

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1221

03/04/2013 Authored by Dehn, R.; Isaacson; Rosenthal and Davnie
The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy
04/02/2013 Adoption of Report: Pass and Read Second Time
04/29/2013 Calendar for the Day
Read Third Time
Passed by the House and transmitted to the Senate

1.1 A bill for an act
1.2 relating to commerce; making various technical and housekeeping changes
1.3 related to staff adjusters, canceled licenses, and transfer fees; providing producer
1.4 training requirements for flood insurance products; eliminating the membership
1.5 camping license requirement; repealing an obsolete collection agency rule;
1.6 correcting cross-references; making adjustments to various dollar amounts as
1.7 required by state law; providing for a method to periodically update Minnesota
1.8 Statutes to reflect the current dollar amounts as adjusted; amending Minnesota
1.9 Statutes 2012, sections 47.59, subdivisions 3, 6; 56.12; 56.125, subdivision 2;
1.10 56.131, subdivisions 2, 6; 72B.10; 82.62, subdivision 7; 82.63, subdivision
1.11 8; 82A.06, subdivision 2; 82A.13, subdivision 1; 82A.18, subdivision 2;
1.12 82C.16, subdivision 1; 325G.22, subdivision 1; 510.02, subdivision 1; 550.37,
1.13 subdivisions 4, 4a, 6, 10, 12a, 23, 24; proposing coding for new law in Minnesota
1.14 Statutes, chapter 60K; repealing Minnesota Statutes 2012, sections 82A.16;
1.15 82A.17; Minnesota Rules, part 2870.1500.

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

1.17 ARTICLE 1

1.18 MISCELLANEOUS TECHNICAL CHANGES

1.19 Section 1. [60K.366] PRODUCER TRAINING REQUIREMENTS FOR FLOOD
1.20 INSURANCE PRODUCTS.

1.21 An individual may not sell, solicit, or negotiate flood insurance through the National
1.22 Flood Insurance Program (NFIP) unless the individual is licensed as an insurance producer
1.23 for one or more lines of authority under section 60K.38, subdivision 1, paragraph (b),
1.24 clauses (3), (4), and (6), and has in addition to the training otherwise required by this
1.25 chapter, satisfied the minimum training and education requirements established by the
1.26 Federal Emergency Management Agency (FEMA) for all insurance producers who sell
1.27 insurance through the NFIP and published at 70 Federal Register 52, 117.

2.1 Upon request of the commissioner, an issuer must demonstrate to the commissioner
 2.2 that its appointed producers who sell flood insurance through the NFIP have complied
 2.3 with the minimum training and education requirements established by FEMA.

2.4 Sec. 2. Minnesota Statutes 2012, section 72B.10, is amended to read:

2.5 **72B.10 STAFF ADJUSTERS.**

2.6 A staff adjuster who adjusts losses or claims in this state shall not be subject to
 2.7 the application, licensing, or examination requirements or other qualifications set forth
 2.8 in sections 72B.01 to 72B.14. Such a staff adjuster shall not, however, engage in any
 2.9 of the practices forbidden to a licensee under section 72B.08, subdivision 1, ~~clause~~
 2.10 clauses (3), (4), (5), (6), (7), or (8) through (15). If the commissioner has information,
 2.11 which if true, would establish that a staff adjuster has engaged or is engaging in any such
 2.12 prohibited practices, the commissioner may issue an order for a hearing to determine the
 2.13 facts involved. The order shall fix the time and place for hearing. The staff adjuster
 2.14 and one or more representatives of the insurer or insurers employing the staff adjuster
 2.15 shall make an appearance at the hearing unless the commissioner expressly waives the
 2.16 appearance of one or more such parties. If, following the hearing, the commissioner
 2.17 determines that the staff adjuster has engaged or is engaging in any prohibited practices,
 2.18 the commissioner may impose a fine, not in excess of \$500, on the staff adjuster or on the
 2.19 employing insurer or insurers, or on both such parties. In addition, the commissioner may
 2.20 order the employing insurer to suspend the staff adjuster from all duties for such period as
 2.21 the commissioner may deem appropriate.

2.22 Any final order of the commissioner shall be subject to judicial review. Any hearing
 2.23 or judicial review under this section shall be in accordance with the contested case
 2.24 provisions of chapter 14.

2.25 Sec. 3. Minnesota Statutes 2012, section 82.62, subdivision 7, is amended to read:

2.26 Subd. 7. **Cancellation Reinstatement of canceled salesperson's or broker's**
 2.27 **license.** A salesperson's or broker's license that has been canceled for failure of a licensee
 2.28 to complete postlicensing education requirements ~~must be returned to the commissioner~~
 2.29 ~~by the licensee's broker within ten days of receipt of notice of cancellation.~~ The license
 2.30 shall be reinstated without reexamination by completing the required instruction, filing
 2.31 an application, and paying the fee for a salesperson's or broker's license within two years
 2.32 of the cancellation date.

2.33 Sec. 4. Minnesota Statutes 2012, section 82.63, subdivision 8, is amended to read:

3.1 Subd. 8. **Procedure.** An application for automatic transfer shall be made only on
 3.2 the form prescribed by the commissioner. The transfer is ineffective if the form is not
 3.3 completed in its entirety.

3.4 The form shall be accompanied by a ~~\$10~~ \$20 transfer fee, and the license renewal
 3.5 fee, if applicable. Cash will not be accepted.

3.6 The signature of the broker from whom the salesperson is transferring must predate
 3.7 the signature of the broker to whom the salesperson is transferring. The salesperson is
 3.8 unlicensed for the period of time between the times and dates of both signatures. The
 3.9 broker from whom the salesperson is transferring shall sign and date the transfer application
 3.10 upon the request of the salesperson and shall destroy the salesperson's license immediately.

3.11 Sec. 5. Minnesota Statutes 2012, section 82A.06, subdivision 2, is amended to read:

3.12 Subd. 2. **Partial transactional exemptions.** The following transactions are exempt
 3.13 from the provisions of sections 82A.03; 82A.04; 82A.05; 82A.07; 82A.08; 82A.11,
 3.14 subdivisions 2 and 4; and 82A.14; ~~82A.16; and 82A.17;~~ any sale which is made to a
 3.15 person who is not then physically present in this state, and any offer which invites an
 3.16 offeree to attend a sales presentation in another state if:

3.17 (1) the offeror has given at least ten days prior written notice to the commissioner
 3.18 of its intention to offer or sell membership camping contracts to residents of this state
 3.19 pursuant to this exemption and paid a fee of \$50;

3.20 (2) the offeror has demonstrated that the sales presentation will be made, and the
 3.21 sale will be consummated, in a state which specifically regulates the offer and sale of
 3.22 membership camping contracts;

3.23 (3) the offeror has demonstrated that it will deliver a disclosure statement to offerees
 3.24 who are residents of this state which contains substantially the same or greater disclosure
 3.25 as is required by section 82A.05; and

3.26 (4) the offeror has filed a consent to service of process pursuant to section 82A.22.

3.27 Sec. 6. Minnesota Statutes 2012, section 82A.13, subdivision 1, is amended to read:

3.28 Subdivision 1. **Untrue statements filed in documents.** No person shall make
 3.29 or cause to be made any untrue statement of a material fact in an application or other
 3.30 document filed with the commissioner under this chapter, or omit to state in the application
 3.31 or other document any material fact which is required to be stated therein, or fail to
 3.32 notify the commissioner of any material change as required by ~~sections~~ section 82A.07
 3.33 ~~and 82A.16, subdivision 3.~~

4.1 Sec. 7. Minnesota Statutes 2012, section 82A.18, subdivision 2, is amended to read:

4.2 Subd. 2. **Civil penalty.** Any person who materially or repeatedly violates section
4.3 82A.03, 82A.05, 82A.09, 82A.13, or 82A.14, ~~or 82A.16~~ shall be subject to a fine of not
4.4 more than \$1,000 for each violation provided, however, that the total recovery arising from
4.5 the same failure to comply, but involving different purchasers, shall be limited to \$5,000. A
4.6 fine authorized by this subdivision may be imposed in a civil action brought by the attorney
4.7 general on behalf of the state of Minnesota, and shall be deposited into the state treasury.

4.8 Sec. 8. Minnesota Statutes 2012, section 82C.16, subdivision 1, is amended to read:

4.9 Subdivision 1. **Powers of commissioner.** (a) The commissioner may by order
4.10 take any or all of the following actions:

4.11 (1) bar a person from serving as an officer, director, partner, controlling person, or
4.12 any similar role at an appraisal management company, if such person has ever been the
4.13 subject of a final order suspending, revoking, or denying a certification, registration, or
4.14 license as a real estate agent, broker, or appraiser, or a final order barring involvement in
4.15 any industry or profession issued by this or another state or federal regulatory agency;

4.16 (2) deny, suspend, or revoke an appraisal management company license;

4.17 (3) censure an appraisal management company license; and

4.18 (4) impose a civil penalty as provided for in chapter 45.027.

4.19 (b) In order to take the action in paragraph (a), the commissioner must find:

4.20 (1) that the order is in the public interest; and

4.21 (2) that an officer, director, partner, employee, agent, controlling person or persons,
4.22 or any person occupying a similar status or performing similar functions, has:

4.23 (i) violated any provision of this chapter;

4.24 (ii) filed an application for a license that is incomplete in any material respect or
4.25 contains a statement that, in light of the circumstances under which it is made, is false or
4.26 misleading with respect to a material fact;

4.27 (iii) failed to maintain compliance with the affirmations made under section ~~80C.03~~
4.28 82C.03, subdivision 5;

4.29 (iv) violated a standard of conduct or engaged in a fraudulent, coercive, deceptive,
4.30 or dishonest act or practice, whether or not the act or practice involves the appraisal
4.31 management company;

4.32 (v) engaged in an act or practice, whether or not the act or practice involves the
4.33 business of appraisal management, appraisal assignments, or real estate mortgage related
4.34 practices, that demonstrates untrustworthiness, financial irresponsibility, or incompetence;

5.1 (vi) pled guilty, with or without explicitly admitting guilt, pled nolo contendere,
 5.2 or been convicted of a felony, gross misdemeanor, or a misdemeanor involving moral
 5.3 turpitude;

5.4 (vii) paid a civil penalty or been the subject of disciplinary action by the
 5.5 commissioner, or an order of suspension or revocation, cease and desist order, or
 5.6 injunction order, or an order barring involvement in an industry or profession issued by
 5.7 this or any other state or federal regulatory agency or government-sponsored enterprise,
 5.8 or by the secretary of Housing and Urban Development;

5.9 (viii) been found by a court of competent jurisdiction to have engaged in conduct
 5.10 evidencing gross negligence, fraud, misrepresentation, or deceit;

5.11 (ix) refused to cooperate with an investigation or examination by the commissioner;

5.12 (x) failed to pay any fee or assessment imposed by the commissioner; or

5.13 (xi) failed to comply with state and federal tax obligations.

5.14 Sec. 9. **REPEALER.**

5.15 **Subdivision 1. Membership camping licensing requirement for salespersons or**
 5.16 **brokers.** Minnesota Statutes 2012, sections 82A.16; and 82A.17, are repealed.

5.17 **Subd. 2. Collection agency license renewal; obsolete rule.** Minnesota Rules, part
 5.18 **2870.1500,** is repealed.

5.19 **ARTICLE 2**

5.20 **ADJUSTMENTS TO STATUTORY DOLLAR AMOUNTS**

5.21 Section 1. Minnesota Statutes 2012, section 47.59, subdivision 3, is amended to read:

5.22 Subd. 3. **Finance charge for loans.** (a) With respect to a loan, including a loan
 5.23 pursuant to open-end credit but excluding open-end credit pursuant to a credit card, a
 5.24 financial institution may contract for and receive a finance charge on the unpaid balance of
 5.25 the principal amount not to exceed the greater of:

5.26 (1) an annual percentage rate not exceeding 21.75 percent; or

5.27 (2) the total of:

5.28 (i) 33 percent per year on that part of the unpaid balance of the principal amount
 5.29 not exceeding ~~\$750~~ \$1,125; and

5.30 (ii) 19 percent per year on that part of the unpaid balance of the principal amount
 5.31 exceeding ~~\$750~~ \$1,125.

5.32 With respect to open-end credit pursuant to a credit card, the financial institution
 5.33 may contract for and receive a finance charge on the unpaid balance of the principal
 5.34 amount at an annual percentage rate not exceeding 18 percent per year.

6.1 (b) On a loan where the finance charge is calculated according to the method
6.2 provided for in paragraph (a), clause (2), the finance charge must be contracted for and
6.3 earned as provided in that provision or at the single annual percentage rate computed to
6.4 the nearest one-tenth of one percent that would earn the same total finance charge at
6.5 maturity of the contract as would be earned by the application of the graduated rates
6.6 provided in paragraph (a), clause (2), when the debt is paid according to the agreed terms
6.7 and the calculations are made according to the actuarial method.

6.8 (c) With respect to a loan, the finance charge must be considered not to exceed
6.9 the maximum annual percentage rate permitted under this section if the finance charge
6.10 contracted for and received does not exceed the equivalent of the maximum annual
6.11 percentage rate calculated in accordance with Code of Federal Regulations, title 12, part
6.12 226, but using the definition of finance charge provided in this section.

6.13 (d) This subdivision does not limit or restrict the manner of calculating the finance
6.14 charge, whether by way of add-on, discount, discount points, precomputed charges, single
6.15 annual percentage rate, variable rate, interest in advance, compounding, average daily
6.16 balance method, or otherwise, if the annual percentage rate does not exceed that permitted
6.17 by this section. Discount points permitted by this paragraph and not collected but included
6.18 in the principal amount must not be included in the amount on which credit insurance
6.19 premiums are calculated and charged.

6.20 (e) With respect to a loan secured by real estate, if a finance charge is calculated or
6.21 collected in advance, or included in the principal amount of the loan, and the borrower
6.22 prepays the loan in full, the financial institution shall credit the borrower with a refund of
6.23 the charge to the extent that the annual percentage rate yield on the loan would exceed the
6.24 maximum rate permitted under paragraph (a), taking into account the prepayment. The
6.25 refund need not be made if it would be less than \$5 \$7.50.

6.26 (f) With respect to all other loans, if the finance charge is calculated or collected in
6.27 advance, or included in the principal amount of the loan, and the borrower prepays the
6.28 loan in full, the financial institution shall credit the borrower with a refund of the charge to
6.29 the extent the annual percentage rate yield on the loan would exceed the annual percentage
6.30 rate on the loan as originally determined under paragraph (a) and taking into account the
6.31 prepayment. The refund need not be made if it would be less than \$5 \$7.50.

6.32 (g) For the purpose of calculating the refund under this subdivision, the financial
6.33 institution may assume that the contract was paid before the date of prepayment according
6.34 to the schedule of payments under the loan and that all payments were paid on their due
6.35 dates.

7.1 (h) For loans repayable in substantially equal successive monthly installments, the
 7.2 financial institution may calculate the refund under paragraph (f) as the portion of the
 7.3 finance charge allocable on an actuarial basis to all wholly unexpired payment periods
 7.4 following the date of prepayment, based on the annual percentage rate on the loan as
 7.5 originally determined under paragraph (a), and for the purpose of calculating the refund
 7.6 may assume that all payments are made on the due date.

7.7 (i) The dollar amounts in this subdivision ~~and~~ subdivision 6, paragraph (a), clause
 7.8 (4), and the dollar amount of original principal amount of closed-end credit in subdivision
 7.9 6, paragraph (d), shall change periodically, as provided in this section, according to and to
 7.10 the extent of changes in the implicit price deflator for the gross domestic product, 1987
 7.11 2005 = 100, compiled by the United States Department of Commerce, and hereafter
 7.12 referred to as the index. The index for December 1994 2011 is the reference base index for
 7.13 adjustments of dollar amounts.

7.14 (j) The designated dollar amounts shall change on July 1 of each even-numbered
 7.15 year if the percentage of change, calculated to the nearest whole percentage point,
 7.16 between the index for December of the preceding year and the reference base index is
 7.17 ten percent or more; but

7.18 (1) the portion of the percentage change in the index in excess of a multiple of ten
 7.19 percent shall be disregarded and the dollar amounts shall change only in multiples of ten
 7.20 percent of the amounts appearing in Laws 1995, chapter 202, on May 24, 1995; and

7.21 (2) the dollar amounts shall not change if the amounts required by this section
 7.22 are those currently in effect pursuant to Laws 1995, chapter 202, as a result of earlier
 7.23 application of this section.

7.24 (k) If the index is revised, the percentage of change pursuant to this section shall
 7.25 be calculated on the basis of the revised index. If a revision of the index changes the
 7.26 reference base index, a revised reference base index shall be determined by multiplying the
 7.27 reference base index then applicable by the rebasing factor furnished by the Department
 7.28 of Commerce. If the index is superseded, the index referred to in this section is the one
 7.29 represented by the Department of Commerce as reflecting most accurately changes in the
 7.30 purchasing power of the dollar for consumers.

7.31 (l) The commissioner shall ~~announce and publish~~:

7.32 (1) announce and publish on or before April 30 of each year in which dollar amounts
 7.33 are to change, the changes in dollar amounts required by paragraph (j); ~~and~~

7.34 (2) announce and publish promptly after the changes occur, changes in the index
 7.35 required by paragraph (k) including, if applicable, the numerical equivalent of the

8.1 reference base index under a revised reference base index and the designation or title
8.2 of any index superseding the index; and

8.3 (3) promptly notify the revisor of statutes in writing of the changes announced and
8.4 published by the commissioner pursuant to clauses (1) and (2). The revisor shall publish
8.5 the changes in the next edition of Minnesota Statutes.

8.6 (m) A person does not violate this chapter with respect to a transaction otherwise
8.7 complying with this chapter if that person relies on dollar amounts either determined
8.8 according to paragraph (j), clause (2), or appearing in the last publication of the
8.9 commissioner announcing the then current dollar amounts.

8.10 (n) The adjustments provided in this section shall not be affected unless explicitly
8.11 provided otherwise by law.

8.12 Sec. 2. Minnesota Statutes 2012, section 47.59, subdivision 6, is amended to read:

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

8.18 (1) official fees and taxes;

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

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

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

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

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

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

8.30 (v) appraisal and credit report fees; and

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

8.34 (4) a delinquency charge on a payment, including the minimum payment due in
8.35 connection with open-end credit, not paid in full on or before the tenth day after its due

9.1 date in an amount not to exceed five percent of the amount of the payment or ~~\$5.20~~ \$7.80,
9.2 whichever is greater;

9.3 (5) for a returned check or returned automatic payment withdrawal request, an
9.4 amount not in excess of the service charge limitation in section 604.113, except that, on
9.5 a loan transaction that is a consumer small loan as defined in section 47.60, subdivision
9.6 1, paragraph (a), in which cash is advanced in exchange for a personal check, the civil
9.7 penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded
9.8 or assessed against the borrower; and

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

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

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

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

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

9.34 (c) In addition to the finance charges and other additional charges permitted by
9.35 this section, a financial institution may contract for and receive the following additional

10.1 charges in connection with open-end credit, which may be included in the principal
10.2 amount of the loan or balance upon which the finance charge is computed:

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

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

10.6 (3) charges for any monthly or other periodic payment period in which the borrower
10.7 has exceeded or, except for the financial institution's dishonor would have exceeded,
10.8 the maximum approved credit limit, in an amount not in excess of the service charge
10.9 permitted in section 604.113;

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

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

10.14 (d) In addition to the finance charges and other additional charges permitted by this
10.15 section, a financial institution may contract for and receive a onetime loan administrative
10.16 fee not exceeding \$25 in connection with closed-end credit, which may be included
10.17 in the principal balance upon which the finance charge is computed. This paragraph
10.18 applies only to closed-end credit in an original principal amount of ~~\$4,320~~ \$6,480 or less.
10.19 The determination of an original principal amount must exclude the administrative fee
10.20 contracted for and received according to this paragraph.

10.21 Sec. 3. Minnesota Statutes 2012, section 56.12, is amended to read:

10.22 **56.12 ADVERTISING; TAKING OF SECURITY; PLACE OF BUSINESS.**

10.23 No licensee shall advertise, print, display, publish, distribute, or broadcast, or cause
10.24 or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any
10.25 manner any statement or representation with regard to the rates, terms, or conditions for
10.26 the lending of money, credit, goods, or things in action which is false, misleading, or
10.27 deceptive. The commissioner may order any licensee to desist from any conduct which
10.28 the commissioner shall find to be a violation of the foregoing provisions.

10.29 The commissioner may require that rates of charge, if stated by a licensee, be stated
10.30 fully and clearly in such manner as the commissioner may deem necessary to prevent
10.31 misunderstanding thereof by prospective borrowers. In lieu of the disclosure requirements
10.32 of this section and section 56.14, a licensee may give the disclosures required by the
10.33 federal Truth-in-Lending Act.

10.34 A licensee may take a lien upon real estate as security for any loan exceeding ~~\$4,320~~
10.35 \$6,480 in principal amount made under this chapter. The provisions of sections 47.20 and

11.1 47.21 do not apply to loans made under this chapter, except as provided in this section. No
 11.2 loan secured by a first lien on a borrower's primary residence shall be made pursuant to
 11.3 this section if the proceeds of the loan are used to finance the purchase of the borrower's
 11.4 primary residence, unless:

11.5 (1) the proceeds of the loan are used to finance the purchase of a manufactured
 11.6 home or a prefabricated building; or

11.7 (2) the proceeds of the loan are used in whole or in part to satisfy the balance owed
 11.8 on a contract for deed.

11.9 If the proceeds of the loan are used to finance the purchase of the borrower's
 11.10 primary residence, the licensee shall consent to the subsequent transfer of the real estate
 11.11 if the existing borrower continues after transfer to be obligated for repayment of the
 11.12 entire remaining indebtedness. The licensee shall release the existing borrower from all
 11.13 obligations under the loan instruments, if the transferee (1) meets the standards of credit
 11.14 worthiness normally used by persons in the business of making loans, including but not
 11.15 limited to the ability of the transferee to make the loan payments and satisfactorily maintain
 11.16 the property used as collateral, and (2) executes an agreement in writing with the licensee
 11.17 whereby the transferee assumes the obligations of the existing borrower under the loan
 11.18 instruments. Any such agreement shall not affect the priority, validity or enforceability
 11.19 of any loan instrument. A licensee may charge a fee not in excess of one-tenth of one
 11.20 percent of the remaining unpaid principal balance in the event the loan is assumed by
 11.21 the transferee and the existing borrower continues after the transfer to be obligated for
 11.22 repayment of the entire assumed indebtedness. A licensee may charge a fee not in excess
 11.23 of one percent of the remaining unpaid principal balance in the event the remaining
 11.24 indebtedness is assumed by the transferee and the existing borrower is released from all
 11.25 obligations under the loan instruments, but in no event shall the fee exceed ~~\$240~~ \$360.

11.26 A licensee making a loan under this chapter secured by a lien on real estate shall
 11.27 comply with the requirements of section 47.20, subdivision 8.

11.28 No licensee shall conduct the business of making loans under this chapter within any
 11.29 office, room, or place of business in which any other business is solicited or engaged in,
 11.30 or in association or conjunction therewith, if the commissioner finds that the character
 11.31 of the other business is such that it would facilitate evasions of this chapter or of the
 11.32 rules lawfully made hereunder. The commissioner may promulgate rules dealing with
 11.33 such other businesses.

11.34 No licensee shall transact the business or make any loan provided for by this chapter
 11.35 under any other name or at any other place of business than that named in the license. No
 11.36 licensee shall take any confession of judgment or any power of attorney. No licensee shall

12.1 take any note or promise to pay that does not accurately disclose the principal amount
12.2 of the loan, the time for which it is made, and the agreed rate or amount of charge, nor
12.3 any instrument in which blanks are left to be filled in after execution. Nothing herein is
12.4 deemed to prohibit the making of loans by mail or arranging for settlement and closing
12.5 of real estate secured loans by an unrelated qualified closing agent at a location other
12.6 than the licensed location.

12.7 Sec. 4. Minnesota Statutes 2012, section 56.125, subdivision 2, is amended to read:

12.8 Subd. 2. **Real estate as security.** A licensee may take a lien upon real estate as
12.9 security for any open-end loan at or after such time as the outstanding balance first exceeds
12.10 ~~\$4,320~~ \$6,480. A subsequent reduction in the balance below ~~\$4,320~~ \$6,480 has no effect
12.11 on the lien. A licensee may retain the security interest until it terminates the open-end
12.12 account. If there is no outstanding balance in the account and there is no commitment by
12.13 the licensee to a line of credit in excess of ~~\$4,320~~ \$6,480, the licensee shall, within 20
12.14 days following written demand by the borrower, deliver to the borrower a release of the
12.15 mortgage on any real property taken as security for the open-end loan agreement. A real
12.16 estate mortgage authorized for a financial institution secures all advances and obligations
12.17 thereunder from the date of recording.

12.18 Sec. 5. Minnesota Statutes 2012, section 56.131, subdivision 2, is amended to read:

12.19 Subd. 2. **Additional charges.** In addition to the charges provided for by this section
12.20 and section 56.155, and notwithstanding section 47.59, subdivision 6, to the contrary, no
12.21 further or other amount whatsoever, shall be directly or indirectly charged, contracted for,
12.22 or received for the loan made, except actual out of pocket expenses of the licensee to
12.23 realize on a security after default, and except for the following additional charges which
12.24 may be included in the principal amount of the loan:

12.25 (a) lawful fees and taxes paid to any public officer to record, file, or release security;

12.26 (b) with respect to a loan secured by an interest in real estate, the following closing
12.27 costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention
12.28 or evasion of this section; provided the costs do not exceed one percent of the principal
12.29 amount or ~~\$400~~ \$600, whichever is greater:

12.30 (1) fees or premiums for title examination, abstract of title, title insurance, surveys,
12.31 or similar purposes;

12.32 (2) fees, if not paid to the licensee, an employee of the licensee, or a person related
12.33 to the licensee, for preparation of a mortgage, settlement statement, or other documents,
12.34 fees for notarizing mortgages and other documents, and appraisal fees;

13.1 (c) the premium for insurance in lieu of perfecting and releasing a security interest to
 13.2 the extent that the premium does not exceed the fees described in paragraph (a);

13.3 (d) discount points and appraisal fees may not be included in the principal amount of
 13.4 a loan secured by an interest in real estate when the loan is a refinancing for the purpose of
 13.5 bringing the refinanced loan current and is made within 24 months of the original date of
 13.6 the refinanced loan. For purposes of this paragraph, a refinancing is not considered to be for
 13.7 the purpose of bringing the refinanced loan current if new funds advanced to the customer,
 13.8 not including closing costs or delinquent installments, exceed ~~\$1,000~~ \$1,500; and

13.9 (e) the onetime loan administrative fee in section 47.59, subdivision 6, paragraph (d).

13.10 Sec. 6. Minnesota Statutes 2012, section 56.131, subdivision 6, is amended to read:

13.11 Subd. 6. **Discount points.** A loan made under this section that is secured by real
 13.12 estate and that is in a principal amount of ~~\$12,000~~ \$18,000 or more and has a maturity
 13.13 of 60 months or more may contain a provision permitting discount points, if the loan
 13.14 does not provide a loan yield in excess of the maximum rate of interest permitted by this
 13.15 section. Loan yield means the annual rate of return obtained by a licensee computed as
 13.16 the annual percentage rate is computed under Federal Regulation Z. If the loan is prepaid
 13.17 in full, the licensee must make a refund to the borrower to the extent that the loan yield
 13.18 will exceed the maximum rate of interest provided by this section when the prepayment is
 13.19 taken into account. Discount points permitted by this subdivision and not collected but
 13.20 included in the principal amount must not be included in the amount on which credit
 13.21 insurance premiums are calculated and charged.

13.22 Sec. 7. Minnesota Statutes 2012, section 325G.22, subdivision 1, is amended to read:

13.23 Subdivision 1. **Personal liability of buyer limited.** If the seller or lender
 13.24 repossesses or voluntarily accepts surrender of personal property in which the seller or
 13.25 lender has a security interest arising out of a consumer credit transaction and the aggregate
 13.26 amount of the credit extended in the transaction was ~~\$3,000~~ \$6,900 or less, the buyer is not
 13.27 personally liable to the seller or lender for the unpaid balance of the debt arising from the
 13.28 consumer credit transaction, and the seller or lender is not obligated to resell the collateral.

13.29 Sec. 8. Minnesota Statutes 2012, section 510.02, subdivision 1, is amended to read:

13.30 Subdivision 1. **Exemption.** The homestead may include any quantity of land not
 13.31 exceeding 160 acres. The exemption per homestead, whether the exemption is claimed
 13.32 by one or more debtors, may not exceed ~~\$300,000~~ \$390,000 or, if the homestead is used

14.1 primarily for agricultural purposes, ~~\$750,000~~ \$975,000, exclusive of the limitations set
 14.2 forth in section 510.05.

14.3 Sec. 9. Minnesota Statutes 2012, section 550.37, subdivision 4, is amended to read:

14.4 Subd. 4. **Personal goods.** (a) All wearing apparel, one watch, utensils, and
 14.5 foodstuffs of the debtor and the debtor's family.

14.6 (b) Household furniture, household appliances, phonographs, radio and television
 14.7 receivers of the debtor and the debtor's family, not exceeding ~~\$4,500~~ \$10,350 in value.

14.8 (c) The debtor's aggregate interest, not exceeding ~~\$1,225~~ \$2,817.50 in value, in
 14.9 wedding rings or other religious or culturally recognized symbols of marriage exchanged
 14.10 between the debtor and spouse at the time of the marriage and in the debtor's possession.

14.11 The exemption provided by this subdivision may not be waived except with regard
 14.12 to purchase money security interests. Except for a pawnbroker's possessory lien, a
 14.13 nonpurchase money security interest in the property exempt under this subdivision is void.

14.14 If a debtor has property of the type which would qualify for the exemption under
 14.15 clause (b), of a value in excess of ~~\$4,500~~ \$10,350 an itemized list of the exempt property,
 14.16 together with the value of each item listed, shall be attached to the security agreement
 14.17 at the time a security interest is taken, and a creditor may take a nonpurchase money
 14.18 security interest in the excess over ~~\$4,500~~ \$10,350 by requiring the debtor to select the
 14.19 exemption in writing at the time the loan is made.

14.20 Sec. 10. Minnesota Statutes 2012, section 550.37, subdivision 4a, is amended to read:

14.21 Subd. 4a. **Adjustment of dollar amounts.** (a) Except for subdivisions 5 and 7, the
 14.22 dollar amounts in this section shall change periodically as provided in this subdivision to
 14.23 the extent of changes in the implicit price deflator for the gross ~~national~~ domestic product,
 14.24 ~~1972~~ 2005 = 100, compiled by the United States Department of Commerce, and hereafter
 14.25 referred to as the index. The index for December ~~1980~~ 2011 is the reference base index.

14.26 (b) The designated dollar amounts shall change on July 1 of each even-numbered
 14.27 year if the percentage of change, calculated to the nearest whole percentage point, between
 14.28 the index for December of the preceding year and the reference base index is ten percent
 14.29 or more. The portion of the percentage change in the index in excess of a multiple of ten
 14.30 percent shall be disregarded and the dollar amounts shall change only in multiples of ten
 14.31 percent of the amounts stated in this section.

14.32 (c) If the index is revised, the percentage of change pursuant to this section shall
 14.33 be calculated on the basis of the revised index. If a revision of the index changes the
 14.34 reference base index, a revised reference base index shall be determined by multiplying the

15.1 reference base index then applicable by the rebasing factor furnished by the Department
 15.2 of Commerce. If the index is superseded, the index referred to in this section is the one
 15.3 represented by the Department of Commerce as reflecting most accurately changes in the
 15.4 purchasing power of the dollar for consumers.

15.5 (d) The commissioner of commerce shall ~~announce and publish~~:

15.6 (1) announce and publish on or before April 30 of each year in which dollar amounts
 15.7 are to change, the changes in dollar amounts required by paragraph (b); ~~and~~

15.8 (2) announce and publish promptly after the changes occur, changes in the index
 15.9 required by paragraph (c) including, if applicable, the numerical equivalent of the
 15.10 reference base index under a revised reference base index and the designation or title
 15.11 of any index superseding the index; and

15.12 (3) promptly notify the revisor of statutes in writing of the changes announced and
 15.13 published by the commissioner pursuant to clauses (1) and (2). The revisor shall publish
 15.14 the changes in the next edition of Minnesota Statutes.

15.15 (e) A person does not violate this chapter with respect to a transaction otherwise
 15.16 complying with this chapter if the person relies on dollar amounts either determined
 15.17 according to paragraph (b) or appearing in the last publication of the commissioner
 15.18 announcing the then current dollar amounts.

15.19 Sec. 11. Minnesota Statutes 2012, section 550.37, subdivision 6, is amended to read:

15.20 Subd. 6. **Tools of trade.** The tools, implements, machines, instruments, office
 15.21 furniture, stock in trade, and library reasonably necessary in the trade, business, or
 15.22 profession of the debtor, not exceeding ~~\$5,000~~ \$11,500 in value.

15.23 Sec. 12. Minnesota Statutes 2012, section 550.37, subdivision 10, is amended to read:

15.24 Subd. 10. **Insurance proceeds.** All money received by, or payable to, a surviving
 15.25 spouse or child from insurance payable at the death of a spouse, or parent, not exceeding
 15.26 ~~\$20,000~~ \$46,000. The ~~\$20,000~~ \$46,000 exemption provided by this subdivision shall be
 15.27 increased by ~~\$5,000~~ \$11,500 for each dependent of the surviving spouse or child.

15.28 Sec. 13. Minnesota Statutes 2012, section 550.37, subdivision 12a, is amended to read:

15.29 Subd. 12a. **Motor vehicles.** One motor vehicle to the extent of a value not
 15.30 exceeding ~~\$2,000~~ \$4,600; or one motor vehicle to the extent of a value not exceeding
 15.31 ~~\$20,000~~ \$46,000 that has been modified, at a cost of not less than ~~\$1,500~~ \$3,450, to
 15.32 accommodate the physical disability making a disabled person eligible for a certificate
 15.33 authorized by section 169.345.

16.1 Sec. 14. Minnesota Statutes 2012, section 550.37, subdivision 23, is amended to read:

16.2 Subd. 23. **Life insurance aggregate interest.** The debtor's aggregate interest not to
16.3 exceed in value ~~\$4,000~~ \$9,200 in any accrued dividend or interest under or loan value of
16.4 any unexpired life insurance contract owned by the debtor under which the insured is the
16.5 debtor or an individual of whom the debtor is a dependent.

16.6 Sec. 15. Minnesota Statutes 2012, section 550.37, subdivision 24, is amended to read:

16.7 Subd. 24. **Employee benefits.** (a) The debtor's right to receive present or future
16.8 payments, or payments received by the debtor, under a stock bonus, pension, profit
16.9 sharing, annuity, individual retirement account, Roth IRA, individual retirement annuity,
16.10 simplified employee pension, or similar plan or contract on account of illness, disability,
16.11 death, age, or length of service, to the extent of the debtor's aggregate interest under all
16.12 plans and contracts up to a present value of ~~\$30,000~~ \$69,000 and additional amounts under
16.13 all the plans and contracts to the extent reasonably necessary for the support of the debtor
16.14 and any spouse or dependent of the debtor.

16.15 (b) The exemptions in paragraph (a) do not apply when the debt is owed under a
16.16 support order as defined in section 518A.26, subdivision 21.

16.17 Sec. 16. **EFFECTIVE DATE.**

16.18 Sections 1 to 15 are effective the day following final enactment.

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Article locations in 13-0196

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ARTICLE 2 ADJUSTMENTS TO STATUTORY DOLLAR AMOUNTS Page.Ln 5.19

82A.16 LICENSURE REQUIREMENT.

Subdivision 1. **Salesperson or broker.** A salesperson or broker may not offer or sell a membership camping contract until duly licensed under this chapter.

Subd. 2. **Fee and contents.** A salesperson or broker may apply for a license by filing a fee of \$50 and an application with the commissioner which includes the following information:

(1) the applicant's name, age, residence address, and, in the case of a salesperson, the name and place of business of the membership camping operator or broker on whose behalf the salesperson will be acting;

(2) the applicant's date and place of birth;

(3) a statement whether or not the applicant within the past ten years has been convicted of a misdemeanor or felony involving theft, fraud, or dishonesty or whether or not the applicant within the past ten years has been enjoined from, had any civil penalty assessed for, or been found to have engaged in any violation of any securities, land sales, camping, or consumer protection statutes;

(4) a statement whether or not the applicant is named as a defendant in a pending criminal indictment or proceeding involving fraud, theft, or dishonesty or is a defendant in a pending lawsuit arising out of alleged violations of securities, land sales, camping, or consumer protection statutes. A copy of the charge, complaint, or lawsuit shall be provided to the commissioner;

(5) a statement describing the applicant's employment history for the past five years and whether or not any termination of employment during the last five years was occasioned by a theft, fraud, or act of dishonesty;

(6) an affidavit certifying that the applicant is knowledgeable concerning the provisions of this section and sections 82A.05, 82A.13, and 82A.14, and any rules adopted under those sections;

(7) a statement whether or not the applicant has ever been licensed by this state or its political subdivisions to engage in any other business or profession; whether any such license has been denied, suspended, or revoked and, if so, the circumstances of the denial, suspension, or revocation;

(8) such other information as the commissioner may reasonably deem necessary to administer the provisions of sections 82A.01 to 82A.26, by rule or order.

Subd. 3. **Amendments.** Each licensee shall, within 15 days after the occurrence of any material change in the information contained in the initial application for license, file with the commissioner an amendment to the application setting forth the facts of change. The following shall be material changes requiring amendment:

(1) any termination of employment with a membership camping operator or broker;

(2) any new employment with a different membership camping operator or broker;

(3) upon any occasion when the salesperson or broker is named as a defendant in any criminal indictment or proceeding involving fraud, theft, or dishonesty or is a defendant in any pending lawsuit arising out of alleged violations of this chapter or any securities, land sales, or consumer protection statutes. A copy of the complaint or lawsuit shall be provided to the commissioner; and

(4) a change of name or address.

Subd. 4. **Salespersons.** A salesperson must be licensed to act on behalf of a registered membership camping operator or licensed broker and may not be licensed to act on behalf of more than one membership camping operator or broker in this state during the same period of time. The license of each salesperson shall be mailed to and remain in the possession of the salesperson until canceled.

Subd. 5. **Expiration.** Every license issued pursuant to this chapter shall expire on the February 28 next following the issuance of the license.

Subd. 6. **Renewal.** The license of a salesperson and broker shall be renewed annually by the filing of a form prescribed by the commissioner and payment of a fee of \$25.

Subd. 7. **Alternative system.** Notwithstanding the provisions of subdivisions 5 and 6, the commissioner may institute a system by rule pursuant to chapter 14 to provide three-year licenses from the date of issuance for any license prescribed by this section.

Subd. 8. **Responsibility of operator.** Each membership camping operator or broker shall be responsible for any violations of section 82A.13 or 82A.14 by any and all of its salespersons while acting as its agents in connection with the offer or sale of membership camping contracts. Unless the broker is liable for such violations pursuant to section 82A.19, subdivision 2, the

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operator's or broker's liability under this subdivision shall be limited to rescission and refund of the purchaser's payments for the membership camping contract.

82A.17 DENIAL; SUSPENSION; REVOCATION OF LICENSES.

Subdivision 1. **Grounds.** The commissioner may by order deny a license application, suspend or revoke any license, or may censure a licensee on finding that the order is in the public interest, and that the applicant or licensee:

(1) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent or deceptive practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the membership camping contract business or any other statute designed to protect consumers; or

(4) has materially or intentionally violated or failed to comply with any provision of this chapter or any rule or order under this chapter.

Subd. 2. **Order to show cause.** The commissioner shall issue an order requiring a licensee or applicant for a license to show cause why the license should not be revoked or suspended, or the licensee censured, or the application denied. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. If the commissioner finds that there are reasonable grounds to believe that, unless an order is issued promptly, there is an immediate and significant risk of harm to purchasers, the commissioner may by order summarily suspend a license pending final determination of any order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits shall be held within 30 days of the issuance of the order of suspension. All hearings shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making such disposition of the matter as the facts require. If the licensee or applicant fails to appear at a hearing of which that person has been duly notified, the person shall be deemed in default, and the proceeding may be determined against that person upon consideration of the order to show cause, the allegations of which may be deemed to be true.

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2870.1500 LICENSE RENEWAL.

Subpart 1. **Forms.** The division will supply license renewal forms.

Subp. 2. **Submission.** Completion of forms specified in subpart 1 and submission to the division must be made at least 45 days prior to expiration date on the license.