A bill for an act

relating to real estate professionals; regulating the provision of broker price opinions on residential real estate; amending Minnesota Statutes 2010, sections 82.55, by adding subdivisions; 82.81, subdivision 9; 82B.021, subdivision 19; 82B.035, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 82.

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

Section 1. Minnesota Statutes 2010, section 82.55, is amended by adding a subdivision to read:

Subd. 1a. **Automated valuation model.** For purposes of this chapter, "automated valuation model" means a computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured, or to be secured, by a consumer's principal dwelling.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 2. Minnesota Statutes 2010, section 82.55, is amended by adding a subdivision to read:

Subd. 1b. **Broker price opinion or BPO.** For purposes of this chapter, "broker price opinion" or "BPO" means an estimate prepared by a real estate broker, real estate salesperson, or licensed real estate appraiser that details the probable selling price of a particular parcel of real property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 3. **[82.735] BROKER PRICE OPINION: REQUIREMENTS; DUTIES OF LICENSEE; REGULATIONS.**

Subdivision 1. **Requirements.** A person licensed under this chapter or chapter 82B may prepare and provide a broker price opinion and may charge and collect a fee for it if the license of that licensee is active and in good standing.

Subd. 2. **Duties of licensee.** Notwithstanding any provision of the laws of this state to the contrary, a person licensed under this chapter or chapter 82B may prepare a broker price opinion for:

(1) an existing or potential seller for the purposes of listing and selling a parcel of real property;

(2) an existing or potential buyer of a parcel of real property;

(3) a third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease, or acquisition price of a parcel of real property when prepared as required by subdivision 3; or

(4) an existing or potential lienholder or other third party for any purpose other than as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property, when done in conjunction with the purchase of a consumer's principal dwelling, when prepared as required by subdivision 3.

Subd. 3. **Written report; requirement.** (a) Unless the party requesting the opinion requires a specific report, a broker price opinion prepared for a party under subdivision 2, clause (3) or (4), must be in writing and contain the following:

(1) a statement of the intended purpose of the broker price opinion;

(2) a brief description of the subject property and property interest to be priced;

(3) the basis of reasoning used to reach the opinion on the price, including the applicable market data;

(4) any assumptions or limiting conditions;

(5) a disclosure of any existing or contemplated interest of the broker or salesperson issuing the opinion;

(6) the name of the broker or salesperson issuing the price opinion;

(7) the name of the real estate brokerage that the broker or salesperson is acting on behalf of;

(8) the date of the price opinion; and

(9) a disclaimer stating, "This opinion is not an appraisal of the market value of the property, and may not be used in lieu of an appraisal. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained."

(b) A copy of the broker price opinion report required under this subdivision together with any supporting materials and documents used in its preparation shall be retained as required under section 82.72, subdivisions 3 and 4.

(c) A licensee may produce or transmit a broker price opinion report electronically to any person entitled to receive it.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 4. Minnesota Statutes 2010, section 82.81, subdivision 9, is amended to read:

Subd. 9. **Exclusive agreements.** (a) Except as provided in paragraph (c), a licensee shall not negotiate the sale, exchange, lease, or listing of any real property directly with the owner or lessor knowing that the owner or lessor has executed a written contract granting exclusive representation or assistance for the same service in connection with the property to another real estate broker, buyer, or lessee, nor shall a licensee negotiate the purchase, lease, or exchange of real property knowing that the buyer or lessee has executed a written contract granting exclusive representation or assistance for the same service of purchase, lease, or exchange of the real property with another real estate broker.

(b) ~~Licensees~~ A licensee shall not induce any party to a contract of sale, purchase, lease, or option, or to an exclusive listing agreement or buyer's agreement, or facilitator services agreement, to breach the contract, option, or agreement.

(c) A licensee may discuss the terms upon which a listing or buyer representation contract or a contract for facilitator services may be entered into after expiration of any existing exclusive contract when the inquiry or discussion is initiated by the owner, lessor, buyer, or lessee. The licensee must inquire of the owner, lessor, buyer, or lessee whether such an exclusive contract exists.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 5. Minnesota Statutes 2010, section 82B.021, subdivision 19, is amended to read:

Subd. 19. **Market analysis; broker price opinion.** "Market analysis" or "broker price opinion" means a price opinion prepared by a licensed real estate salesperson ~~or~~, broker ~~for marketing purposes~~, or real estate appraiser in accordance with section 82.735.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 6. Minnesota Statutes 2010, section 82B.035, is amended by adding a subdivision to read:

Subd. 1a. **Broker price opinion.** (a) This chapter does not apply to a licensed real estate salesperson, broker, or real estate appraiser who prepares a broker price opinion in accordance with section 82.735. In connection with the purchase of a consumer's principal dwelling, a broker price opinion may not be used as the primary basis to determine the value of a parcel of property for the purpose of a loan origination of a residential mortgage loan secured by the parcel of property.

(b) An appraiser preparing a broker price opinion shall disclose that the appraiser is not acting as an appraiser in preparing the broker price opinion and that the broker price opinion is not an appraisal or appraisal assignment and, therefore, is not subject to USPAP.

EFFECTIVE DATE. This section is effective August 1, 2011.