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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4034

02/22/2024 Authored by Cha, Wolgamott, Harder, Pfarr, Xiong and others
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy
03/21/2024 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to commerce; establishing consumer protections with respect to residential
1.3 real estate; amending Minnesota Statutes 2022, section 45.011, subdivision 1;
proposing coding for new law in Minnesota Statutes, chapters 65A; 332; 513;
repealing Minnesota Statutes 2022, section 332.3351.

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

1.7 Section 1. Minnesota Statutes 2022, section 45.011, subdivision 1, is amended to read:

1.8 Subdivision 1. Scope. As used in chapters 45 to 80C, 80E to 83, 155A, 216C, 332, 332A,
1.9 332B, 345, and 359, and sections 81A.22 to 81A.37; 123A.21, subdivision 7, paragraph
1.10 (a), clause (23); 123A.25; 325D.30 to 325D.42; 326B.802 to 326B.885; 386.62 to 386.78;
1.11 471.617; and 471.982; and 513.80, unless the context indicates otherwise, the terms defined
1.12 in this section have the meanings given them.

1.13 Sec. 2. [65A.3025] CONDOMINIUM AND TOWNHOUSE POLICIES;
1.14 COORDINATION OF BENEFITS FOR LOSS ASSESSMENT.

1.15 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.16 the meanings given.

1.17 (b) "Association" has the meaning given in section 515B.1-103, clause (4).

1.18 (c) "Unit owner" has the meaning given in section 515B.1-103, clause (37).

1.19 Subd. 2. Loss assessment. (a) If a loss assessment is charged by an association to an
1.20 individual unit owner, the insurance policy in force at the time of the assessable loss must
1.21 pay the loss assessment, up to the limits provided in the policy, notwithstanding any policy

2.1 provisions regarding when loss assessment coverage accrues, and subject to any other terms,
2.2 conditions, and exclusions in the policy, if the following conditions are met:

2.3 (1) the unit owner at the time of the assessable loss is the owner of the property listed
2.4 on the policy at the time the loss assessment is charged; and

2.5 (2) the insurance policy in force at the time of the assessable loss provides loss assessment
2.6 coverage.

2.7 (b) If a loss assessment is charged by an association to an individual unit owner, the
2.8 insurance policy in force at the time the loss assessment is charged must pay the assessment,
2.9 up to the limits provided in the policy, notwithstanding any policy provisions regarding
2.10 when loss assessment coverage accrues, and subject to any other terms, conditions, and
2.11 exclusions in the policy, if the following conditions are met:

2.12 (1) the unit owner at the time the loss assessment is charged is different than the unit
2.13 owner at the time of the assessable loss; and

2.14 (2) the insurance policy in force at the time the loss assessment is charged provides loss
2.15 assessment coverage.

2.16 (c) For a loss assessment under paragraph (b), an insurer may require evidence
2.17 documenting that the transfer of ownership occurred prior to the assessment before the
2.18 insurer affords coverage.

2.19 **Sec. 3. [332.3352] WAIVER OF LICENSING AND REGISTRATION.**

2.20 The commissioner of commerce may, by order, waive the licensing and registration
2.21 requirements of this chapter for a nonresident collection agency and its affiliated collectors
2.22 if: (1) a written reciprocal licensing agreement is in effect between the commissioner and
2.23 the licensing officials of the collection agency's home state; and (2) the collection agency
2.24 is licensed in good standing in that state.

2.25 **Sec. 4. [513.80] RESIDENTIAL REAL ESTATE SERVICE AGREEMENTS;**
2.26 **UNFAIR SERVICE AGREEMENTS.**

2.27 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
2.28 the meanings given.

2.29 (b) "County recorder" has the meaning given in section 13.045, subdivision 1.

2.30 (c) "Person" means natural persons, corporations both foreign and domestic, trusts,
2.31 partnerships both limited and general, incorporated or unincorporated associations,

3.1 companies, business entities, and any other legal entity or any other group associated in fact
3.2 although not a legal entity or any agent, assignee, heir, employee, representative, or servant
3.3 thereof.

3.4 (d) "Record" or "recording" means placement of a document or instrument in the official
3.5 county public land records.

3.6 (e) "Residential real property" means real property that is located in Minnesota and
3.7 occupied, or intended to be occupied, by one to four families as their residence.

3.8 (f) "Service agreement" means a contract under which a person agrees to provide real
3.9 estate broker services, as defined in section 82.55, subdivision 19, in connection with the
3.10 purchase or sale of residential real property.

3.11 (g) "Service provider" means an individual or entity that provides services to a person
3.12 pursuant to a service agreement.

3.13 Subd. 2. **Unfair service agreements; prohibition.** (a) A service agreement subject to
3.14 this section is unfair and prohibited if any part of the agreement provides an exclusive right
3.15 to a service provider for a term in excess of one year after the time the service agreement
3.16 is entered into and:

3.17 (1) purports to run with the land or to be binding on future owners of interests in the real
3.18 property;

3.19 (2) allows for assignment of the right to provide service without notice to and consent
3.20 of the residential real property's owner, including a contract for deed vendee;

3.21 (3) is recorded or purports to create a lien, encumbrance, or other real property security
3.22 interest; or

3.23 (4) contains a provision that purports to automatically renew the agreement upon its
3.24 expiration.

3.25 (b) The following are not unfair service agreements under this section:

3.26 (1) a home warranty or similar product that covers the cost of maintaining a major home
3.27 system or appliance for a fixed period;

3.28 (2) an insurance contract;

3.29 (3) a mortgage loan or a commitment to make or receive a mortgage loan;

3.30 (4) an option or right of refusal to purchase a residential real property;

4.1 (5) a declaration of any covenants, conditions, or restrictions created in the formation
4.2 of a homeowners association, a group of condominium owners, or other common interest
4.3 community or an amendment to the covenants, conditions, or restrictions;

4.4 (6) a maintenance or service agreement entered by a homeowners association in a
4.5 common interest community;

4.6 (7) a security agreement governed by chapter 336 that relates to the sale or rental of
4.7 personal property or fixtures; or

4.8 (8) a contract with a gas, water, sewer, electric, telephone, cable, or other utility service
4.9 provider.

4.10 (c) This section does not impair any lien right granted under Minnesota law or that is
4.11 judicially imposed.

4.12 **Subd. 3. Recording prohibited.** (a) A person is prohibited from:

4.13 (1) presenting or sending an unfair service agreement or notice or memorandum of an
4.14 unfair service agreement to any county recorder to record; or

4.15 (2) causing an unfair service agreement or notice or memorandum of an unfair service
4.16 agreement to be recorded by a county recorder.

4.17 (b) If a county recorder records an unfair service agreement, the county recorder does
4.18 not incur liability.

4.19 (c) If an unfair service agreement is recorded, the recording does not create a lien or
4.20 provide constructive notice to any third party, bona fide purchaser, or creditor.

4.21 **Subd. 4. Unfair service agreements unenforceable.** A service agreement that is unfair
4.22 under this section is unenforceable and does not create a contractual obligation or relationship.
4.23 Any waiver of a consumer right, including a right to trial by jury, in an unfair service
4.24 agreement is void.

4.25 **Subd. 5. Unfair service agreements; solicitation.** Encouraging any consumer to enter
4.26 into an unfair service agreement by any service provider constitutes:

4.27 (1) an unfair method of competition; and

4.28 (2) an unfair or deceptive act or practice under sections 82.81, subdivision 12, paragraph
4.29 (c), and 325F.69.

5.1 Subd. 6. **Enforcement authority.** (a) This section may be enforced by the attorney
5.2 general under section 8.31, except that any private cause of action brought under subdivision
5.3 7 is subject to the limitation under subdivision 7, paragraph (d).

5.4 (b) The commissioner of commerce may enforce this section with respect to a service
5.5 provider's real estate license.

5.6 Subd. 7. **Remedies.** (a) A consumer that is party to an unfair service agreement related
5.7 to residential real property or a person with an interest in the property that is the subject of
5.8 that agreement may bring an action under section 8.31 or 325F.70 in district court in the
5.9 county where the property is located.

5.10 (b) If an unfair service agreement or a notice or memorandum of an unfair service
5.11 agreement is recorded against any residential real property, any judgment obtained under
5.12 this section, after being certified by the clerk having custody of the unfair service agreement
5.13 or notice or memorandum of the unfair service agreement, may be recorded and indexed
5.14 against the real property encumbered or clouded by the unfair service agreement.

5.15 (c) The remedies provided under this section are not exclusive and do not reduce any
5.16 other rights or remedies a party may have in equity or in law.

5.17 (d) No private action may be brought under this section more than six years after the
5.18 date the term printed in the unfair service agreement expires.

5.19 **Sec. 5. REPEALER.**

5.20 Minnesota Statutes 2022, section 332.3351, is repealed.

332.3351 EXEMPTION FROM LICENSURE.

A collection agency shall be exempt from the licensing and registration requirements of this chapter if all of the following conditions are met:

- (1) the agency is located in another state that regulates and licenses collection agencies, but does not require a Minnesota collection agency to obtain a license to collect debts in the agency's state if the agency's collection activities are limited in the same manner;
- (2) the agency's collection activities are limited to collecting debts not incurred in this state from consumers located in this state; and
- (3) the agency's collection activities in Minnesota are conducted by means of interstate communications, including telephone, mail, electronic mail, or facsimile transmission.