g)~~ (f) "Qualified loan funds" means funds in one of the following forms:

- (1) lawful money of the United States;
- (2) wired funds when unconditionally held by the closing agent;
- (3) cashier's checks, ~~certified checks, bank money orders, or teller's checks~~ issued by a federally insured financial institution and unconditionally held by the closing agent; and
- (4) United States treasury checks, Federal Reserve Bank checks, federal home loan bank checks, and state of Minnesota warrants.

~~(h)~~ (g) "Table funding" means a closing or settlement at which a mortgage loan is funded by a lender by a contemporaneous advance of mortgage loan funds and an assignment of the mortgage loan to the lender advancing the funds.

Subd. 2. **Requirements.** (a) A closing agent shall not make disbursements out of an escrow, security deposit, settlement, or closing account unless the funds received from the lender are collected funds or qualified loan funds. ~~This subdivision does not prohibit a closing agent from electing to disburse out of an escrow, security deposit, settlement, or closing account, other than with collected funds or qualified loan funds, if the closing agent has an established business relationship with the lender on whose behalf the closing is being conducted.~~

(b) A lender, using the closing services of a closing agent, shall at or before the time of the closing deliver loan funds to the closing agent either in the form of collected funds or qualified loan funds.