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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 593

01/26/2017 Authored by O'Driscoll, Applebaum and Allen
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to real estate appraisers; changing requirements relating to investigations,
1.3 background checks, and disciplinary actions; amending Minnesota Statutes 2016,
1.4 sections 13.411, by adding a subdivision; 82B.07; 82B.08, subdivision 2a; 82B.20,
1.5 by adding a subdivision; 82B.24, by adding a subdivision; proposing coding for
1.6 new law in Minnesota Statutes, chapter 82B.

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

1.8 Section 1. Minnesota Statutes 2016, section 13.411, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 10. Real estate appraisers. Data relating to disciplinary actions involving real
1.11 estate appraisers are classified under section 82B.20, subdivision 4.

1.12 Sec. 2. Minnesota Statutes 2016, section 82B.07, is amended to read:

1.13 82B.07 POWERS OF THE COMMISSIONER.

1.14 The commissioner shall:

- 1.15 (1) receive applications for licenses;
1.16 (2) establish the procedures for processing applications for licensing;
1.17 (3) issue a license for appraisers;
1.18 (4) maintain a registry of the names and addresses of people licensed under this chapter;
1.19 (5) keep records and all application materials submitted to the commissioner;
1.20 (6) conduct investigations of allegations of noncompliance and initiate formal complaints
1.21 under section 82B.072;

2.1 (7) deny, revoke, and suspend licenses; and

2.2 (8) take other actions necessary to carry out the purposes of this chapter.

2.3 Sec. 3. **[82B.072] ALLEGATIONS OF NONCOMPLIANCE AND FORMAL**
 2.4 **COMPLAINTS.**

2.5 Subdivision 1. Allegation of noncompliance. (a) An allegation that a license holder is
 2.6 in noncompliance with a requirement of this chapter must:

2.7 (1) be in writing;

2.8 (2) include information that is independently verifiable; and

2.9 (3) include a copy of the appraisal report or other document containing an error or
 2.10 violation of a requirement of this chapter.

2.11 (b) The commissioner may investigate an allegation of noncompliance only if the
 2.12 allegation meets the requirements of this section. The commissioner must not describe an
 2.13 allegation of noncompliance as a complaint unless the commissioner initiates a formal
 2.14 complaint under subdivision 2.

2.15 Subd. 2. Formal complaint. The commissioner may initiate a formal complaint, using
 2.16 all powers and remedies available to the commissioner under this chapter or any other law,
 2.17 against the license holder if investigation of the allegation produces evidence of
 2.18 noncompliance with this chapter.

2.19 Sec. 4. Minnesota Statutes 2016, section 82B.08, subdivision 2a, is amended to read:

2.20 Subd. 2a. **Criminal history record check; fingerprints.** (a) An applicant for a an initial
 2.21 license must:

2.22 (1) consent to a criminal history record check;

2.23 (2) submit a fingerprint card in a form acceptable to the commissioner; and

2.24 (3) pay the fee required to perform criminal history record checks with the Minnesota
 2.25 Bureau of Criminal Apprehension and the Federal Bureau of Investigation.

2.26 (b) The commissioner may contract for the collection and transmission of fingerprints
 2.27 required under this chapter and may order the fee for collecting and transmitting fingerprints
 2.28 to be payable directly to the contractor by the applicant. The commissioner may agree to a
 2.29 reasonable fingerprinting fee to be charged by the contractor.

3.1 (c) The commissioner shall submit the applicant's fingerprints, consent, and the required
 3.2 fee to the superintendent of the Bureau of Criminal Apprehension. The superintendent shall
 3.3 perform a check of the state criminal history repository and is authorized to exchange the
 3.4 applicant's fingerprints with the Federal Bureau of Investigation to obtain the national
 3.5 criminal history record. The superintendent shall return the results of the state and national
 3.6 criminal history records checks to the commissioner.

3.7 ~~(d) This subdivision applies to~~ An applicant for ~~an initial license or a renewal of a license~~
 3.8 must disclose, in a form acceptable to the commissioner, any crimes involving moral turpitude
 3.9 or that are substantially related to the qualifications, functions, or duties of the profession
 3.10 of real estate appraiser that the applicant has been convicted of or pled guilty or nolo
 3.11 contendere to, as provided in this paragraph. An applicant renewing a license is only required
 3.12 to disclose events that occurred since the license was issued if this is the applicant's first
 3.13 license renewal, or, since the license was renewed if this is a subsequent renewal.

3.14 (e) If the commissioner has a reasonable belief that a renewal applicant has not provided
 3.15 a complete and accurate disclosure of the information required by paragraph (d), then the
 3.16 commissioner may require the applicant to submit the information described in paragraph
 3.17 (g).

3.18 (f) The commissioner may randomly select renewal applicants and require the applicants
 3.19 to provide the information described in paragraph (g).

3.20 (g) An applicant for a renewal license who has been selected by the commissioner under
 3.21 paragraph (e) or (f) must:

3.22 (1) consent to a criminal history record check;

3.23 (2) submit a fingerprint card in a form acceptable to the commissioner; and

3.24 (3) pay the fee required to perform criminal history record checks with the Minnesota
 3.25 Bureau of Criminal Apprehension and the Federal Bureau of Investigation.

3.26 Sec. 5. Minnesota Statutes 2016, section 82B.20, is amended by adding a subdivision to
 3.27 read:

3.28 Subd. 4. **Time limitations.** (a) If more than five years have passed from the date on
 3.29 which a licensed real estate appraiser completes a disciplinary action under subdivision 1,
 3.30 then:

3.31 (1) the commissioner shall not consider the action that resulted in the disciplinary action
 3.32 as part of any new enforcement action; and

4.1 (2) notwithstanding section 13.41, all investigative data and the entire record concerning
4.2 the disciplinary action is private data, as defined in section 13.02, subdivision 12.

4.3 (b) Paragraph (a) does not apply to disciplinary actions:

4.4 (1) that resulted in the denial, suspension, revocation, or surrender in lieu of revocation
4.5 of a license;

4.6 (2) due to a violation of section 82B.20, subdivision 2, clause (4); or

4.7 (3) due to a violation of section 82B.03, subdivision 1.

4.8 Sec. 6. Minnesota Statutes 2016, section 82B.24, is amended by adding a subdivision to
4.9 read:

4.10 Subd. 4. **Time limitations.** (a) A private right of action must be commenced the earlier
4.11 of:

4.12 (1) six years from the date the appraisal services giving rise to the cause of action were
4.13 performed or should have been performed;

4.14 (2) six years from the date the appraisal giving rise to the cause of action was completed
4.15 or should have been completed; or

4.16 (3) the expiration of any other applicable statute of limitations.

4.17 (b) Paragraph (a), clauses (1) and (2), do not apply when the person alleges that an injury
4.18 occurred due to:

4.19 (1) knowing and intentional fraud; or

4.20 (2) knowing and intentional misrepresentation during the performance of an appraisal.

4.21 Sec. 7. **EFFECTIVE DATE.**

4.22 Sections 1 to 6 are effective August 1, 2017, and apply to appraisals performed on or
4.23 after that date.