A bill for an act

relating to licensing; modifying contractor continuing education requirements; amending Minnesota Statutes 2008, section 326B.821, as amended.

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

Section 1. Minnesota Statutes 2008, section 326B.821, as amended by Laws 2009, chapter 78, article 5, section 21, is amended to read:

326B.821 CONTINUING EDUCATION.

Subdivision 1. **Standards.** The commissioner may by rule adopt standards for continuing education requirements and course and instructor approval that have been developed by the Construction Codes Advisory Council. The standards must include requirements for continuing education in the implementation of energy codes applicable to buildings and ~~other building codes designed to conserve~~ energy conservation measures.

Subd. 2. **Hours.** A qualifying person of a licensee must provide proof of completion of 14 hours of continuing education per two-year licensure period in the regulated industry in which the licensee is licensed.

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

Subd. 3. **Accessibility.** To the extent possible, the commissioner shall ensure that continuing education courses are offered throughout the state and are easily accessible to all licensees.

Subd. 4. **Renewal of approval.** The commissioner is authorized to establish a procedure for renewal of course approval.

Subd. 5. **Content.** (a) Continuing education consists of approved courses that impart appropriate and related knowledge in the regulated industries pursuant to sections

326B.802 to 326B.885. Courses may include relevant materials that are included in licensing exams subject to the limitations imposed in paragraph ~~(c)~~ (g). The burden of demonstrating that courses impart appropriate and related knowledge is upon the person seeking approval or credit.

(b) Course examinations ~~will~~ must not be required for continuing education courses unless they are required by the sponsor.

(c) Textbooks are not required to be used for continuing education courses. If textbooks are not used, the coordinator must provide students with a syllabus containing, at a minimum, the course title, the times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject materials to be covered. Any written or printed material given to students must be of readable quality and contain accurate and current information.

(d) Upon completion of an approved course, licensees shall earn one hour of continuing education credit for each hour approved by the commissioner. Each continuing education course must be attended in its entirety in order to receive credit for the number of approved hours. Courses may be approved for full or partial credit, and for more than one regulated industry.

(e) Continuing education credit in an approved course ~~shall~~ may be awarded to presenting instructors on the basis of one credit for each hour of preparation for the duration of the initial presentation~~, which may not exceed three hours total credit for each approved course~~. Continuing education credit may not be earned if the licensee has previously obtained credit for the same course as a licensee or as an instructor within the three years immediately prior.

(f) Courses shall be approved using the following guidelines:

(1) course content must demonstrate significant intellectual or practical content and deal with matters directly related to the practice of residential construction, workforce safety, and the business of running a residential construction company. Courses may also address the professional responsibility or ethical obligations of contractors to homeowners and suppliers;

(2) the following courses must be automatically approved, subject to the limitations of paragraph (g):

(i) courses specifically designed for the residential construction industry;

(ii) courses offered by the Minnesota Board of Continuing Legal Education;

(iii) courses offered by a nationally recognized professional designation of the residential construction industry; and

(iv) courses accredited by the International Association of Continuing Education and Training meeting ANSI/IACET standards;

(3) courses must be presented in a suitable classroom or construction setting. Courses presented via video recording, simultaneous broadcasting, Web-based, or teleconference or audiotape may be approved;

(4) Internet courses may be approved for credit but must include a testing component equal to 12 questions for every 50 minutes of educational content provided. A minimum testing score of 70 percent must be attained in order to receive a course completion certificate; and

(5) a list of all participants shall be maintained by the course sponsor and transmitted to the board upon request. For internet providers, a list of participants who successfully completed online education shall be maintained by the provider for a three-year period and submitted to the board upon request.

~~(c)~~ (g) The following courses ~~will~~ must not be approved for credit:

(1) courses designed solely to prepare students for a license examination;

(2) courses in mechanical office ~~or business~~ skills, including typing, speed reading, or other machines or equipment. Computer courses are allowed, if appropriate and related to the regulated industry of the licensee;

(3) courses in sales promotion, including meetings held in conjunction with the general business of the licensee;

(4) courses in motivation, salesmanship, psychology, time management~~, or communication~~; or

(5) courses that are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

Subd. 6. **Course approval.** (a) Courses must be approved by the commissioner in advance and ~~will~~ shall be approved on the basis of the applicant's compliance with the provisions of this section relating to continuing education in the regulated industries. The commissioner shall make the final determination as to the approval and assignment of credit hours for courses. Courses must be at least one hour in length.

~~Individuals~~ Licensees requesting credit for continuing education courses that have not been previously approved shall, on a form prescribed by the commissioner, submit an application for approval of continuing education credit accompanied by a nonrefundable fee of $10 for each course to be reviewed. To be approved, courses must be in compliance with the provisions of this section governing the types of courses that will and will not be approved.

Approval ~~will~~ must not be granted for time spent on meals or other unrelated activities. Breaks may not be accumulated in order to dismiss the class early. Classes shall not be offered by a provider to any one student for longer than eight hours in one day, excluding meal breaks.

(b) Application for course approval must be submitted 30 days before the course offering.

(c) Approval must be granted for a subsequent offering of identical continuing education courses without requiring a new application if a notice of the subsequent offering is filed with the commissioner at least 30 days in advance of the date the course is to be held. The commissioner shall deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval.

Subd. 7. **Courses open to all.** All course offerings must be open to any interested individuals. Access may be restricted by the sponsor based on class size only. Courses must not be approved if attendance is restricted to any particular group of people, except for company-sponsored courses allowed by applicable law.

Subd. 8. **Course ~~coordinator~~ sponsor.** (a) Each course of study shall have at least one ~~coordinator, approved by the commissioner,~~ sponsor who is responsible for supervising the program and ensuring compliance with all relevant law. ~~Sponsors may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.~~

(b) ~~The commissioner shall approve as a coordinator a person meeting one or more of the following criteria:~~ Sponsors must submit an application and sworn statement stating that they agree to abide by the requirements of this and any applicable statute or rule pertaining to residential construction continuing education.

~~(1) at least three years of full-time experience in the administration of an education program during the five-year period immediately before the date of application;~~

~~(2) a degree in education plus two years' experience during the immediately preceding five-year period in one of the regulated industries for which courses are being approved; or~~

~~(3) a minimum of five years' experience within the previous six years in the regulated industry for which courses are held.~~

(c) A sponsor may also be an instructor.

(d) Failure to comply with requirements may result in loss of sponsor approval for two years.

Subd. 9. **Responsibilities.** A ~~coordinator~~ sponsor is responsible for:

(1) ensuring compliance with all laws and rules relating to continuing educational offerings governed by the commissioner;

(2) ensuring that students are provided with current and accurate information relating to the laws and rules governing their licensed activity;

(3) supervising and evaluating courses and instructors. Supervision includes ensuring that all areas of the curriculum are addressed without redundancy and that continuity is present throughout the entire course;

(4) ensuring that instructors are qualified to teach the course offering;

(5) furnishing the commissioner, upon request, with copies of course and instructor evaluations and qualifications of instructors. Evaluations must be completed by students at the time the course is offered and by coordinators within five days after the course offering;

(6) investigating complaints related to course offerings or instructors. A copy of the written complaint must be sent to the commissioner within ten days of receipt of the complaint and a copy of the complaint resolution must be sent not more than ten days after resolution is reached;

(7) maintaining accurate records relating to course offerings, instructors, tests taken by students if required, and student attendance for a period of three years from the date on which the course was completed. These records must be made available to the commissioner upon request~~. In the event that a sponsor ceases operation for any reason, the coordinator is responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. The coordinator must notify the commissioner of the name and address of that person. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgments available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records;~~, or in the event the sponsor ceases operations, the sponsor must provide digital copies of all records for the previous three years to the department upon termination of the sponsor application.

(8) ~~ensuring that the coordinator is available to instructors and students throughout course offerings and providing to the students and instructor the name of the coordinator and a telephone number at which the coordinator can be reached;~~

~~(9)~~ attending workshops or instructional programs as reasonably required by the commissioner;

~~(10)~~ (9) providing course completion certificates within ten days of, but not before, completion of the entire course. Course completion certificates must be completed in their entirety. Course completion certificates must contain the following statement: "If you have any comments about this course offering, please mail them to the Minnesota

Department of Labor and Industry." The current address of the department must be included. A ~~coordinator~~ sponsor may require payment of the course tuition as a condition for receiving the course completion certificate; and

~~(11)~~ (10) notifying the commissioner in writing within ten days of any change in the information in an application ~~for approval~~ on file with the commissioner.

Subd. 10. **Instructors.** (a) Each continuing education course shall have an instructor who is qualified by education, training, or experience to ensure competent instruction. Failure to have only qualified instructors teach at an approved course offering ~~will~~ shall result in loss of course approval. ~~Coordinators~~ Sponsors are responsible to ensure that an instructor is qualified to teach the course offering.

(b) ~~Qualified continuing education instructors must have one of the following qualifications:~~

~~(1) a four-year degree in any area plus two years' practical experience in the subject area being taught;~~

~~(2) five years' practical experience in the subject area being taught; or~~

~~(3) a college or graduate degree in the subject area being taught.~~

~~(c)~~ Approved instructors are responsible for:

(1) compliance with all laws and rules relating to continuing education;

(2) providing students with current and accurate information;

(3) maintaining an atmosphere conducive to learning in the classroom;

(4) verifying attendance of students, and certifying course completion;

(5) providing assistance to students and responding to questions relating to course materials; and

(6) attending the workshops or instructional programs that are required by the commissioner.

Subd. 11. **Prohibited practices for ~~coordinators~~ sponsors and instructors.** (a) In connection with an approved continuing education course, coordinators and instructors shall not:

(1) recommend or promote the services or practices of a particular business;

(2) encourage or recruit individuals to engage the services of, or become associated with, a particular business or require students to participate in other programs or services offered by the instructor, coordinator, or sponsor;

(3) ~~use materials, clothing, or other evidences of affiliation with a particular entity;~~

~~(4) require students to participate in other programs or services offered by the instructor, coordinator, or sponsor;~~

~~(5)~~ attempt, either directly or indirectly, to discover questions or answers on an examination for a license;

~~(6)~~ (4) disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations;

~~(7)~~ (5) misrepresent any information submitted to the commissioner;

~~(8)~~ (6) fail to cover, or ensure coverage of, all points, issues, and concepts contained in the course outline approved by the commissioner during the approved instruction; or

~~(9)~~ (7) issue inaccurate course completion certificates.

(b) ~~Coordinators~~ Sponsors shall notify the commissioner within ten days of a felony or gross misdemeanor conviction or of disciplinary action taken against an occupational or professional license held by the ~~coordinator~~ sponsors or an instructor teaching an approved course. The notification shall be grounds for the commissioner to withdraw the approval of the ~~coordinator~~ sponsors and to disallow the use of the sponsor or instructor.

Subd. 12. **Fees.** Fees for an approved course of study and related materials must be clearly identified to students. In the event that a course is canceled for any reason, all fees must be returned within 15 days from the date of cancellation. In the event that a course is postponed for any reason, students shall be given the choice of attending the course at a later date or having their fees refunded in full within 15 days from the date of postponement. If a student is unable to attend a course or cancels the registration in a course, sponsor policies regarding refunds shall govern.

~~Subd. 13. **Facilities.** Each course of study must be conducted in a classroom or other facility that is adequate to comfortably accommodate the instructors and the number of students enrolled. The sponsor may limit the number of students enrolled in a course. Approved courses may be held on the premises of a company doing business in the regulated area only when the company is sponsoring the course offering, or where product application is appropriate and related.~~

Subd. 14. **Supplementary materials.** An adequate supply of supplementary materials to be used or distributed in connection with an approved course must be available at the time and place of the course offering in order to ensure that each student receives all of the necessary materials. Outlines and any other materials that are reproduced must be of readable quality.

Subd. 15. **Advertising courses.** (a) Paragraphs (b) to (g) govern the advertising of continuing education courses.

(b) Advertising must be truthful and not deceptive or misleading. Courses may not be advertised ~~in any manner~~ as approved unless approval has been granted in writing by the commissioner.

(c) ~~No~~ Once a course is approved, all advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering ~~may be~~ circulated or distributed in this state~~, unless~~ must include the following statement ~~is prominently displayed~~:

"This course has been approved by the Minnesota Department of Labor and Industry for ..... (approved number of hours) hours for continuing ..... (relevant industry) education."

(d) Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

(e) Continuing education courses may not be advertised before approval unless the course is described in the advertising as "approval pending" ~~and an application for approval has been timely submitted to the commissioner and a denial has not been received~~.

(f) The number of hours for which a course has been approved must be prominently displayed on an advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

(g) The course approval number must not be included in any advertisement.

Subd. 16. **Notice to students.** At the beginning of each approved offering, the following notice must be handed out in printed form or must be read to students:

"This educational offering is recognized by the Minnesota Department of Labor and Industry as satisfying ..... (insert number of hours approved) hours of credit toward continuing ..... (insert appropriate industry) education requirements."

Subd. 17. **Audits.** The commissioner reserves the right to audit subject offerings with or without notice to the sponsor.

Subd. 18. **Falsification of reports.** A licensee, its qualified person, or an applicant found to have falsified an education report to the commissioner shall be considered to have violated the laws relating to the industry for which the person has a license and shall be subject to censure, limitation, condition, suspension, or revocation of the license or denial of the application for licensure.

The commissioner reserves the right to audit a licensee's continuing education records.

Subd. 19. **Waivers and extensions.** If a licensee provides documentation to the commissioner that the licensee or its qualifying person is unable, and will continue to be unable, to attend actual classroom course work because of a physical disability, medical condition, or similar reason, attendance at continuing education courses shall be waived for a period not to exceed one year. The commissioner shall require that the licensee or its qualifying person satisfactorily complete a self-study program to include reading a

sufficient number of textbooks, or listening to a sufficient number of tapes, related to the regulated industry, as would be necessary for the licensee to satisfy continuing educational credit hour needs. The commissioner shall award the licensee credit hours for a self-study program by determining how many credit hours would be granted to a classroom course involving the same material and giving the licensee the same number of credit hours under this section. The licensee may apply each year for a new waiver upon the same terms and conditions as were necessary to secure the original waiver, and must demonstrate that in subsequent years, the licensee was unable to complete actual classroom course work. The commissioner may request documentation of the condition upon which the request for waiver is based as is necessary to satisfy the commissioner of the existence of the condition and that the condition does preclude attendance at continuing education courses.

Upon written proof demonstrating a medical hardship, the commissioner shall extend, for up to 90 days, the time period during which the continuing education must be successfully completed. Loss of income from either attendance at courses or cancellation of a license is not a bona fide financial hardship. Requests for extensions must be submitted to the commissioner in writing no later than 60 days before the education is due and must include an explanation with verification of the hardship, plus verification of enrollment at an approved course of study on or before the extension period expires.

Subd. 20. **Reporting requirements.** Required continuing education must be reported in a manner prescribed by the commissioner. Licensees are responsible for maintaining copies of course completion certificates.

Subd. 21. **Residential building contractor, remodeler, and roofer education.** (a) Each licensee must, during the licensee's first complete continuing education reporting period, complete and report one hour of continuing education relating to lead abatement rules in safe lead abatement procedures.

(b) Each licensee must, during each continuing education reporting period, complete and report one hour of continuing education relating to energy ~~codes for buildings~~ efficiency and other building codes designed to conserve energy.

(c) Immediately following the promulgation of a new residential code, the department may prescribe up to five of the required seven hours of continuing education hours be specifically to instruct the licensee on the new code.

Subd. 22. **Continuing education approval.** ~~(a)~~ Continuing education courses must be approved in advance by the commissioner of labor and industry. "Sponsor" means any person or entity offering approved education.

~~(b) For coordinators with an initial approval date before August 1, 2005, approval will expire on December 31, 2005. For courses with an initial approval date on or before~~

~~December 31, 2000, approval will expire on April 30, 2006. For courses with an initial approval date after January 1, 2001, but before August 1, 2005, approval will expire on April 30, 2007.~~

Subd. 23. **Continuing education fees.** The following fees shall be paid to the commissioner:

(1) initial course approval, ~~$10~~ $40 for each hour or fraction of one hour of continuing education course approval sought. Initial course approval expires on the last day of the 24th month after the course is approved;

(2) renewal of course approval, ~~$10~~ $40 per course. Renewal of course approval expires on the last day of the 24th month after the course is renewed;

(3) initial ~~coordinator~~ sponsor approval, $100. Initial ~~coordinator~~ sponsor approval expires on the last day of the 24th month after the coordinator is approved; and

(4) renewal of ~~coordinator~~ sponsor approval, ~~$10~~ $40. Renewal of ~~coordinator~~ sponsor approval expires on the last day of the 24th month after the ~~coordinator~~ sponsor is renewed.

Subd. 24. **Refunds.** All fees paid to the commissioner under this section are nonrefundable, except that an overpayment of a fee shall be returned upon proper application.