A bill for an act

relating to state government; regulating various licensees and other entities; regulating various insurance coverages and practices; modifying definitions, informational requirements, continuing education requirements, information reporting requirements, and notice requirements; making various housekeeping, technical, and clarifying changes; authorizing certain flexible benefit health plans; regulating insurance continuation provisions for local government employees; regulating securities; reorganizing and modifying various provisions relating to real estate brokers, salespersons, and closing agents; modifying the membership requirements of, and appointment authority to, the real estate appraiser advisory board; regulating certain workers' compensation self-insurers; modifying the eligibility criteria for a University Promise Scholarship; authorizing and conditioning the issuance of certain on-sale liquor licenses; modifying certain lien notices; requiring a certain study; amending Minnesota Statutes 2008, sections 45.0112; 60A.031, subdivision 4; 60A.084; 60A.204; 60A.36, by adding a subdivision; 60K.31, subdivision 10; 61A.092, subdivision 3; 62A.046, subdivision 6, by adding a subdivision; 62A.17, subdivision 5; 62A.3099, subdivision 17; 62A.65, subdivision 2; 62E.02, subdivision 15; 62E.14, subdivision 4c; 62L.05, subdivision 4; 62S.24, subdivision 8; 62S.266, subdivision 4; 62S.29, subdivision 1; 72A.08, subdivision 4; 72A.12, subdivision 4; 72A.20, subdivisions 10, 36, 37; 72A.492, subdivision 2; 72A.51, subdivision 2; 72B.01; 72B.08, subdivision 8; 79A.03, subdivision 8; 79A.06, subdivision 5; 79A.21, subdivision 3; 80A.41; 80A.46; 80A.65, subdivision 6; 82.17, subdivision 15, by adding subdivisions; 82.19; 82.21, subdivision 2; 82.24, subdivision 3; 82.29, subdivisions 4, 5, 8; 82.31, subdivisions 1, 2; 82.33, subdivisions 1, 2, by adding a subdivision; 82.34, subdivisions 1, 2, 4, 5, 13; 82.39; 82.41, subdivisions 1, 2, by adding a subdivision; 82.45, subdivision 3, by adding subdivisions; 82.48, subdivisions 2, 3; 82B.05, as amended; 82B.06; 82B.14; 326.3382, subdivision 3; 326B.33, subdivision 16; 326B.46, by adding a subdivision; 326B.56, subdivision 2; 326B.86, subdivision 2; 326B.921, subdivision 6; 327B.04, subdivision 4; 332.34; 340A.409, subdivision 1; 471.61, subdivision 2b; 514.20; Minnesota Statutes 2009 Supplement, sections 45.027, subdivision 1; 45.30, subdivision 4; 60A.39, subdivisions 1, 4, 5; 60A.9572, subdivision 6; 60K.361; 62A.3099, subdivision 18; 65A.29, subdivision 13; 72B.03, subdivision 2; 72B.045, subdivision 1; 72B.06; 82.31, subdivision 4; 82.32; 137.0225; 326B.46, subdivision 2; 340A.404, subdivision 4a; Laws 2007, chapter 147, article 12, section 14; proposing coding for new law in Minnesota Statutes, chapters 62L; 82; 137; 332; repealing Minnesota Statutes 2008, sections 62L.056; 72B.04; 82.19, subdivision 3; 82.22, subdivisions 1, 6, 7, 8, 9;

82.31, subdivision 6; 82.34, subdivision 16; 82.41, subdivisions 3, 7; 332.31, subdivision 7; 332.335; Minnesota Statutes 2009 Supplement, sections 65B.133, subdivision 3; 72B.02, subdivision 11.

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

Section 1. Minnesota Statutes 2008, section 45.0112, is amended to read:

45.0112 STREET AND E-MAIL ADDRESSES REQUIRED.

Licensees or applicants for licenses issued by the commissioner shall provide to the commissioner a residence telephone number, a street address where the licensee actually resides, ~~and~~ a street address where the licensee's business is physically located, and a current e-mail address for business use. ~~A post office box address is not sufficient to satisfy this requirement.~~ The individual shall notify the department of any change in street address, e-mail address for business use, or residence telephone number within ten days.

Sec. 2. Minnesota Statutes 2009 Supplement, section 45.027, subdivision 1, is amended to read:

Subdivision 1. **General powers.** In connection with the duties and responsibilities entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the duties and responsibilities entrusted to the commissioner;

(4) conduct investigations and hold hearings for the purpose of compiling information related to the duties and responsibilities entrusted to the commissioner;

(5) examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner;

(7) require any person subject to duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction; and

(8) assess a ~~licensee~~ natural person or entity subject to the jurisdiction of the commissioner the necessary expenses of the investigation performed by the department when an investigation is made by order of the commissioner. The cost of the investigation shall be determined by the commissioner and is based on the salary cost of investigators or assistants and at an average rate per day or fraction thereof so as to provide for the total cost of the investigation. All money collected must be deposited into the general fund. A natural person licensed under chapter 60K or 82 shall not be charged costs of an investigation if the investigation results in no finding of a violation. This clause does not apply to a natural person or entity already subject to the assessment provisions of sections 60A.03 and 60A.031.

Sec. 3. Minnesota Statutes 2009 Supplement, section 45.30, subdivision 4, is amended to read:

Subd. 4. **Credit earned.** (a) Upon completion of approved courses, students must earn one hour of continuing education credit for each hour approved by the commissioner. Continuing education courses must be attended in their entirety in order to receive credit for the number of approved hours.

(b) Qualified instructors will earn three hours of continuing education credit for each classroom hour of approved instruction that they deliver (1) independently, or (2) as part of a team presentation in a course of two hours or less, if they attend the course in its entirety. For licensees other than appraisers, no more than half of the continuing education hours required for renewal of a license may be earned as a qualified instructor at the rate of three hours of continuing education credit for each classroom hour of approved instruction. For licensed appraisers, no more than one-half of the continuing education hours required for renewal of a license may be earned as a qualified instructor. No credit will be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

(c) A licensee must not receive credit for more than eight hours of continuing education in one day.

Sec. 4. Minnesota Statutes 2008, section 60A.031, subdivision 4, is amended to read:

Subd. 4. **Examination report; foreign and domestic companies.** (a) The commissioner shall make a full and true report of every examination conducted pursuant to this chapter, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the testimony of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of the company, applicant, organization, or person subject to this chapter and (2) a summary of important points noted in the report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in the examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in the name of the state against the company, applicant, organization, or person upon the facts stated therein.

(b) No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which provides the company examined with a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to matters contained in the examination report.

(c) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with the written submissions or rebuttals and the relevant portions of the examiner's workpapers and enter an order:

(1) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation;

(2) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling the report as required under paragraph (b); or

(3) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d)(1) All orders entered under paragraph (c), clause (1), must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of

the examination report, relevant examiner workpapers, and any written submissions or rebuttals. The order is a final administrative decision and may be appealed as provided under chapter 14. The order must be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) A hearing conducted under paragraph (c), clause (3), by the commissioner or authorized representative, must be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order as required under paragraph (c), clause (1).

(3) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing must proceed expeditiously. Discovery by the company is limited to the examiner's workpapers which tend to substantiate assertions in a written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of witnesses or the production of documents considered relevant to the investigation whether under the control of the department, the company, or other persons. The documents produced must be included in the record. Testimony taken by the commissioner or the commissioner's representative must be under oath and preserved for the record.

This section does not require the department to disclose information or records which would indicate or show the existence or content of an investigation or activity of a criminal justice agency.

(4) The hearing must proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination may be conducted only by the commissioner or the commissioner's representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

(e)(1) Upon the adoption of the examination report under paragraph (c), clause (1), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days except as otherwise provided in paragraph (b). Thereafter, the commissioner may open the report for public inspection if a court of competent jurisdiction has not stayed its publication.

(2) Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the reports, to the Commerce Department or the insurance department of another state or country, or to law enforcement officials of this or another state or agency of the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this subdivision.

(3) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate proceedings or actions as provided by law.

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this subdivision, or in the course of market analysis, must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in paragraph (e). Access may also be granted to the National Association of Insurance Commissioners (NAIC), the ~~National Association of Securities Dealers~~ Financial Industry Regulatory Authority, and any national securities association registered under the Securities Exchange Act of 1934. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained. For purposes of this section, "market analysis" means a process whereby market conduct surveillance personnel collect and analyze information from filed schedules, surveys, required reports, such as the NAIC Market Conduct Annual Statement, or other sources in order to develop a baseline profile of an insurer, review the operation or activity of an insurer, or to identify patterns or practices of insurers licensed to do business in this state that deviate significantly from the norm or that may pose a potential risk to the insurance consumer.

Sec. 5. Minnesota Statutes 2008, section 60A.084, is amended to read:

60A.084 NOTIFICATION ON GROUP POLICIES.

An employer providing life or health benefits may not change benefits, limit coverage, or otherwise restrict participation until the certificate holder or enrollee has been notified of any changes, limitations, or restrictions. Notice in a format which meets the requirements of the ~~Employee Retirement Income Security Act, United States Code Annotated, title 29, sections 1001 to 1461,~~ United States Department of Labor is satisfactory for compliance with this section.

Sec. 6. Minnesota Statutes 2008, section 60A.204, is amended to read:

60A.204 ~~ADDITIONAL CHARGES AND~~ FEES AND COMMISSIONS.

~~Subdivision 1. **Placement fees.** A surplus lines licensee may charge, in addition to the premium charged by an eligible or ineligible surplus lines insurer, a fee to cover the cost incurred in the placement of the policy which exceeds $25, but only to the extent that the actual additional cost incurred for services performed by persons or entities unrelated to the licensee exceeds that amount.~~

~~Subd. 2. **Regulation of fees.**~~ A surplus lines licensee may charge a fee ~~charged pursuant to subdivision 1 shall~~ and commission, in addition to the premium, that is not ~~be~~ excessive or discriminatory. The licensee shall maintain complete documentation of all fees and commissions charged. ~~Those fees shall not be included as part of the premium for purposes of the computation of the premium taxes.~~

~~Subd. 3. **Commission charges.** Notwithstanding the provisions of subdivision 1, a licensee may add a commission charge if the insurer quotes a rate net of commission and the commission is not excessive or discriminatory.~~

Sec. 7. Minnesota Statutes 2008, section 60A.36, is amended by adding a subdivision to read:

Subd. 2a. **Third-party notices.** An insurer shall provide notice to a third party if:

(1) the policyholder has, separately from the certificate, notified the insurer of the identity of the third party; and

(2) the third party is a licensing authority authorized by statute to receive the notice or a state, city, or county governmental unit on whose behalf the insured is providing services.

Sec. 8. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 1, is amended to read:

Subdivision 1. **Issuance.** A licensed insurer or insurance producer may provide to a third party a certificate of insurance which documents insurance coverage. ~~The purpose of~~ For the purposes of this chapter, a certificate of insurance is ~~to provide~~ a document that provides evidence of property or liability insurance coverage and the amount of insurance issued, and does not convey any contractual rights to the certificate holder.

Sec. 9. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 4, is amended to read:

Subd. 4. **Cancellation notice.** A certificate provided to a third party must not provide for notice of cancellation that exceeds the statutory notice of cancellation provided to the policyholder or a period of notice specified in the policy.

Sec. 10. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 5, is amended to read:

Subd. 5. **Filing.** An insurer not using the standard ACORD or ISO form "Certificate of Insurance" shall file with the commissioner, prior to its use, ~~the form of certificate or memorandum of insurance coverage that will be used~~ a similar alternative "Certificate of Insurance" covering the same information for use by the insurer. Filed forms may not be amended at the request of a third party.

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

Sec. 11. Minnesota Statutes 2009 Supplement, section 60A.9572, subdivision 6, is amended to read:

Subd. 6. **Disclosures.** The applicant shall provide information on forms required by the commissioner. The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders who hold more than ten percent of the shares of the company, partners, officers, members, and employees, and the commissioner may, in the exercise of the commissioner's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member of the legal entity who may materially influence the applicant's conduct meets the standards of sections 60A.957 to 60A.9585.

Sec. 12. Minnesota Statutes 2008, section 60K.31, subdivision 10, is amended to read:

Subd. 10. **Limited lines insurance.** "Limited lines insurance" means those lines of insurance defined in section 60K.38, subdivision 1, paragraph (c), or any other line of insurance that the commissioner considers necessary to recognize for the purposes of complying with section 60K.39, subdivision ~~5~~ 6.

Sec. 13. Minnesota Statutes 2009 Supplement, section 60K.361, is amended to read:

60K.361 INSURANCE EDUCATION.

(a) Prelicense education must consist of 20 hours of education per line of authority.

(b) The ~~first ten hours~~ course must ~~be~~ include an introduction to insurance and insurance-related concepts covering all of the major lines of authority except variable life and variable annuities. The course must consist of the following:

(1) rules, regulations, and law;

(2) basic fundamentals of insurance;

(3) property:

(i) types of policies;

(ii) policy provisions;

(iii) perils, exclusions, deductibles, and liability; and

(iv) evaluating needs;

(4) casualty:

(i) types of policies;

(ii) policy provisions;

(iii) perils, exclusions, deductibles, and liability; and

(iv) evaluating needs;

(5) life:

(i) types of policies;

(ii) policy provisions; and

(iii) group insurance; and

(6) accident and health:

(i) types of policies;

(ii) policy provisions; and

(iii) group insurance.

(c) ~~The second ten hours of insurance prelicense education must be composed of~~ Courses that cover a specific major line of authority ~~and consist of~~ must include the following:

(1) life:

(i) types of life insurance policies; and

(ii) Minnesota laws, rules, and regulations pertinent to life insurance;

(2) accident and health:

(i) types of health insurance policies; and

(ii) Minnesota laws, rules, and regulations pertinent to accident and health insurance;

(3) property:

(i) personal lines;

(ii) commercial lines; and

(iii) Minnesota laws, rules, and regulations pertinent to property insurance.

(4) casualty:

(i) personal lines;

(ii) commercial lines; and

(iii) Minnesota laws, rules, and regulations pertinent to casualty insurance; and

(5) personal lines:

(i) types of property/casualty personal lines insurance policies; and

(ii) Minnesota laws, rules, and regulations pertinent to property/casualty personal lines insurance.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 14. Minnesota Statutes 2008, section 61A.092, subdivision 3, is amended to read:

Subd. 3. **Notice of options.** Upon termination of or layoff from employment of a covered employee, the employer shall inform the employee within 14 days after termination or layoff of:

(1) the employee's right to elect to continue the coverage;

(2) the amount the employee must pay monthly to the employer to retain the coverage;

(3) the manner in which and the office of the employer to which the payment to the employer must be made; and

(4) the time by which the payments to the employer must be made to retain coverage.

The employee has 60 days within which to elect coverage. The 60-day period shall begin to run on the date coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

If the covered employee or covered dependent dies during the 60-day election period and before the covered employee makes an election to continue or reject continuation, then the covered employee will be considered to have elected continuation of coverage. The beneficiary previously selected by the former employee or covered dependent would then be entitled to a death benefit equal to the amount of insurance that could have been continued less any unpaid premium owing as of the date of death.

Notice must be in writing and sent by first class mail to the employee's last known address which the employee has provided to the employer.

A notice in substantially the following form is sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group insurance benefits, in an amount equal to the amount of insurance in effect on the date you terminated or were laid off from employment, for a period of up to 18 months. To do so, you must notify your former employer within 60 days of your receipt of this notice that you intend to retain this

coverage and must make a monthly payment of $..... at ..... by the ..... of each month."

Sec. 15. Minnesota Statutes 2008, section 62A.046, subdivision 6, is amended to read:

Subd. 6. **Coordination of benefits.** Insurers, vendors of risk management services, nonprofit health service plan corporations, fraternals, and health maintenance organizations may coordinate benefits to prohibit greater than 100 percent coverage when an insured, subscriber, or enrollee is covered by both an individual and a group contract providing coverage for hospital and medical treatment or expenses. Benefits coordinated under this paragraph must provide for 100 percent coverage of an insured, subscriber, or enrollee. To the extent appropriate, all coordination of benefits provisions currently applicable by law or rule to insurers, vendors of risk management services, nonprofit health service plan corporations, fraternals, and health maintenance organizations, shall apply to coordination of benefits between individual and group contracts~~, except that the group contract shall always be the primary plan~~. Notwithstanding the definition of "plan" in Minnesota Rules, part 2742.0200, subpart 2, and in Minnesota Rules, part 4685.0910, subpart 7, an individual contract must coordinate benefits with a group contract under this subdivision consistent with applicable coordination of benefit rules. When a covered person's other coverage is Medicare or TRICARE, a health plan company must determine primacy and coordinate benefits in accordance with the Medicare Secondary Payor or TRICARE provisions of federal law. This paragraph does not apply to specified accident, hospital indemnity, specified disease, or other limited benefit insurance policies.

Sec. 16. Minnesota Statutes 2008, section 62A.046, is amended by adding a subdivision to read:

Subd. 7. **High-deductible health plans.** If a health carrier is advised by a covered person that all health plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in section 223(c)(2)(C) of the Internal Revenue Code of 1986.

Sec. 17. Minnesota Statutes 2008, section 62A.17, subdivision 5, is amended to read:

Subd. 5. **Notice of options.** Upon the termination of or lay off from employment of an eligible employee, the employer shall inform the employee within ~~ten~~ 14 days after termination or lay off of:

~~(a)~~ (1) the right to elect to continue the coverage;

~~(b)~~ (2) the amount the employee must pay monthly to the employer to retain the coverage;

~~(c)~~ (3) the manner in which and the office of the employer to which the payment to the employer must be made; and

~~(d)~~ (4) the time by which the payments to the employer must be made to retain coverage.

If the policy, contract, or health care plan is administered by a trust, the employer is relieved of the obligation imposed by clauses ~~(a)~~ (1) to ~~(d)~~ (4). The trust shall inform the employee of the information required by clauses ~~(a)~~ (1) to ~~(d)~~ (4).

The employee shall have 60 days within which to elect coverage. The 60-day period shall begin to run on the date plan coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

Notice must be in writing and sent by first class mail to the employee's last known address which the employee has provided the employer or trust.

A notice in substantially the following form shall be sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group medical insurance for a period of up to 18 months. To do so you must notify your former employer within 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of $..... to ..... at ..... by the ..... of each month."

Sec. 18. Minnesota Statutes 2008, section 62A.3099, subdivision 17, is amended to read:

Subd. 17. **Medicare-related coverage.** "Medicare-related coverage" means a policy, contract, or certificate issued as a supplement to Medicare, regulated under sections 62A.3099 to 62A.44, including Medicare select coverage; policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations; or policies, contracts, or certificates governed by section 1833 (known as ~~"cost" or~~ "HCPP" contracts) or 1876 (known as ~~"TEFRA" or "risk"~~ "Cost" contracts) of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended; or Section 4001 of the Balanced Budget Act of 1997 (BBA)(Public Law 105-33), Sections 1851 to 1859 of the Social Security Act establishing Part C of the Medicare program, known as the "Medicare Advantage program."

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 19. Minnesota Statutes 2009 Supplement, section 62A.3099, subdivision 18, is amended to read:

Subd. 18. **Medicare supplement policy or certificate.** "Medicare supplement policy or certificate" means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations, other than those policies or certificates covered by section ~~1833~~ 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., or an issued policy under a demonstration project specified under amendments to the federal Social Security Act, which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare or as a supplement to Medicare Advantage plans established under Medicare Part C. "Medicare supplement policy" does not include Medicare Advantage plans established under Medicare Part C, outpatient prescription drug plans established under Medicare Part D, ~~or~~ any health care prepayment plan that provides benefits under an agreement under section 1833(a)(1)(A) of the Social Security Act, or any policy issued to an employer or employers or to the trustee of a fund established by an employer where only employees or retirees, and dependents of employees or retirees, are eligible for coverage, or any policy issued to a labor union or similar employee organization.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 20. Minnesota Statutes 2008, section 62A.65, subdivision 2, is amended to read:

Subd. 2. **Guaranteed renewal.** No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the health plan provides that the plan is guaranteed renewable at a premium rate that does not take into account the claims experience or any change in the health status of any covered person that occurred after the initial issuance of the health plan to the person. The premium rate upon renewal must also otherwise comply with this section. A health carrier must not refuse to renew an individual health plan ~~prior to enrollment in Medicare Parts A and B~~, except for nonpayment of premiums, fraud, or misrepresentation.

Sec. 21. Minnesota Statutes 2008, section 62E.02, subdivision 15, is amended to read:

Subd. 15. **Medicare.** "Medicare" means ~~part A and part B of the United States Social Security Act, title XVIII, as amended, United States Code, title 42, sections 1394, et seq.~~ the Health Insurance for the Aged Act, title XVIII of the Social Security Amendments

of 1965, United States Code, title 42, sections 1395 to 1395hhh, as amended, or title I, part I, of Public Law 89-97, as amended.

Sec. 22. Minnesota Statutes 2008, section 62E.14, subdivision 4c, is amended to read:

Subd. 4c. **Waiver of preexisting conditions for persons whose coverage is terminated or who exceed the maximum lifetime benefit.** (a) A Minnesota resident may enroll in the comprehensive health plan with a waiver of the preexisting condition limitation described in subdivision 3 if that persons's application for coverage is received by the writing carrier no later than 90 days after termination of prior coverage and if the termination is for reasons other than fraud or nonpayment of premiums.

For purposes of this paragraph, termination of prior coverage includes exceeding the maximum lifetime benefit of existing coverage.

Coverage in the comprehensive health plan is effective on the date of termination of prior coverage. The availability of conversion rights does not affect a person's rights under this paragraph.

This section does not apply to prior coverage provided under policies designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or policies providing only accident coverage.

(b) An eligible individual, as defined under the Health Insurance Portability and Accountability Act (HIPAA), United States Code, chapter 42, section 300gg-41(b) may enroll in the comprehensive health insurance plan with a waiver of the preexisting condition limitation described in subdivision 3 and a waiver of the evidence of rejection or similar events described in subdivision 1, clause (c). The eligible individual must apply for enrollment under this paragraph by submitting a substantially complete application that is received by the writing carrier no later than 63 days after termination of prior coverage, and coverage under the comprehensive health insurance plan is effective as of the date of receipt of the complete application. The six-month durational residency requirement provided in section 62E.02, subdivision 13, does not apply with respect to eligibility for enrollment under this paragraph, but the applicant must be a Minnesota resident as of the date that the application was received by the writing carrier. A person's eligibility to enroll under this paragraph does not affect the person's eligibility to enroll under any other provision.

(c) A qualifying individual, as defined in the Internal Revenue Code of 1986, section 35(e)(2)(B), who is eligible under the Federal Trade Act of 2002 for the ~~credit~~ Health Coverage Tax Credit (HCTC) for health insurance costs under the Internal Revenue Code of 1986, section 35, may enroll in the comprehensive health insurance plan with a waiver

of the preexisting condition limitation described in subdivision 3, and without presenting evidence of rejection or similar requirements described in subdivision 1, paragraph (c). The six-month durational residency requirement provided in section 62E.02, subdivision 13, does not apply with respect to eligibility for enrollment under this paragraph, but the applicant must be a Minnesota resident as of the date of application. A person's eligibility to enroll under this paragraph does not affect the person's eligibility to enroll under any other provision. This paragraph is intended solely to meet the minimum requirements necessary to qualify the comprehensive health insurance plan as qualified health coverage under the Internal Revenue Code of 1986, section 35(e)(2).

Sec. 23. Minnesota Statutes 2008, section 62L.05, subdivision 4, is amended to read:

Subd. 4. **Benefits.** The medical services and supplies listed in this subdivision are the benefits that must be covered by the small employer plans described in subdivisions 2 and 3. Benefits under this subdivision may be provided through the managed care procedures practiced by health carriers:

(1) inpatient and outpatient hospital services, excluding services provided for the diagnosis, care, or treatment of chemical dependency or a mental illness or condition, other than those conditions specified in clauses (10)~~,~~ and (11)~~, and (12)~~. The health care services required to be covered under this clause must also be covered if rendered in a nonhospital environment, on the same basis as coverage provided for those same treatments or services if rendered in a hospital, provided, however, that this sentence must not be interpreted as expanding the types or extent of services covered;

(2) physician, chiropractor, and nurse practitioner services for the diagnosis or treatment of illnesses, injuries, or conditions;

(3) diagnostic x-rays and laboratory tests;

(4) ground transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition, or as otherwise required by the health carrier;

(5) services of a home health agency if the services qualify as reimbursable services under Medicare;

(6) services of a private duty registered nurse if medically necessary, as determined by the health carrier;

(7) the rental or purchase, as appropriate, of durable medical equipment, other than eyeglasses and hearing aids, unless coverage is required under section 62Q.675;

(8) child health supervision services up to age 18, as defined in section 62A.047;

(9) maternity and prenatal care services, as defined in sections 62A.041 and 62A.047;

(10) inpatient hospital and outpatient services for the diagnosis and treatment of certain mental illnesses or conditions, as defined by the International Classification of Diseases-Clinical Modification (ICD-9-CM), seventh edition (1990) and as classified as ICD-9 codes 295 to 299; and

~~(11) ten hours per year of outpatient mental health diagnosis or treatment for illnesses or conditions not described in clause (10);~~

~~(12) 60 hours per year of outpatient treatment of chemical dependency; and~~

~~(13)~~ (11) 50 percent of eligible charges for prescription drugs, up to a separate annual maximum out-of-pocket expense of $1,000 per individual for prescription drugs, and 100 percent of eligible charges thereafter.

Sec. 24. **[62L.0561] FLEXIBLE BENEFITS PLANS.**

Subdivision 1. **Definitions.** For the purposes of this section, the terms used in this section have the meanings defined in section 62Q.01, except that "health plan" includes individual coverage and group coverage for employer plans with up to 100 employees.

Subd. 2. **Flexible benefits plan.** Notwithstanding any provision of this chapter, chapter 363A, or any other law to the contrary, a health plan company may offer, sell, issue, and renew a health plan that is a flexible benefits plan under this section if the following requirements are satisfied:

(1) the health plan must be offered in compliance with the laws of this state, except as otherwise permitted in this section;

(2) the health plan must be designed to enable covered persons to better manage costs and coverage options through the use of co-pays, deductibles, and other cost-sharing arrangements;

(3) the health plan may modify or exclude any or all coverages of benefits that would otherwise be required by law, except for maternity benefits and other benefits required under federal law;

(4) each health plan and plan's premiums must be approved by the commissioner of health or commerce, whichever is appropriate under section 62Q.01, subdivision 2, but neither commissioner may disapprove a plan on the grounds of a modification or exclusion permitted under clause (3); and

(5) prior to the sale of the health plan, the purchaser must be given a written list of the coverages otherwise required by law that are modified or excluded in the health plan. The list must include a description of each coverage in the list and indicate whether the coverage is modified or excluded. If coverage is modified, the list must describe the modification. The list may, but is not required to, also list any or all coverages otherwise

required by law that are included in the health plan and indicate that they are included. The health plan company must require that a copy of this written list be provided, prior to the effective date of the health plan, to each enrollee or employee who is eligible for health coverage under the plan.

Subd. 3. **Employer health plan.** An employer may provide a health plan permitted under this section to its employees, the employees' dependents, and other persons eligible for coverage under the employer's plan, notwithstanding chapter 363A or any other law to the contrary.

EFFECTIVE DATE. This section is effective January 1, 2012.

Sec. 25. Minnesota Statutes 2008, section 62S.24, subdivision 8, is amended to read:

Subd. 8. **Exchange for long-term care partnership policy; addition of policy rider.** (a) ~~If authorized by federal law or a federal waiver is granted~~ With respect to the long-term care partnership program referenced in section 256B.0571, issuers of long-term care policies may voluntarily exchange a current long-term care insurance policy for a long-term care partnership policy that meets the requirements of Public Law 109-171, section 6021, after the effective date of the state plan amendment implementing the partnership program in this state. The exchange may be in the form of: (1) an amendment or rider; or (2) a disclosure statement indicating that the coverage is now partnership qualified.

(b) ~~If authorized by federal law or a federal waiver is granted~~ With respect to the long-term care partnership program referenced in section 256B.0571, ~~allowing~~ to allow an existing long-term care insurance policy to qualify as a partnership policy by addition of a policy rider or amendment or disclosure statement, the issuer of the policy is authorized to add the rider or amendment or disclosure statement to the policy after the effective date of the state plan amendment implementing the partnership program in this state.

(c) The commissioner, in cooperation with the commissioner of human services, shall pursue any federal law changes or waivers necessary to allow the implementation of paragraphs (a) and (b).

Sec. 26. Minnesota Statutes 2008, section 62S.266, subdivision 4, is amended to read:

Subd. 4. **Contingent benefit upon lapse.** (a) After rejection of the offer required under subdivision 2, for individual and group policies without nonforfeiture benefits issued after July 1, 2001, the insurer shall provide a contingent benefit upon lapse.

(b) If a group policyholder elects to make the nonforfeiture benefit an option to the certificate holder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(c) The contingent benefit on lapse must be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium based on the insured's issue age provided in this paragraph, and the policy or certificate lapses within 120 days of the due date of the premium increase. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
29 and Under	200
30-34	190
35-39	170
40-44	150
45-49	130
50-54	110
55-59	90
60	70
61	66
62	62
63	58
64	54
65	50
66	48
67	46
68	44
69	42
70	40
71	38
72	36
73	34
74	32
75	30
76	28
77	26
78	24
79	22
80	20
81	19

82	18
83	17
84	16
85	15
86	14
87	13
88	12
89	11
90 and over	10

(d) A contingent benefit on lapse must also be triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within 120 days of the due date of the premium so increased, and the ratio in paragraph ~~(c)~~ (f), clause (2), is 40 percent or more. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

This provision shall be in addition to the contingent benefit provided by paragraph (c) and where both are triggered, the benefit provided must be at the option of the insured.

(e) On or before the effective date of a substantial premium increase as defined in paragraph (c), the insurer shall:

(1) offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(2) offer to convert the coverage to a paid-up status with a shortened benefit period according to the terms of subdivision 5. This option may be elected at any time during the 120-day period referenced in paragraph (c); and

(3) notify the policyholder or certificate holder that a default or lapse at any time during the 120-day period referenced in paragraph (c) is deemed to be the election of the offer to convert in clause (2).

(f) On or before the effective date of a substantial premium increase as defined in paragraph (d), the insurer shall:

(1) offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(2) offer to convert the coverage to a paid-up status where the amount payable for each benefit is 90 percent of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the 120-day period referenced in paragraph (d); and

(3) notify the policyholder or certificate holder that a default or lapse at any time during the 120-day period referenced in paragraph (d) shall be deemed to be the election of the offer to convert in clause (2) if the ratio is 40 percent or more.

Sec. 27. Minnesota Statutes 2008, section 62S.29, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** An insurer or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

(1) establish marketing procedures and agent training requirements to assure that any marketing activities, including any comparison of policies by its agents or other producers, are fair and accurate;

(2) establish marketing procedures to assure excessive insurance is not sold or issued;

(3) display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy, the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.";

(4) provide copies of the disclosure forms required in section 62S.081, subdivision 4, to the applicant;

(5) inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has long-term care insurance and the types and amounts of the insurance;

(6) establish auditable procedures for verifying compliance with this subdivision;

(7) if applicable, provide written notice to the prospective policyholder and certificate holder, at solicitation, that a senior insurance counseling program approved by the commissioner, the Senior LinkAge Line, is available and the name, address, and telephone number of the program;

(8) use the terms "noncancelable" or "level premium" only when the policy or certificate conforms to section 62S.14; and

(9) provide an explanation of contingent benefit upon lapse provided for in section 62S.266.

Sec. 28. Minnesota Statutes 2009 Supplement, section 65A.29, subdivision 13, is amended to read:

Subd. 13. **Notice of possible cancellation.** (a) A written notice must be provided to all applicants for homeowners' insurance, at the time the application is submitted, containing the following language in bold print: "THE INSURER MAY ELECT TO CANCEL COVERAGE AT ANY TIME DURING THE FIRST ~~60~~ 59 DAYS FOLLOWING ISSUANCE OF THE COVERAGE FOR ANY REASON WHICH IS NOT SPECIFICALLY PROHIBITED BY STATUTE."

(b) If the insurer provides the notice on the insurer's Web site, the insurer or agent may advise the applicant orally or in writing of its availability for review on the insurer's Web site in lieu of providing a written notice, if the insurer advises the applicant of the availability of a written notice upon the applicant's request. The insurer shall provide the notice in writing if requested by the applicant. An oral notice shall be presumed delivered if the agent or insurer makes a contemporaneous notation in the applicant's record of the notice having been delivered or if the insurer or agent retains an audio recording of the notification provided to the applicant.

Sec. 29. Minnesota Statutes 2008, section 72A.08, subdivision 4, is amended to read:

Subd. 4. **Exceptions.** (a) The provisions of this section shall not apply to any policy procured by officers, agents, subagents, employees, intermediaries, or representatives wholly and solely upon property of which they are, respectively, the owner at the time of procuring the policy, where the officers, agents, subagents, employees, intermediaries, or representatives are, and have been for more than six months prior to the issuing of the policy, regularly employed by, or connected with, the company or association issuing the policy; and any life insurance company doing business in this state may issue industrial policies of life or endowment insurance, with or without annuities, with special rates of premiums less than the usual rates of premiums for these policies, to members of labor organizations, credit unions, lodges, beneficial societies, or similar organizations, or employees of one employer, who, through their secretary or employer, may take out insurance in an aggregate of not less than 50 members and pay their premiums through the secretary or employer.

(b) A promotional advertising item of $25 or less or a gift of $25 or less per year is not a rebate if the receipt of the item or gift is not conditioned upon purchase of an insurance policy or product.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 30. Minnesota Statutes 2008, section 72A.12, subdivision 4, is amended to read:

Subd. 4. **Discrimination; rebates.** (a) No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insurants of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company or any officer, agent, solicitor, or representative thereof pay, allow or give, or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the policy contract of insurance.

Any violation of the provisions of this subdivision shall be a misdemeanor and punishable as such.

(b) A promotional advertising item of $25 or less or a gift of $25 or less per year is not a rebate if the receipt of the item or gift is not conditioned upon purchase of an insurance policy or product.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 31. Minnesota Statutes 2008, section 72A.20, subdivision 10, is amended to read:

Subd. 10. **Rebates.** (a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, annuity, or accident and health insurance, or agreement as to such contract, other than as plainly expressed in the contract issued thereon, or paying or allowing or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving or selling or purchasing, or offering to give, sell,

or purchase, as inducement to such insurance or annuity, or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract, shall constitute an unfair method of competition and an unfair and deceptive act or practice.

(b) A promotional advertising item of $25 or less or a gift of $25 or less per year is not a rebate if the receipt of the item or gift is not conditioned upon purchase of an insurance policy or product.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 32. Minnesota Statutes 2008, section 72A.20, subdivision 36, is amended to read:

Subd. 36. **Limitations on the use of credit information.** (a) No insurer or group of affiliated insurers may reject, cancel, or nonrenew a policy of private passenger motor vehicle insurance as defined under section 65B.01 or a policy of homeowner's insurance as defined under section 65A.27, for any person in whole or in part on the basis of credit information, including a credit reporting product known as a "credit score" or "insurance score," without consideration and inclusion of any other applicable underwriting factor.

(b) If credit information, credit scoring, or insurance scoring is to be used in underwriting, the insurer must disclose to the consumer that credit information will be obtained and used as part of the insurance underwriting process.

(c) Insurance inquiries and non-consumer-initiated inquiries must not be used as part of the credit scoring or insurance scoring process.

(d) If a credit score, insurance score, or other credit information relating to a consumer, with respect to the types of insurance referred to in paragraph (a), is adversely impacted or cannot be generated because of the absence of a credit history, the insurer must exclude the use of credit as a factor in the decision to reject, cancel, or nonrenew.

(e) Insurers must upon the request of a policyholder reevaluate the policyholder's score. Any change in premium resulting from the reevaluation must be effective upon the renewal of the policy. An insurer is not required to reevaluate a policyholder's score pursuant to this paragraph more than twice in any given calendar year.

(f) Insurers must upon request of the applicant or policyholder provide reasonable underwriting exceptions based upon prior credit histories for persons whose credit information is unduly influenced by expenses related to a catastrophic injury or illness, temporary loss of employment, or the death of an immediate family member. The insurer may require reasonable documentation of these events prior to granting an exception.

(g) A credit scoring or insurance scoring methodology must not be used by an insurer if the credit scoring or insurance scoring methodology incorporates the gender, race, nationality, or religion of an insured or applicant.

(h) Insurers that employ a credit scoring or insurance scoring system in underwriting of coverage described in paragraph (a) must have on file with the commissioner:

(1) the insurer's credit scoring or insurance scoring methodology; and

(2) information that supports the insurer's use of a credit score or insurance score as an underwriting criterion.

(i) Insurers described in paragraph ~~(g)~~ (h) shall file the required information with the commissioner within 120 days of August 1, 2002, or prior to implementation of a credit scoring or insurance scoring system by the insurer, if that date is later.

(j) Information provided by, or on behalf of, an insurer to the commissioner under this subdivision is trade secret information under section 13.37.

Sec. 33. Minnesota Statutes 2008, section 72A.20, subdivision 37, is amended to read:

Subd. 37. **Electronic transmission of required information.** (a) A health carrier, as defined in section 62A.011, subdivision 2, is not in violation of this chapter for electronically transmitting or electronically making available information otherwise required to be delivered in writing under chapters 62A to 62Q and 72A to an enrollee as defined in section 62Q.01, subdivision 2a, or to a health plan as defined in paragraph (b), and with the requirements of those chapters if the following conditions are met:

(1) the health carrier informs the group policyholder or the enrollee or both that electronic transmission or access is available and, at the discretion of the health carrier, the enrollee is given one of the following options:

(i) electronic transmission or access will occur only if the group policyholder or the enrollee or both affirmatively requests to the health carrier that the required information be electronically transmitted or available and a record of that request is retained by the health carrier; or

(ii) electronic transmission or access will automatically occur if the group policyholder or the enrollee or both has not opted out of that manner of transmission by request to the health carrier and requested that the information be provided in writing. If the group policyholder or the enrollee or both opts out of electronic transmission, a record of that request must be retained by the health carrier;

(2) the group policyholder or the enrollee or both is allowed to withdraw the request at any time;

(3) if the information transmitted electronically contains individually identifiable data, it must be transmitted to a secured mailbox. If the information made available electronically contains individually identifiable data, it must be made available at a password-protected secured Web site;

(4) the group policyholder or the enrollee or both is provided a customer service number on the enrollee's member card that may be called to request a written copy of the document; and

(5) the electronic transmission or electronic availability meets all other requirements of this chapter including, but not limited to, size of the typeface and any required time frames for distribution.

(b) For the purpose of this section, "health plan" means a health plan as defined in section 62A.011 or a policy of accident and sickness insurance as defined in section 62A.01.

Sec. 34. Minnesota Statutes 2008, section 72A.492, subdivision 2, is amended to read:

Subd. 2. **Covered persons.** The rights granted by sections 72A.49 to 72A.505 extend to~~:~~

~~(1)~~ a person who is ~~a resident of this state and is~~ the subject of information collected, received, or maintained in connection with an insurance transaction~~;~~ and

~~(2) a person~~ who is a resident of this state ~~and engages in or seeks to engage in an insurance transaction~~.

Sec. 35. Minnesota Statutes 2008, section 72A.51, subdivision 2, is amended to read:

Subd. 2. **Return of policy or contract; notice.** Any individual person may cancel an individual policy of insurance against loss or damage by reason of the sickness of the assured or the assured's dependents, a nonprofit health service plan contract providing benefits for hospital, surgical and medical care, a health maintenance organization subscriber contract, or a policy of insurance authorized by section 60A.06, subdivision 1, clause (4), except Medicare-related coverage as defined in section 62A.3099, subdivision 17, and long-term care insurance as defined in section 62S.01, subdivision 18, by returning the policy or contract and by giving written notice of cancellation any time before midnight of the tenth day following the date of purchase. Notice of cancellation may be given personally or by mail. The policy or contract may be returned personally or by mail. If by mail, the notice or return of the policy or contract is effective upon being postmarked, properly addressed and postage prepaid.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 36. Minnesota Statutes 2008, section 72B.01, is amended to read:

72B.01 PURPOSE AND SCOPE.

It is the purpose of sections 72B.01 to 72B.14 to provide high quality service to insureds and insurance claimants in the state of Minnesota by providing for well trained adjusters and persons engaged in soliciting business for adjusters, who are qualified to deal with the public in the interest of a fair resolution of insurance claims. ~~Sections 72B.01 to 72B.14 shall apply to all adjusters, and adjusters' solicitors, except as specifically stated to the contrary; but nothing in sections 72B.01 to 72B.14 shall apply to:~~

~~(a) An attorney at law who is licensed or otherwise allowed to practice law in this state and who does not hold out to be an adjuster, or adjuster's solicitor.~~

~~(b) A licensed agent of an authorized insurer who adjusts losses for such insurer solely under policies issued by the agent or the agent's agency or on which the agent is the agent of record, provided the agent receives no extra compensation for such services.~~

~~(c) Personnel of township mutual companies.~~

~~(d) Adjusters for crop hail and farm windstorm damage claims who are on the staff of companies covering such risks.~~

~~(e) Persons who process life insurance annuity contract or accident and health insurance claims.~~

~~(f) Persons processing or adjusting wet marine or inland transportation claims or losses.~~

Sec. 37. Minnesota Statutes 2009 Supplement, section 72B.03, subdivision 2, is amended to read:

Subd. 2. **Classes of licenses.** (a) Unless denied licensure pursuant to section 72B.08, persons who have met the requirements of section ~~72B.04~~ 72B.041 must be issued an adjuster license. There shall be four classes of licenses, as follows:

(1) independent adjuster's license;

(2) public adjuster's license;

(3) public adjuster solicitor's license; and

(4) crop hail adjuster's license.

(b) An independent adjuster and a public adjuster may qualify for a license in one or more of the following lines of authority:

(1) property and casualty; or

(2) workers' compensation; or

(3) crop.

(c) Any person holding a license pursuant to this section is not required to hold any other independent adjuster, public adjuster, insurance, or self-insurance administrator license in this state pursuant to section 60A.23, subdivision 8, or any other provision, provided that the person does not act as an adjuster with respect to life, health, or annuity insurance, other than disability insurance.

(d) An adjuster license remains in effect unless probated, suspended, revoked, or refused as long as the fee set forth in section ~~72B.04, subdivision 10~~ 72B.041, subdivision 9, is paid and all other requirements for license renewal are met by the due date, otherwise, the license expires.

(e) An adjuster whose license expires may, within 12 months of the renewal date, be reissued an adjuster license upon receipt of the renewal request, as prescribed by the commissioner; however, a penalty in the amount of double the unpaid renewal fee is required to reissue the expired license.

(f) An adjuster who is unable to comply with license renewal procedures and requirements due to military service, long-term medical disability, or some other extenuating circumstance may request a waiver of same and a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

(g) An adjuster is subject to sections 72A.17 to 72A.32.

(h) The adjuster must inform the commissioner by any means acceptable of any change in resident or business addresses for the home state or in legal name within 30 days of the change.

(i) The license must contain the licensee's name, address, and personal identification number; the dates of issuance and expiration; and any other information the commissioner deems necessary.

(j) In order to assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, to perform any ministerial functions related to licensing that the commissioner may deem appropriate, including the collection of fees and data.

Sec. 38. Minnesota Statutes 2009 Supplement, section 72B.045, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** An individual who holds an independent or public adjuster license and who is not exempt under this section must satisfactorily complete a minimum of 24 hours of continuing education courses, of which three hours must

be in ethics, reported to the commissioner on a biennial basis in conjunction with the individual's license renewal cycle.

Sec. 39. Minnesota Statutes 2009 Supplement, section 72B.06, is amended to read:

72B.06 CATASTROPHE OR EMERGENCY SITUATIONS.

(a) ~~In the event of a declared catastrophe or the occurrence of an emergency situation,~~ For purposes of this chapter, a catastrophe exists when, due to a specific, infrequent, and sudden natural or man-made disaster or phenomenon, there have arisen losses to property in Minnesota that are covered by insurance, and the losses are so numerous and severe that resolution of claims related to such covered property losses will not occur expeditiously without the licensing of emergency independent adjusters due to the magnitude of the catastrophic damage. A failure of claims to be resolved expeditiously shall exist upon an insurer's filing with the department a written statement that one of the following conditions exists: (1) the insurer expects to incur at least 500 claims as a result of the event; or (2) the magnitude of the event is expected to generate twice the mean number of claims for one month for the affected area. Such written statement may be sent electronically to the commissioner. An insurer must notify the commissioner via ~~an application for~~ registration of each ~~individual~~ independent adjuster not already licensed in ~~the state where the catastrophe has been declared or an emergency situation has occurred~~ Minnesota, that will act as an emergency independent adjuster on behalf of the insurer pursuant to paragraph (b).

(b) A person who is otherwise qualified to adjust claims, but not already licensed in ~~the state where the catastrophe has been declared or an emergency situation has occurred~~ Minnesota, may act as an emergency independent adjuster and adjust claims, if, within five days of deployment to adjust claims arising from the ~~declared~~ catastrophe ~~or the occurrence of an emergency situation~~, the insurer or the independent adjuster's employer, in the notification required by paragraph (a), notifies the commissioner by providing the following information in a format prescribed by the commissioner:

(1) the name of the individual;

(2) the Social Security number of the individual;

(3) the name of the insurer the independent adjuster will represent;

(4) the effective date of the contract between the insurer and independent adjuster or the independent adjuster's employer;

(5) the catastrophe~~, emergency situation, or~~ loss control number;

(6) the catastrophe ~~or emergency situation event~~ name; and

(7) other information the commissioner deems necessary.

(c) An emergency independent adjuster's license or registration remains in force for ~~the period of time established by the commissioner~~ 180 days; such license or registration shall be effective for all catastrophes described in paragraph (a), clauses (1) and (2). Such license or registration may be extended for 180 days.

The commissioner may summarily suspend or revoke the right of any person adjusting in this state under the authority of this section to continue to adjust in this state, if the commissioner finds that that person has engaged in any of the practices forbidden to a licensed adjuster under sections 72B.01 to 72B.14. Notice of such suspension or revocation may be given personally or by mail sent to the temporary address stated in the registration and to the insurer or independent adjusting firm company who submitted the independent adjuster information.

Sec. 40. Minnesota Statutes 2008, section 72B.08, subdivision 8, is amended to read:

Subd. 8. **Bond.** In the case of any licensee or permit holder who has had a license or permit suspended or revoked or whose license renewal has been prohibited by a lawful order of the commissioner, the commissioner may condition the issuance of a new license on the filing of a surety bond in an amount not to exceed $10,000, made and conditioned in accordance with the requirements of section ~~72B.04, subdivision 4~~ 72B.041, subdivision 3, relating to public adjusters' bonds. Nothing in this subdivision shall reduce or alter the bonding requirements for a public adjuster.

Sec. 41. Minnesota Statutes 2008, section 79A.03, subdivision 8, is amended to read:

Subd. 8. **Processing application.** The commissioner shall grant or deny the group's application to self-insure within 60 days after a complete application has been filed, provided that the time may be extended for an additional 30 days upon 15 days' prior notice to the applicant. The commissioner shall grant approval for self-insurance upon a determination that the financial ability of the self-insurer's group is sufficient to fulfill all joint and several obligations of the member companies that may arise under chapter 176 or this chapter; the gross annual premium of the group members is at least ~~$300,000~~ 150 percent of the WCRA minimum retention in effect at the time of the application; the group has established a fund pursuant to Minnesota Rules, parts 2780.4100 to 2780.5000; the group has contracted with a licensed workers' compensation service company to administer its program; and the required securities or surety bond shall be on deposit prior to the effective date of coverage for any member. Approval shall be effective until revoked by order of the commissioner or until the employer members of the group become insured.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to applications processed on or after that date, but not to self-insured groups existing as of that date.

Sec. 42. Minnesota Statutes 2008, section 79A.06, subdivision 5, is amended to read:

Subd. 5. **Private employers who have ceased to be self-insured.** (a) Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the entire period the employer was self-insured, whether or not reported during that period, the policy will:

(i) discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy;

(ii) discharge any obligation which the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period; and

(iii) discharge the obligations of the employer to pay any future assessments to the self-insurers' security fund; provided, however, that a member that terminates its self-insurance authority on or after August 1, 2010, shall be liable for an assessment under paragraph (b). The actuarial opinion shall not take into consideration any transfer of the member's liabilities to an insurance policy if the member obtains a replacement policy as described in this subdivision within one year of the date of terminating its self-insurance.

A private employer who has ceased to be a private self-insurer may instead buy an insurance policy described above, except that it covers only a portion of the period of time during which the private employer was self-insured; purchase of such a policy discharges any obligation that the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period for which the policy provides coverage, whether or not reported during that period.

A policy described in this clause may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (i) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (ii) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

(b) With respect to a self-insurer who terminates its self-insurance authority after April 1, 1998, that member shall obtain and file with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society within 120 days of the date of its termination. If the actuarial opinion is not timely filed, the self-insurers' security fund may, at its discretion, engage the services of an actuary for this purpose. The expense of this actuarial opinion must be assessed against and be the obligation of the self-insurer. The commissioner may issue a certificate of default against the self-insurer for failure to pay this assessment to the self-insurers' security fund as provided by section 79A.04, subdivision 9. The opinion ~~must separate liability for indemnity benefits from liability from medical benefits, and must~~ may discount ~~each~~ liabilities up to four percent per annum to net present value. Within ~~30~~ 60 days after notification of approval of the actuarial opinion by the commissioner, the exiting member shall pay to the security fund an amount ~~equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment before termination~~ determined as follows: a percentage will be determined by dividing the security fund's members' deficit as determined by the most recent audited financial statement of the security fund by the total actuarial liability of all members of the security fund as calculated by the commissioner within 30 days of the exit date of the member. This quotient will then be multiplied by that exiting member's total future liability as contained in the exiting member's actuarial opinion. If the payment is not made within 30 days of the notification, interest on it at the

rate prescribed by section 549.09 must be paid by the former member to the security fund until the principal amount is paid in full.

(c) A former member who terminated its self-insurance authority before April 1, 1998, who has paid assessments to the self-insurers' security fund for seven years, and whose annualized assessment is $15,000 or less, may buy out of its outstanding liabilities to the self-insurers' security fund by an amount calculated as follows: 1.35 multiplied by the indemnity case reserves at the time of the calculation, multiplied by the then current self-insurers' security fund annualized assessment rate.

(d) A former member who terminated its self-insurance authority before April 1, 1998, and who is paying assessments within the first seven years after ceasing to be self-insured under paragraph (a), clause (3), may elect to buy out its outstanding liabilities to the self-insurers' security fund by obtaining and filing with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability for medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment.

(e) A former member who has paid the security fund according to paragraphs (b) to (d) and subsequently receives authority from the commissioner to again self-insure shall be assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries that occurred after the former member received authority to self-insure again; provided that the member furnishes verified data regarding those benefits to the security fund.

(f) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to terminations of self-insurance authority that become effective on or after that date.

Sec. 43. Minnesota Statutes 2008, section 79A.21, subdivision 3, is amended to read:

Subd. 3. **Approval.** The commissioner shall approve an application for self-insurance upon a determination that all of the following conditions are met:

(1) a completed application and all required documents have been submitted to the commissioner;

(2) the financial ability of the commercial self-insurance group is sufficient to fulfill all obligations that may arise under this chapter or chapter 176;

(3) the annual premium of the commercial self-insurance group to be charged to initial members is at least ~~$400,000~~ 150 percent of the WCRA minimum retention in effect at the time of the application;

(4) the commercial self-insurance group has contracted with a service company to administer its program; and

(5) the required securities or surety bond shall be on deposit prior to the effective date of coverage for the commercial self-insurance group.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to applications processed on or after that date, but not to self-insured groups existing as of that date.

Sec. 44. Minnesota Statutes 2008, section 80A.41, is amended to read:

80A.41 SECTION 102; DEFINITIONS.

In this chapter, unless the context otherwise requires:

(1) "Accredited investor" means an accredited investor as the term is defined in Rule 501(a) of Regulation D adopted pursuant to the Securities Act of 1933.

(2) "Administrator" means the commissioner of commerce.

(3) "Agent" means an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities. But a partner, officer, or director of a broker-dealer or issuer, or an individual having a similar status or performing similar functions is an agent only if the individual otherwise comes within the term. The term does not include an individual excluded by rule adopted or order issued under this chapter.

(4) "Bank" means:

(A) a banking institution organized under the laws of the United States;

(B) a member bank of the Federal Reserve System;

(C) any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this chapter; and

(D) a receiver, conservator, or other liquidating agent of any institution or firm included in subparagraph (A), (B), or (C).

(5) "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account. The term does not include:

(A) an agent;

(B) an issuer;

(C) a depository institution; provided such activities are conducted in accordance with such rules as may be adopted by the administrator;

(D) an international banking institution; or

(E) a person excluded by rule adopted or order issued under this chapter.

(6) "Depository institution" means:

(A) a bank; or

(B) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law. The term does not include:

(i) an insurance company or other organization primarily engaged in the business of insurance;

(ii) a Morris Plan bank; or

(iii) an industrial loan company that is not an "insured depository institution" as defined in section 3(c)(2) of the Federal Deposit Insurance Act, United States Code, title 12, section 1813(c)(2), or any successor federal statute.

(7) "Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

(8) "Federal covered security" means a security that is, or upon completion of a transaction will be, a covered security under Section 18(b) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)) or rules or regulations adopted pursuant to that provision.

(9) "Filing" means the receipt under this chapter of a record by the administrator or a designee of the administrator.

(10) "Fraud," "deceit," and "defraud" are not limited to common law deceit.

(11) "Guaranteed" means guaranteed as to payment of all principal and all interest.

(12) "Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity:

(A) a depository institution or international banking institution;

(B) an insurance company;

(C) a separate account of an insurance company;

(D) an investment company as defined in the Investment Company Act of 1940;

(E) a broker-dealer registered under the Securities Exchange Act of 1934;

(F) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of $10,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, or an insurance company;

(G) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of $10,000,000 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, or an insurance company;

(H) a trust, if it has total assets in excess of $10,000,000, its trustee is a depository institution, and its participants are exclusively plans of the types identified in subparagraph (F) or (G), regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

(I) an organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Section 501(c)(3)), corporation, Massachusetts trust or similar business trust,

limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $10,000,000;

(J) a small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. Section 681(c)) with total assets in excess of $10,000,000;

(K) a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22)) with total assets in excess of $10,000,000;

(L) a federal covered investment adviser acting for its own account;

(M) a "qualified institutional buyer" as defined in Rule 144A(a)(1), other than Rule 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A);

(N) a "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6);

(O) any other person, other than an individual, of institutional character with total assets in excess of $10,000,000 not organized for the specific purpose of evading this chapter; or

(P) any other person specified by rule adopted or order issued under this chapter;

(13) "Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

(14) "Insured" means insured as to payment of all principal and all interest.

(15) "International banking institution" means an international financial institution of which the United States is a member and whose securities are exempt from registration under the Securities Act of 1933.

(16) "Investment adviser" means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation. The term does not include:

(A) an investment adviser representative;

(B) a lawyer, accountant, engineer, or teacher whose performance of investment advice is solely incidental to the practice of the person's profession;

(C) a broker-dealer or its agents whose performance of investment advice is solely incidental to the conduct of business as a broker-dealer and that does not receive special compensation for the investment advice;

(D) a publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(E) a federal covered investment adviser;

(F) a bank or savings institution;

(G) any other person that is excluded by the Investment Advisers Act of 1940 from the definition of investment adviser; or

(H) any other person excluded by rule adopted or order issued under this chapter.

(17) "Investment adviser representative" means an individual employed by or associated with an investment adviser or federal covered investment adviser and who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds herself or himself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing. The term does not include an individual who:

(A) performs only clerical or ministerial acts;

(B) is an agent whose performance of investment advice is solely incidental to the individual acting as an agent and who does not receive special compensation for investment advisory services;

(C) is employed by or associated with a federal covered investment adviser, unless the individual has a "place of business" in this state as that term is defined by rule adopted under Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a) and is

(i) an "investment adviser representative" as that term is defined by rule adopted under Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a); or

(ii) not a "supervised person" as that term is defined in Section 202(a)(25) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(25)); or

(D) is excluded by rule adopted or order issued under this chapter.

(18) "Issuer" means a person that issues or proposes to issue a security, subject to the following:

(A) The issuer of a voting trust certificate, collateral trust certificate, certificate of deposit for a security, or share in an investment company without a board of directors or individuals performing similar functions is the person performing the acts and assuming

the duties of depositor or manager pursuant to the trust or other agreement or instrument under which the security is issued.

(B) The issuer of an equipment trust certificate or similar security serving the same purpose is the person by which the property is or will be used or to which the property or equipment is or will be leased or conditionally sold or that is otherwise contractually responsible for assuring payment of the certificate.

(C) The issuer of a fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty is the owner of an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale.

(19) "Nonissuer transaction" or "nonissuer distribution" means a transaction or distribution not directly or indirectly for the benefit of the issuer.

(20) "Offer to purchase" includes an attempt or offer to obtain, or solicitation of an offer to sell, a security or interest in a security for value. The term does not include a tender offer that is subject to Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78n(d)).

(21) "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(22) "Place of business" of a broker-dealer, an investment adviser, or a federal covered investment adviser means:

(A) an office at which the broker-dealer, investment adviser, or federal covered investment adviser regularly provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients; or

(B) any other location that is held out to the general public as a location at which the broker-dealer, investment adviser, or federal covered investment adviser provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients.

(23) "Predecessor Act" means Minnesota Statutes 2002, sections 80A.01 to 80A.31.

(24) "Price amendment" means the amendment to a registration statement filed under the Securities Act of 1933 or, if an amendment is not filed, the prospectus or prospectus supplement filed under the Securities Act of 1933 that includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

(25) "Principal place of business" of a broker-dealer or an investment adviser means the executive office of the broker-dealer or investment adviser from which the officers, partners, or managers of the broker-dealer or investment adviser direct, control, and coordinate the activities of the broker-dealer or investment adviser.

(26) Only for purposes of calculating the number of purchasers under section 80A.46(1) and 80A.46(14), "purchaser" does not include:

(A) any relative, spouse, or relative of the spouse of a purchaser who has the same principal residence as the purchaser;

(B) any trust or estate in which a purchaser and any of the persons related to him as specified in Regulation D, Rule 501(e)(1)(i) or (e)(1)(ii) collectively have more than 50 percent of the beneficial interest (excluding contingent interests);

(C) any corporation or other organization of which a purchaser and any of the persons related to the purchaser as specified in Regulation D, Rule 501(e)(1)(i) or (e)(1)(ii) collectively are beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests; and

(D) any accredited investor.

A corporation, partnership, or other entity must be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor, then each beneficial owner of equity securities or equity interests in the entity shall count as a separate purchaser for all provisions of Regulation D, except to the extent provided in Regulation D, Rule 501(e)(1).

A noncontributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 shall be counted as one purchaser where the trustee makes all investment decisions for the plan.

(27) "Record," except in the phrases "of record," "official record," and "public record," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(28) "Sale" includes every contract of sale, contract to sell, or disposition of, a security or interest in a security for value, and "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value.

(A) A security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(B) A gift of assessable stock is considered to involve an offer and sale.

(C) A sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer and a sale or offer of a security that gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, are each considered to include an offer of the other security.

(29) "Securities and Exchange Commission" means the United States Securities and Exchange Commission.

(30) "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. The term:

(A) includes both a certificated and an uncertificated security;

(B) does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or other specified period;

(C) does not include an interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974;

(D) includes as an "investment contract," among other contracts, an interest in a limited partnership and a limited liability company and an investment in a viatical settlement or similar agreement; and

(E) does not include any equity interest of a closely held corporation or other entity with not more than 35 holders of the equity interest of such entity offered or sold pursuant to a transaction in which 100 percent of the equity interest of such entity is sold as a means to effect the sale of the business of the entity if the transaction has been negotiated on behalf of all purchasers and if all purchasers have access to inside information regarding the entity before consummating the transaction.

(31) "Self-regulatory organization" means a national securities exchange registered under the Securities Exchange Act of 1934, a national securities association of broker-dealers registered under the Securities Exchange Act of 1934, a clearing agency

registered under the Securities Exchange Act of 1934, or the Municipal Securities Rulemaking Board established under the Securities Exchange Act of 1934.

(32) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach or logically associate with the record an electronic symbol, sound, or process.

(33) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(34) "Associated with" with respect to a person means any partner, officer, director, or manager of such person or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling, controlled by, or in common control with, such person, but does not include a person whose primary duties are ministerial or clerical.

Sec. 45. Minnesota Statutes 2008, section 80A.46, is amended to read:

80A.46 SECTION 202; EXEMPT TRANSACTIONS.

The following transactions are exempt from the requirements of sections 80A.49 through 80A.54 and 80A.71:

(1) isolated nonissuer transactions, consisting of sale to not more than ten purchasers in Minnesota during any period of 12 consecutive months, whether effected by or through a broker-dealer or not;

(2) a nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this chapter, and a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least 90 days, if, at the date of the transaction:

(A) the issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(B) the security is sold at a price reasonably related to its current market price;

(C) the security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;

(D) a nationally recognized securities manual or its electronic equivalent designated by rule adopted or order issued under this chapter or a record filed with the Securities and Exchange Commission that is publicly available contains:

(i) a description of the business and operations of the issuer;

(ii) the names of the issuer's executive officers and the names of the issuer's directors, if any;

(iii) an audited balance sheet of the issuer as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization; and

(iv) an audited income statement for each of the issuer's two immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement; and

(E) any one of the following requirements is met:

(i) the issuer of the security has a class of equity securities listed on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934 or designated for trading on the National Association of Securities Dealers Automated Quotation System;

(ii) the issuer of the security is a unit investment trust registered under the Investment Company Act of 1940;

(iii) the issuer of the security, including its predecessors, has been engaged in continuous business for at least three years; or

(iv) the issuer of the security has total assets of at least $2,000,000 based on an audited balance sheet as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had such an audited balance sheet, a pro forma balance sheet for the combined organization;

(3) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the Board of Governors of the Federal Reserve System;

(4) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in an outstanding security if the guarantor of the security files reports with the Securities and Exchange Commission under the reporting

requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. Sections 78m or 78o(d));

(5) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security that:

(A) is rated at the time of the transaction by a nationally recognized statistical rating organization in one of its four highest rating categories; or

(B) has a fixed maturity or a fixed interest or dividend, if:

(i) a default has not occurred during the current fiscal year or within the three previous fiscal years or during the existence of the issuer and any predecessor if less than three fiscal years, in the payment of principal, interest, or dividends on the security; and

(ii) the issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous 12 months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(6) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter effecting an unsolicited order or offer to purchase;

(7) a nonissuer transaction executed by a bona fide pledgee without the purpose of evading this chapter;

(8) a nonissuer transaction by a federal covered investment adviser with investments under management in excess of $100,000,000 acting in the exercise of discretionary authority in a signed record for the account of others;

(9) a transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the administrator after a hearing;

(10) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(11) a transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if:

(A) the note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;

(B) a general solicitation or general advertisement of the transaction is not made; and

(C) a commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this chapter as a broker-dealer or as an agent;

(12) a transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(13) a sale or offer to sell to:

(A) an institutional investor;

(B) an accredited investor;

(C) a federal covered investment adviser; or

(D) any other person exempted by rule adopted or order issued under this chapter;

(14) a sale or an offer to sell securities by an issuer, if the transaction is part of a single issue in which:

(A) not more than 35 purchasers are present in this state during any 12 consecutive months, other than those designated in paragraph (13);

(B) a general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities;

(C) a commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this state; and

(D) the issuer reasonably believes that all the purchasers in this state, other than those designated in paragraph (13), are purchasing for investment.

Any issuer selling to purchasers in this state in reliance on this clause (14) exemption must provide to the administrator notice of the transaction by filing a statement of issuer form as adopted by rule. Notice must be filed at least ten days in advance of any sale or such shorter period as permitted by the administrator. However, an issuer who makes sales to ten or fewer purchasers in Minnesota during any period of 12 consecutive months is not required to provide this notice;

(15) a transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state. The person making the offer and effecting the transaction must provide to the administrator notice of the transaction by filing a written description of the transaction. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(16) an offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933 if:

(A) a registration or offering statement or similar record as required under the Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance with Rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165); and

(B) a stop order of which the offeror is aware has not been issued against the offeror by the administrator or the Securities and Exchange Commission, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

(17) an offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933 if:

(A) a registration statement has been filed under this chapter, but is not effective;

(B) a solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the administrator under this chapter; and

(C) a stop order of which the offeror is aware has not been issued by the administrator under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

(18) a transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties. The person distributing the issuer's securities must provide to the administrator notice of the transaction by filing a written description of the transaction along with a consent to service of process complying with section 80A.88. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(19) a rescission offer, sale, or purchase under section 80A.77~~;~~. The person making the rescission offer must provide to the administrator notice of the transaction by filing a written description of the transaction and a copy of the record that must be delivered to the offeree under section 80A.77. Notice must be filed at least ten days in advance of any rescission offer under section 80A.77 or a shorter period as permitted by the administrator;

(20) an offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this chapter;

(21) employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the

majority-owned subsidiaries of the issuer's parent for the participation of their employees including offers or sales of such securities to:

(A) directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisors;

(B) family members who acquire such securities from those persons through gifts or domestic relations orders;

(C) former employees, directors, general partners, trustees, officers, consultants, and advisors if those individuals were employed by or providing services to the issuer when the securities were offered; and

(D) insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than 50 percent of their annual income from those organizations.

A person establishing an employee benefit plan under the exemption in this clause (21) must provide to the administrator notice of the transaction by filing a written description of the transaction along with a consent to service of process complying with section 80A.88. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(22) a transaction involving:

(A) a stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock;

(B) an act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash; or

(C) the solicitation of tenders of securities by an offeror in a tender offer in compliance with Rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162);

(23) a nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this paragraph or by rule adopted or order issued under this chapter; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this paragraph or by rule adopted or order issued under this chapter, or is a security of the same

issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this paragraph, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with chapter 14, the administrator, by rule adopted or order issued under this chapter, may revoke the designation of a securities exchange under this paragraph, if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors;

(24) any transaction effected by or through a Canadian broker-dealer exempted from broker-dealer registration pursuant to section 80A.56(b)(3); or

(25)(A) the offer and sale by a cooperative organized under chapter 308A, or under the laws of another state, of its securities when the securities are offered and sold only to its members, or when the purchase of the securities is necessary or incidental to establishing membership in the cooperative, or when the securities are issued as patronage dividends. This paragraph applies to a cooperative organized under chapter 308A, or under the laws of another state, only if the cooperative has filed with the administrator a consent to service of process under section 80A.88 and has, not less than ten days before the issuance or delivery, furnished the administrator with a written general description of the transaction and any other information that the administrator requires by rule or otherwise;

(B) the offer and sale by a cooperative organized under chapter 308B of its securities when the securities are offered and sold to its existing members or when the purchase of the securities is necessary or incidental to establishing patron membership in the cooperative, or when such securities are issued as patronage dividends. The administrator has the power to define "patron membership" for purposes of this paragraph. This paragraph applies to securities, other than securities issued as patronage dividends, only when:

(i) the issuer, before the completion of the sale of the securities, provides each offeree or purchaser disclosure materials that, to the extent material to an understanding of the issuer, its business, and the securities being offered, substantially meet the disclosure conditions and limitations found in rule 502(b) of Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.502; and

(ii) within 15 days after the completion of the first sale in each offering completed in reliance upon this exemption, the cooperative has filed with the administrator a consent to service of process under section 80A.88 (or has previously filed such a consent), and has furnished the administrator with a written general description of the transaction and any other information that the administrator requires by rule or otherwise; and

(C) a cooperative may, at or about the same time as offers or sales are being completed in reliance upon the exemptions from registration found in this subpart and as part of a common plan of financing, offer or sell its securities in reliance upon any other exemption from registration available under this chapter. The offer or sale of securities in reliance upon the exemptions found in this subpart will not be considered or deemed a part of or be integrated with any offer or sale of securities conducted by the cooperative in reliance upon any other exemption from registration available under this chapter, nor will offers or sales of securities by the cooperative in reliance upon any other exemption from registration available under this chapter be considered or deemed a part of or be integrated with any offer or sale conducted by the cooperative in reliance upon this paragraph.

Sec. 46. Minnesota Statutes 2008, section 80A.65, subdivision 6, is amended to read:

Subd. 6. **Rescission offer filing fee.** The filing of a rescission offer under section ~~80A.77~~ 80A.46(19), shall be accompanied by the fees as calculated in subdivision 1.

Sec. 47. Minnesota Statutes 2008, section 82.17, is amended by adding a subdivision to read:

Subd. 1a. **Brokerage; business entity.** "Brokerage" or "business entity" means a corporation, partnership, limited liability company, limited liability partnership, or other business structure that holds a real estate broker license.

Sec. 48. Minnesota Statutes 2008, section 82.17, subdivision 15, is amended to read:

Subd. 15. **Protective list.** "Protective list" means the written list of names and addresses of prospective ~~purchasers~~ buyers with whom a licensee has negotiated the sale or rental of the property or to whom a licensee has exhibited the property before the expiration of the listing agreement. For the purposes of this subdivision, "property" means the property that is the subject of the listing agreement in question.

Sec. 49. Minnesota Statutes 2008, section 82.17, is amended by adding a subdivision to read:

Subd. 20a. **Responsible person.** "Responsible person" means a natural person that is an officer of a corporation, a partner of a partnership, a general partner of a limited liability partnership, or a manager of a limited liability company.

Sec. 50. Minnesota Statutes 2008, section 82.19, is amended to read:

82.19 COMPENSATION.

Subdivision 1. **Licensee to receive only from broker.** A licensee shall not accept a commission, compensation, referral fee, or other valuable consideration for the performance of any acts requiring a real estate license from any person except the real estate broker to whom the licensee is licensed or to whom the licensee was licensed at the time of the transaction.

Subd. 1a. **Commission-splitting, rebates, referral fee, and fees.** (a) In connection with a real estate or business opportunity transaction, a real estate broker or real estate salesperson shall not offer, pay, or give, and a person shall not accept, any compensation or other thing of value from a real estate broker or real estate salesperson by way of commission-splitting, rebate, referral fees, finder's fees, or otherwise.

(b) This subdivision does not apply to transactions:

(1) between a licensed real estate broker or salesperson and the parties to the transaction;

(2) among persons licensed as provided in this chapter;

(3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction;

(4) involving timeshare or other recreational lands where the amount offered or paid does not exceed $150, and payment is not conditioned upon any sale but is made merely for providing the referral and the person paying the fee is bound by any representations made by the person receiving the fee; and

(5) involving a person who receives a referral fee from a person or an agent of a person licensed under this section, provided that in any 12-month period, no recipient may earn more than the value of one month's rent, that the recipient is a resident of the property or has lived there within 60 days of the payment of the fee, and that the person paying the fee is bound by any representations made by the recipient of the fee.

Subd. 2. **Undisclosed compensation.** A licensee shall not accept, give, or charge any undisclosed compensation or realize any direct or indirect remuneration that inures to the benefit of the licensee on an expenditure made for a principal.

Subd. 2a. **Sharing of compensation with other brokers.** The seller may, in the listing agreement, authorize the seller's broker to disburse part of the broker's compensation to other brokers, including the buyer's brokers solely representing the buyer.

Subd. 3. **Limitation on broker when transaction not completed.** When the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser.

Subd. 3a. **Directing payment of compensation.** A licensed real estate broker or salesperson may assign or direct that commissions or other compensation earned in connection with a real estate or business opportunity transaction be paid to a corporation, limited liability company, or sole proprietorship of which the licensed real estate broker or salesperson is the sole owner.

Subd. 3b. **Closing agent fee.** A real estate closing agent may not charge a fee for closing services to a borrower, and a borrower may not be required to pay such a fee at settlement, if the fee was not previously disclosed in writing at least one business day before the settlement. This disclosure requirement is satisfied if a disclosure is made or an estimate given under section 507.45.

Sec. 51. Minnesota Statutes 2008, section 82.21, subdivision 2, is amended to read:

Subd. 2. **Listing agreements.** (a) **Requirement.** Licensees shall obtain a signed listing agreement or other signed written authorization from the owner of real property or from another person authorized to offer the property for sale or lease before advertising to the general public that the real property is available for sale or lease.

For the purposes of this section "advertising" includes placing a sign on the owner's property that indicates that the property is being offered for sale or lease.

(b) **Contents.** All listing agreements must be in writing and must include:

(1) a definite expiration date;

(2) a description of the real property involved;

(3) the list price and any terms required by the seller;

(4) the amount of any compensation or commission or the basis for computing the commission;

(5) a clear statement explaining the events or conditions that will entitle a broker to a commission;

(6) a clear statement explaining if the agreement may be canceled and the terms under which the agreement may be canceled;

~~(6)~~ (7) information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement;

~~(7)~~ (8) the following notice in not less than ten point boldface type immediately preceding any provision of the listing agreement relating to compensation of the licensee:

"NOTICE: THE COMPENSATION FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND THE BROKER'S CLIENT.";

~~(8)~~ (9) for residential property listings, the following "dual agency" disclosure statement:

If a buyer represented by broker wishes to buy the seller's property, a dual agency will be created. This means that broker will represent both the seller(s) and the buyer(s), and owe the same duties to the buyer(s) that broker owes to the seller(s). This conflict of interest will prohibit broker from advocating exclusively on the seller's behalf. Dual agency will limit the level of representation broker can provide. If a dual agency should arise, the seller(s) will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless the seller(s) instruct broker in writing to disclose specific information about the seller(s). All other information will be shared. Broker cannot act as a dual agent unless both the seller(s) and the buyer(s) agree to it. By agreeing to a possible dual agency, the seller(s) will be giving up the right to exclusive representation in an in-house transaction. However, if the seller(s) should decide not to agree to a possible dual agency, and the seller(s) want broker to represent the seller(s), the seller(s) may give up the opportunity to sell the property to buyers represented by broker.

Seller's Instructions to Broker

Having read and understood this information about dual agency, seller(s) now instructs broker as follows:

..... Seller(s) will agree to a dual agency representation and will consider offers made by buyers represented by broker.

..... Seller(s) will not agree to a dual agency representation and will not consider offers made by buyers represented by broker.

.....	.....
Seller	Real Estate Company Name
.....	By: .....
Seller	Salesperson
Date : ..... ;	

~~(9)~~ (10) a notice requiring the seller to indicate in writing whether it is acceptable to the seller to have the licensee arrange for closing services or whether the seller wishes to arrange for others to conduct the closing; and

~~(10)~~ (11) for residential listings, a notice stating that after the expiration of the listing agreement, the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question. This notice may be used in the listing agreement for any other type of real estate.

(c) **Prohibited provisions.** Except as otherwise provided in paragraph (d), clause (2), licensees shall not include in a listing agreement a holdover clause, automatic extension, or any similar provision, or an override clause the length of which is more than six months after the expiration of the listing agreement.

(d) **Override clauses.** (1) Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the seller within 72 hours after the expiration of the listing agreement.

(2) A listing agreement may contain an override clause of up to two years in length when used in conjunction with the purchase or sale of a business. The length of the override clause must be negotiable between the licensee and the seller of the business. The protective list provided in connection with the override clause must include the written acknowledgment of each party named on the protective list, that the business which is the subject of the listing agreement was presented to that party by the licensee.

(e) **Protective lists.** A broker or salesperson has the burden of demonstrating that each person on the protective list has, during the period of the listing agreement, either made an affirmative showing of interest in the property by responding to an advertisement or by contacting the broker or salesperson involved or has been physically shown the property by the broker or salesperson. For the purpose of this section, the mere mailing or other distribution by a licensee of literature setting forth information about the property in question does not, of itself, constitute an affirmative showing of interest in the property on the part of a subsequent purchaser.

For listings of nonresidential real property which do not contain the notice described in paragraph (b), clause ~~(10)~~ (11), the protective list must contain the following notice in boldface type:

"IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK COMPETENT ADVICE."

Sec. 52. Minnesota Statutes 2008, section 82.24, subdivision 3, is amended to read:

Subd. 3. **Broker payment consolidation.** For all license renewal fees, recovery fund renewal fees, and recovery fund assessments pursuant to this section and section 82.43, the broker must remit the fees or assessments for the company, broker, and all salespersons licensed to the broker, in the form of a single ~~check~~ payment.

Sec. 53. Minnesota Statutes 2008, section 82.29, subdivision 4, is amended to read:

Subd. 4. **Broker's examination.** (a) The examination for a real estate broker's license shall be more exacting than that for a real estate salesperson, and shall require a higher degree of knowledge of the fundamentals of real estate practice and law.

(b) Every application for a broker's examination shall be accompanied by proof that the applicant has had a minimum of two years of actual experience within the previous five-year period prior to application as a licensed real estate salesperson in this or in another state having comparable requirements or is, in the opinion of the commissioner, otherwise or similarly qualified by reason of education or practical experience. The applicant shall have completed educational requirements in accordance with subdivision 8.

(c) An applicant for a limited broker's license pursuant to section 82.34, subdivision 13, shall not be required to have a minimum of two years of actual experience as a real estate person in order to obtain a limited broker's license ~~to act as principal only~~.

Sec. 54. Minnesota Statutes 2008, section 82.29, subdivision 5, is amended to read:

Subd. 5. **Waivers.** The commissioner may ~~waive~~ grant a waiver of the real estate licensing experience requirement for the broker's examination to a qualified applicant for a waiver.

(a) ~~An~~ A qualified applicant for a waiver ~~shall provide evidence of~~ is an individual who:

(1) ~~successful completion of a minimum of 90 quarter credits or 270 classroom hours of real estate-related studies~~ has a degree in real estate from an accredited college or university;

(2) ~~a minimum of five consecutive years of practical experience in real estate-related areas~~ is a licensed practicing attorney whose practice involves real estate law; or

(3) ~~successful completion of 30 credits or 90 classroom hours and three consecutive years of practical experience in real estate-related areas~~ is a public officer whose official duties involve real estate law or real estate transactions.

(b) A request for a waiver shall be submitted to the commissioner in writing on a form prescribed by the commissioner and be accompanied by documents necessary to evidence qualification as set forth in paragraph (a).

(c) The waiver will lapse if the applicant fails to successfully complete the broker's examination within one year from the date of the granting of the waiver.

Sec. 55. Minnesota Statutes 2008, section 82.29, subdivision 8, is amended to read:

Subd. 8. **Instruction; new licenses.** (a) ~~Every~~ An applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. ~~Every~~ An applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 60 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules, and of which two hours must consist of training in laws and regulations on agency representation and disclosure, before filing an application for the license. This subdivision does not apply to salespeople licensed in Minnesota before July 1, 1969.

(b) An applicant for a broker's license must successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules. The course must have been completed within 12 months prior to the date of application for the broker's license.

~~(c) An applicant for a real estate closing agent's license must successfully complete a course of study relating to closing services consisting of eight hours of instruction approved by the commissioner.~~

Sec. 56. Minnesota Statutes 2008, section 82.31, subdivision 1, is amended to read:

Subdivision 1. **Qualification of applicants.** ~~Every~~ An applicant for a real estate broker~~,~~ or real estate salesperson~~, or real estate closing agent~~ license shall be at least 18 years of age at the time of making application for said license.

Sec. 57. Minnesota Statutes 2008, section 82.31, subdivision 2, is amended to read:

Subd. 2. **Application for license; contents.** (a) ~~Every~~ An applicant for a license as a real estate broker~~,~~ or real estate salesperson~~, or closing agent~~ shall make an application in ~~writing upon forms prepared and furnished~~ the format prescribed by the commissioner. ~~Each~~ The application shall be ~~signed and sworn to by the applicant and shall be~~ accompanied by the license fee required by this chapter.

(b) Each application for a real estate broker license~~,~~ or real estate salesperson license~~, or real estate closing agent license~~ shall contain such information as required by the commissioner consistent with the administration of the provisions and purposes of this chapter.

(c) ~~Each~~ The application for a real estate salesperson license shall give the applicant's legal name, age, residence address, and the name and place of business of the real estate broker on whose behalf the salesperson is to be acting.

~~(d) Each application for a real estate closing agent license shall give the applicant's name, age, residence address, and the name and place of business of the closing agent.~~

~~(e)~~ (d) The commissioner may require such further information as the commissioner deems appropriate to administer the provisions and further the purposes of this chapter.

~~(f) Applicants~~ (e) An applicant for a real estate salesperson license shall submit to the commissioner, along with the application for licensure, a copy of the course completion certificate for courses I, II, and III and passing examination results.

Sec. 58. Minnesota Statutes 2009 Supplement, section 82.31, subdivision 4, is amended to read:

Subd. 4. **~~Corporate and partnership~~ Business entity; brokerage licenses.** (a) A ~~corporation~~ business entity applying for a license shall have at least one ~~officer~~ responsible person individually licensed to act as broker for the ~~corporation~~ brokerage. The ~~corporation~~ business entity broker's license shall extend no authority to act as broker to any person other than the ~~corporate~~ business entity. Each ~~officer~~ responsible person who intends to act as a broker shall obtain a license.

(b) A ~~partnership~~ business entity applying for a license shall have at least one ~~partner~~ responsible person individually licensed to act as broker for the ~~partnership~~ business entity. Each ~~partner~~ responsible person who intends to act as a broker shall obtain a license.

(c) ~~Applications~~ An application for a business entity license ~~made by a corporation shall be verified by the president and one other officer. Applications made by a partnership~~ shall be verified by at least two ~~partners~~ responsible persons for the business entity.

(d) ~~Any partner or officer~~ A responsible person who ceases to act as broker for a ~~partnership or corporation~~ business entity shall notify the commissioner upon said termination. The individual licenses of all salespersons acting on behalf of a ~~corporation or partnership,~~ brokerage are automatically ineffective upon the revocation or suspension of the license of the ~~partnership or corporation~~ brokerage. The commissioner may suspend or revoke the license of ~~an officer or partner~~ a responsible person licensee without suspending or revoking the license of the ~~corporation or partnership~~ business entity.

(e) The application of all ~~officers~~ responsible persons of a ~~corporation or partners in a partnership~~ business entity who intend to act as ~~a broker~~ brokers on behalf of a ~~corporation or partnership~~ business entity shall accompany the initial license application of the ~~corporation or partnership~~ business entity. ~~Officers or partners~~ Responsible persons

intending to act as brokers subsequent to the licensing of the ~~corporation or partnership~~ business entity shall procure an individual real estate broker's license prior to acting in the capacity of a broker. No ~~corporate officer, or partner,~~ responsible person who maintains a salesperson's license may exercise any authority over any trust account administered by the broker nor may they be vested with any supervisory authority over the broker.

(f) The ~~corporation or partnership~~ business entity applicant shall make available upon request, such records and data required by the commissioner for enforcement of this chapter.

(g) The commissioner may require further information, as the commissioner deems appropriate, to administer the provisions and further the purposes of this chapter.

Sec. 59. Minnesota Statutes 2009 Supplement, section 82.32, is amended to read:

82.32 LICENSING: CONTINUING EDUCATION AND INSTRUCTION.

(a) All real estate salespersons and all real estate brokers shall be required to successfully complete 30 hours of real estate continuing education, either as a student or a lecturer, in courses of study approved by the commissioner, during the initial license period and during each succeeding 24-month license period. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Licensees may not claim credit for continuing education not actually completed as of the date their report of continuing education compliance is filed.

(b) The commissioner may adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of prelicense instruction as required under section 82.29, subdivision 8, and continuing education as required under this section and sections 82.29; 82.31, ~~subdivisions~~ subdivision 5 ~~and 6~~; 82.33, subdivisions 1 and 4 to 6; and 82.44. The commissioner may not approve a course which can be completed by the student at home or outside the classroom without the supervision of an instructor except accredited courses using new delivery technology, including interactive technology, and the Internet. The commissioner may approve courses of study in the real estate field offered in educational institutions of higher learning in this state or courses of study in the real estate field developed by and offered under the auspices of the National Association of Realtors, its affiliates, or private real estate schools. Courses in motivation, salesmanship, psychology, or time management shall not be approved by the commissioner for continuing education credit. The commissioner may approve courses in any other subjects, including, but not limited to, communication, marketing, negotiation, and technology for continuing education credit.

(c) As part of the continuing education requirements of this section and sections 82.29; 82.31, subdivisions 5 and 6; 82.33, subdivisions 1 and 4 to 6; and 82.44, the commissioner shall require that all real estate brokers and salespersons receive:

(1) at least one hour of training during each license period in courses in laws or regulations on agency representation and disclosure; and

(2) at least one hour of training during each license period in courses in state and federal fair housing laws, regulations, and rules, other antidiscrimination laws, or courses designed to help licensees to meet the housing needs of immigrant and other underserved populations.

Clauses (1) and (2) do not apply to real estate salespersons and real estate brokers engaged solely in the commercial real estate business who file with the commissioner a verification of this status along with the continuing education report required under paragraph (a).

(d) The commissioner is authorized to establish a procedure for renewal of course accreditation.

(e) Approved continuing education courses may be sponsored or offered by a broker of a real estate company and may be held on the premises of a company licensed under this chapter. All continuing education course offerings must be open to any interested individuals. Access may be restricted by the education provider based on class size only. Courses must not be approved if attendance is restricted to any particular group of people. A broker must comply with all continuing education rules prescribed by the commissioner. The commissioner shall not approve any prelicense instruction courses offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business.

(f) 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.

(g) The real estate education course completion certificate must be in the form set forth by the commissioner. Students are responsible for maintaining copies of course completion certificates.

(h) An approved prelicense 30-hour broker course may be used for continuing education credit by a real estate salesperson or broker if the course is completed during the appropriate licensing period.

Sec. 60. Minnesota Statutes 2008, section 82.33, subdivision 1, is amended to read:

Subdivision 1. **Duration.** ~~No~~ The renewal of a salesperson's license ~~shall be~~ is not effective beyond a date two years after the granting of ~~such~~ the salesperson's license unless

the salesperson has furnished evidence of compliance with section 82.29, subdivision 8. The commissioner shall cancel the license of ~~any~~ a salesperson who fails to comply with section 82.29, subdivision 8. ~~This subdivision shall not apply to salespeople licensed in Minnesota prior to July 1, 1969.~~

Sec. 61. Minnesota Statutes 2008, section 82.33, is amended by adding a subdivision to read:

Subd. 1a. **Broker's responsibility.** (a) A broker shall renew the license of each eligible salesperson who is and will continue to be associated with the broker. For the purposes of this subdivision, an eligible salesperson is one who has demonstrated compliance with all renewal requirements before June 15 of the renewal year.

(b) When a broker does not intend to renew the license of an eligible salesperson who is associated with the broker, the broker must notify the salesperson in writing 30 days before June 15 of the renewal year.

(c) When the broker responsible for the salesperson's license renewal does not renew an eligible salesperson's license before the renewal deadline, the broker shall pay on the salesperson's behalf any additional higher license fees that result.

Sec. 62. Minnesota Statutes 2008, section 82.33, subdivision 2, is amended to read:

Subd. 2. **Timely renewals.** ~~Persons~~ A person whose ~~applications have~~ application for a license renewal has not been ~~properly and~~ timely filed and who ~~have~~ has not received notice of ~~denial~~ approval of renewal ~~are deemed to have been approved for renewal and~~ may not continue to transact business either as a real estate broker, salesperson, or closing agent ~~whether or not the renewed license has been received on or before July 1~~ after June 30 of the renewal year until approval of renewal is received. Application for renewal of a license ~~shall be deemed to have been~~ is timely filed if ~~received by the commissioner by, or mailed with proper postage and postmarked by,~~:

(1) all requirements for renewal, including continuing education requirements, have been completed by June 15 of the renewal year~~. Applications for renewal shall be deemed properly filed if made~~; and

(2) the application is submitted before the renewal deadline in the manner prescribed by the commissioner upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter, and ~~contain~~ containing any information ~~which~~ the commissioner ~~may require~~ requires.

Sec. 63. Minnesota Statutes 2008, section 82.34, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) The commissioner shall issue a license as a real estate broker~~,~~ or real estate salesperson~~, or closing agent~~ to any person who qualifies for ~~such~~ the license under the terms of this chapter.

(b) The commissioner is authorized to establish by rule a special license for real estate brokers and real estate salespeople engaged solely in the rental or management of an interest or estate in real estate, to prescribe qualifications for the license, and to issue the license consistent with the terms of this chapter. This clause shall not be construed to require those owners or managers or their agents or employees who are excluded by section 82.23, clause (d), from the definition of real estate broker, to obtain the special license.

Sec. 64. Minnesota Statutes 2008, section 82.34, subdivision 2, is amended to read:

Subd. 2. **Additional broker's license.** An individual who holds a broker's license in ~~his or her~~ the broker's own name or for or on behalf of a ~~corporation or partnership~~ business entity must be issued an additional broker's license only upon demonstrating:

(1) that the additional license is necessary in order to serve a legitimate business purpose;

(2) that the broker will be capable of supervising all salespersons over whom ~~he or she~~ the broker will have supervisory responsibility or, in the alternative, that the broker will have no supervisory responsibilities under the additional license; and

(3) that the broker:

(i) has ~~a substantial~~ at least 51 percent ownership interest in each ~~corporation or partnership~~ business entity for or on whose behalf ~~he or she~~ the broker holds or will hold a broker's license~~.~~; or

(ii) is an elected or appointed officer, signing partner, or managing member of both the business entity for which or on whose behalf the broker already holds a license, and an affiliated business entity for which or on whose behalf the broker is applying for an additional license.

~~The requirement of a substantial ownership interest does not apply where the broker seeking the additional license or licenses is an officer of a corporation for or on whose behalf the broker already holds a license and the broker is applying for the additional license or licenses for or on behalf of an affiliated corporation or corporations of which he or she is also an officer.~~ For the purpose of this section and sections 82.31, subdivisions 1 to 4; 82.33, subdivisions 1 to 3; 82.35, subdivision 2; and 82.39, "affiliated ~~corporation~~ business entity" means a ~~corporation which is directly or indirectly controlled~~ business entity that is majority-owned by the same persons as the ~~corporation~~ business entity for which or on whose behalf the broker is already licensed to act.

For the purposes of this section and sections 82.31, subdivisions 1 to 4; 82.33, subdivisions 1 to 3; 82.35, subdivision 2; and 82.39, a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

Sec. 65. Minnesota Statutes 2008, section 82.34, subdivision 4, is amended to read:

Subd. 4. **Issuance of license; salesperson.** A salesperson must be licensed to act on behalf of a licensed broker and may not be licensed to act on behalf of more than one broker in this state during the same period of time. ~~The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until canceled or until such licensee leaves such broker.~~

Sec. 66. Minnesota Statutes 2008, section 82.34, subdivision 5, is amended to read:

Subd. 5. **Effective date of license.** ~~Licenses~~ A license renewed pursuant to this chapter ~~are~~ is valid for a period of 24 months. ~~New licenses~~ A new license issued during a 24-month licensing period will expire on June 30 of the expiration year assigned to the license. ~~Implementation of the 24-month licensing program must be staggered so that approximately one-half of the licenses will expire on June 30 of each even-numbered year and the other one-half on June 30 of each odd-numbered year. Those licensees who will receive a 12-month license on July 1, 1995, because of the staggered implementation schedule will pay for the license a fee reduced by an amount equal to one-half the fee for renewal of the license.~~

Sec. 67. Minnesota Statutes 2008, section 82.34, subdivision 13, is amended to read:

Subd. 13. **Limited broker's license.** ~~(a)~~ The commissioner shall have the authority to issue a limited real estate broker's license authorizing the ~~licensee to engage in transactions as principal only. Such license shall be issued only after receipt of the application described in section 82.31, subdivision 2, and payment of the fee prescribed by section 82.24, subdivision 1. No salesperson may be licensed to act on behalf of an individual holding a limited broker's license. An officer of a corporation or partner of a partnership licensed as a limited broker may act on behalf of that corporation or partnership without being subject to the licensing requirements.~~ following limited activities:

~~(b) A limited broker's license shall also authorize the licensee to engage in negotiation of mortgage loans, other than residential mortgage loans, as described in section 82.17, subdivision 18, clause (b).~~

(1) the licensee to engage in transactions as principal only; or

(2) the licensee to engage in negotiations of mortgage loans, other than residential mortgage loans, as described in section 82.17, subdivision 18, clause (b).

The license may be issued only after receipt of the application described in section 82.31, subdivision 2, and payment of the fee prescribed by section 82.24, subdivision 1. A salesperson may not be licensed to act on behalf of an individual holding a limited broker's license. A responsible person of a business entity licensed as a limited broker may act on behalf of that business entity without being subject to the licensing requirements.

Sec. 68. Minnesota Statutes 2008, section 82.39, is amended to read:

82.39 NOTICE TO COMMISSIONER.

Subdivision 1. ~~**Notice**~~ **Change of application information.** Notice in writing or in the format prescribed by the commissioner shall be given to the commissioner by ~~each~~ a licensee of any change ~~in~~ of information contained in the license application on file with the commissioner, including but not limited to personal name, trade name, address or business location not later than ten days after ~~such~~ the change. ~~The commissioner shall issue a new license if required for the unexpired period.~~

Subd. 2. **Mandatory.** ~~Licensees~~ The licensee shall notify the commissioner in writing or in the format prescribed by the commissioner within ten days of the facts in subdivisions 3 to 5.

Subd. 3. **Civil judgment.** ~~Licensees~~ The licensee must notify the commissioner in writing ~~within ten days~~ of a final adverse decision or order of a court, whether or not the decision or order is appealed, regarding any proceeding in which the licensee was named as a defendant, and which alleged fraud, misrepresentation, or the conversion of funds, if the final adverse decision relates to the allegations of fraud, misrepresentation, or the conversion of funds.

Subd. 4. **Disciplinary action.** The licensee must notify the commissioner in writing ~~within ten days~~ of the suspension or revocation of the licensee's real estate or other occupational license issued by this state or another jurisdiction.

Subd. 5. **Criminal offense.** The licensee must notify the commissioner in writing ~~within ten days~~ if the licensee is charged with, adjudged guilty of, or enters a plea of guilty or nolo contendere to a charge of any felony, or of any gross misdemeanor alleging fraud, misrepresentation, conversion of funds, or a similar violation of any real estate licensing law.

Sec. 69. Minnesota Statutes 2008, section 82.41, subdivision 1, is amended to read:

Subdivision 1. **License required.** No person shall act as a real estate broker~~,~~ or real estate salesperson~~, or real estate closing agent~~ unless licensed as ~~herein~~ provided in this section.

Sec. 70. Minnesota Statutes 2008, section 82.41, subdivision 2, is amended to read:

Subd. 2. **Misrepresenting status as licensee.** No persons shall advertise or represent themselves to be real estate brokers~~, salespeople, or closing agents~~ or real estate salespersons unless licensed as ~~herein~~ provided in this section.

Sec. 71. Minnesota Statutes 2008, section 82.41, is amended by adding a subdivision to read:

Subd. 3a. **Limitation on broker when transaction not completed.** When the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser.

Sec. 72. Minnesota Statutes 2008, section 82.45, subdivision 3, is amended to read:

Subd. 3. **Retention.** A licensed real estate broker shall retain for ~~three~~ six years copies of all listings, buyer representation and facilitator services contracts, deposit receipts, purchase money contracts, canceled checks, trust account records, and such other documents as may reasonably be related to carrying on a real estate brokerage business. The retention period shall run from the date of the closing of the transaction, or from the date of the document if the document is not consummated. The following documents need not be retained:

(1) agency disclosure forms provided to prospective buyers or sellers, where no contractual relationship is subsequently created and no services are provided by the licensee; and

(2) facilitator services contracts or buyer representation contracts entered into with prospective buyers, where the prospective buyer abandons the contractual relationship before any services have been provided by the licensee.

Sec. 73. Minnesota Statutes 2008, section 82.45, is amended by adding a subdivision to read:

Subd. 4. **Storage.** Storage of documents identified in subdivision 3 may be stored by electronic means.

Sec. 74. Minnesota Statutes 2008, section 82.45, is amended by adding a subdivision to read:

Subd. 5. **Destruction.** After the retention period specified in subdivision 3 has elapsed and the broker no longer wishes to retain the documents, the broker must ensure that the documents are disposed of according to the confidential record destruction procedures of the Fair and Accurate Credit Transaction Act of 2003, Public Law 108-159.

Sec. 75. Minnesota Statutes 2008, section 82.48, subdivision 2, is amended to read:

Subd. 2. **Penalty for noncompliance.** The methods, acts, or practices set forth in subdivisions 1 and 3 and sections 82.19; 82.22; 82.27; ~~82.31, subdivision 6;~~ 82.37; and 82.41, subdivision 11, are standards of conduct governing the activities of real estate brokers and salespersons. Failure to comply with these standards shall constitute grounds for license denial, suspension, or revocation, or for censure of the licensee.

Sec. 76. Minnesota Statutes 2008, section 82.48, subdivision 3, is amended to read:

Subd. 3. **Responsibilities of brokers.** (a) **Supervision of personnel.** ~~Brokers~~ A broker shall adequately supervise the activities of ~~their~~ the broker's salespersons and employees. Supervision includes the ongoing monitoring of listing agreements, purchase agreements, other real estate-related documents which are prepared or drafted by the broker's salespersons or employees or which are otherwise received by the broker's office, and the review of all trust account books and records. If an individual broker maintains more than one place of business, each place of business shall be under the broker's direction and supervision. If a ~~partnership or corporate broker~~ brokerage maintains more than one place of business, each place of business shall be under the direction and supervision of an individual broker licensed to act on behalf of the ~~partnership or corporation~~ brokerage.

The primary broker shall maintain records specifying the name of each broker responsible for the direction and supervision of each place of business. If an individual broker, who may be the primary broker, is responsible for supervising more than one place of business, the primary broker shall, upon written request of the commissioner, file a written statement specifying the procedures which have been established to ensure that all salespersons and employees are adequately supervised. Designation of another broker to supervise a place of business does not relieve the primary broker of the ultimate responsibility for the actions of licensees.

(b) **Preparation and safekeeping of documents.** ~~Brokers shall be~~ A broker is responsible for the preparation, custody, safety, and accuracy of all real estate contracts,

documents, and records, even though another person may be assigned these duties by the broker.

(c) **Documentation and resolution of complaints.** ~~Brokers~~ A broker shall investigate and attempt to resolve complaints made regarding the practices of any individual licensed to ~~them~~ the broker and shall maintain, with respect to each individual licensed to ~~them~~ the broker, a complaint file containing all material relating to any complaints received in writing for a period of three years.

(d) **Disclosure of listed property information.** A broker may allow any unlicensed person, who is authorized by the broker, to disclose any factual information pertaining to the properties listed with the broker, if the factual information is provided to the unlicensed person in written form by the broker representing or assisting the seller(s).

Sec. 77. **[82.52] ADVERTISING REQUIREMENTS.**

A licensee shall identify himself or herself as either a broker or an agent salesperson in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to the licensee's own property or the property of others.

If a salesperson or broker is part of a team or group within the brokerage, the licensee may include the team or group name in the advertising only under the following conditions:

(1) the inclusion of the team or group name is authorized by the primary broker of the brokerage to which the salesperson or broker is licensed; and

(2) the real estate brokerage name is included and more prominently displayed than the team or group name in the advertising.

Sec. 78. **[82.53] REAL ESTATE CLOSING AGENT LICENSING.**

Subdivision 1. **Generally.** The commissioner shall issue a license as a closing agent to a person who qualifies for the license under the terms of this chapter.

Subd. 2. **Qualification of applicants.** An applicant for a real estate closing agent license must be at least 18 years of age at the time of making application for the license.

Subd. 3. **Application for license; contents.** (a) An applicant for a real estate closing agent license shall make an application in the format prescribed by the commissioner. The application must be accompanied by the license fee required by this chapter.

(b) An application for a real estate closing agent license must contain the information required by the commissioner consistent with this chapter.

(c) An application for a real estate closing agent license shall give the applicant's legal name, age, residence address, and the name and place of business of the closing agent.

(d) The commissioner may require further information the commissioner considers appropriate to administer this chapter.

Subd. 4. **Instruction.** An applicant for a real estate closing agent's license must successfully complete a course of study relating to closing services consisting of eight hours of instruction approved by the commissioner.

Subd. 5. **Change of application information.** The commissioner must be notified in the format prescribed by the commissioner of a change of information contained in the license application on file with the commissioner within ten days of the change.

Subd. 6. **Exemption.** The following persons, when acting as closing agents, are exempt from the requirements of sections 82.41 and 82.50 unless otherwise required in this chapter:

(1) a direct employee of a title insurance company authorized to do business in this state, or a direct employee of a title company, or a person who has an agency agreement with a title insurance company or a title company in which the agent agrees to perform closing services on the title insurance company's or title company's behalf and the title insurance company or title company assumes responsibility for the actions of the agent as if the agent were a direct employee of the title insurance company or title company;

(2) a licensed attorney or a direct employee of a licensed attorney;

(3) a licensed real estate broker or salesperson;

(4) a direct employee of a licensed real estate broker if the broker maintains all funds received in connection with the closing services in the broker's trust account;

(5) a bank, trust company, savings association, credit union, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of businesses within the scope of its corporate powers as provided by law;

(6) a title insurance company authorized to do business in this state; and

(7) a title company that has a contractual agency relationship with a title insurance company authorized to do business in this state, where the title insurance company assumes responsibility for the actions of the title company and its employees or agents as if they were employees or agents of the title insurance company.

Sec. 79. **[82.54] OTHER DISCLOSURE REQUIREMENTS.**

Subdivision 1. **Agent of broker disclosure.** A salesperson shall only conduct business under the licensed name of and on behalf of the broker to whom the salesperson is licensed. An individual broker shall only conduct business under the brokerage's licensed name. A broker licensed to a business entity shall only conduct business under

the licensed business entity name. A licensee shall affirmatively disclose, before the negotiation or consummation of any transaction, the licensed name of the brokerage under whom the licensee is authorized to conduct business according to this section.

Subd. 2. **Financial interests or relative or business associate disclosure; licensee.** (a) Before the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner of real property that the licensee is a real estate broker or agent salesperson, and in what capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

(b) When a principal in the transaction is a licensee or a relative or business associate of the licensee, that fact must be disclosed in writing.

Subd. 3. **Material facts.** (a) A licensee shall disclose to a prospective purchaser all material facts of which the licensee is aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensee is aware.

(b) It is not a material fact relating to real property offered for sale the fact or suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity; or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under that section, if the broker or salesperson, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee or employee of the licensee has no duty to disclose information regarding airport zoning regulations if the broker or salesperson, in a timely manner, provides a written notice that a copy of the airport zoning regulations as adopted can be reviewed or obtained at the office of the county recorder where the zoned area is located.

(e) A licensee is not required to disclose, except as otherwise provided in paragraph (f), information relating to the physical condition of the property or any other information

relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

(f) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report described in paragraph (e), if a copy of the report is provided to the licensee.

(g) The limitation on disclosures in paragraphs (b) and (c) shall modify any common law duties with respect to disclosure of material facts.

Subd. 4. **Nonperformance of party.** If a licensee is put on notice by a party to a real estate transaction that the party will not perform according to the terms of a purchase agreement or other similar written agreement to convey real estate, the licensee shall immediately disclose the fact of that party's intent not to perform to the other party or parties to the transaction. The licensee shall, if reasonably possible, inform the party who will not perform of the licensee's obligation to disclose this fact to the other party or parties to the transaction before making the disclosure. The obligation required by this section does not apply to notice of a party's inability to keep or fulfill any contingency to which the real estate transaction has been made subject.

Sec. 80. Minnesota Statutes 2008, section 82B.05, as amended by Laws 2009, chapter 63, section 62, is amended to read:

82B.05 REAL ESTATE APPRAISER ADVISORY BOARD.

Subdivision 1. **Members.** The Real Estate Appraiser Advisory Board consists of ~~15~~ nine members appointed by the commissioner of commerce. Three of the members must be ~~public members, four must be~~ consumers of appraisal services, of whom one member must be employed in the financial lending industry, and ~~eight~~ six must be real estate appraisers who are currently licensed in good standing, of whom ~~not less than two~~ three members must be ~~trainee real property appraisers, licensed real property appraisers, or~~ certified residential real property appraisers~~, not less than two~~ and three members must be certified general real property appraisers~~, and not less than~~. At least one member of the board must be certified by the Appraisal Qualification Board of the Appraisal Foundation

to teach the Uniform Standards of Professional Appraisal Practice. The board is governed by section 15.0575.

Subd. 3. **Terms.** The term of office for members is three years.

Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. No person may serve as a member of the board for more than two consecutive terms. The commissioner may remove a member for cause.

~~Subd. 4. **Practice of public members prohibited.** The public members of the board may not be engaged in the practice of real estate appraising.~~

Subd. 5. **Conduct of meetings.** Places of regular board meetings must be decided by the vote of members. Written notice must be given to each member of the time and place of each meeting of the board at least ten days before the scheduled date of regular board meetings. The board shall establish procedures for emergency board meetings and other operational procedures, subject to the approval of the commissioner.

The members of the board shall elect a chair to preside at board meetings, a vice-chair, and a secretary from among the members ~~to preside at board meetings~~.

A quorum of the board is ~~eight~~ five members.

The board shall meet at least once every ~~six~~ three months as determined by a majority vote of the members or a call of the commissioner.

Subd. 6. **Compensation.** Each member of the board is entitled to a per diem allowance of $35 for each meeting of the board at which the member is present and for each day or substantial part of a day actually spent in the conduct of the business of the board, plus all appropriate expenses unless a greater amount is authorized by section 15.0575.

Subd. 7. **Enforcement reports.** The commissioner shall, on a regular basis, provide the board with the commissioner's public enforcement data.

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

Sec. 81. Minnesota Statutes 2008, section 82B.06, is amended to read:

82B.06 POWERS OF THE BOARD.

The board shall make recommendations to the commissioner as the commissioner requests or at the board's own initiative on:

(1) rules with respect to each category of licensed real estate appraiser, the type of educational experience, appraisal experience, and equivalent experience that will meet the requirements of this chapter;

(2) examination specifications for each category of licensed real estate appraiser, to assist in providing or obtaining appropriate examination questions and answers, and procedures for grading examinations;

(3) rules with respect to each category of licensed real estate appraiser, the continuing education requirements for the renewal of licensing that will meet the requirements provided in this chapter;

(4) periodic review of the standards for the development and communication of real estate appraisals provided in this chapter and rules explaining and interpreting the standards; and

(5) other matters necessary in carrying out the provisions of this chapter.

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

Sec. 82. Minnesota Statutes 2008, section 82B.14, is amended to read:

82B.14 EXPERIENCE REQUIREMENT.

(a) As a prerequisite for licensing as a licensed real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,000 hours of experience in real property appraisal obtained in no fewer than 12 months.

As a prerequisite for licensing as a certified residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,500 hours of experience in real property appraisal obtained in no fewer than 24 months.

As a prerequisite for licensing as a certified general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 3,000 hours of experience in real property appraisal obtained in no fewer than 30 months. At least 50 percent, or 1,500 hours, must be in nonresidential appraisal work.

(b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

(c) Notwithstanding section 45.22, a college or university real estate course may be approved retroactively by the commissioner for appraiser prelicense education credit if:

(1) the course was offered by a college or university physically located in Minnesota;

(2) the college or university was an approved education provider at the time the course was offered;

(3) the commissioner's approval is made to the same extent in terms of courses and hours and with the same time limits as those specified by the Appraiser Qualifications Board.

(d) Applicants may not receive credit for experience accumulated while unlicensed, if the experience is based on activities which required a license under this section.

~~(d)~~ (e) Experience for all classifications must be obtained after January 30, 1989, and must be USPAP compliant.

Sec. 83. Minnesota Statutes 2009 Supplement, section 137.0225, is amended to read:

137.0225 UNIVERSITY PROMISE SCHOLARSHIP.

The Board of Regents may establish a scholarship to help offset the impact of rising tuition for Minnesota students ~~from middle-income families~~. To be eligible for a scholarship under this section, a student must be a Minnesota resident undergraduate from a family ~~that is not Pell Grant eligible~~ with an annual adjusted gross income not to exceed $100,000.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 84. **[137.66] SCHOLARSHIP FUNDING PROGRAM.**

As a condition of a license for an arena or stadium location under section 340A.404, subdivision 4a, paragraph (a), clause (3), the University of Minnesota shall deposit at least 75 percent of the net revenue generated through the existence of this license for scholarships under section 137.0225 for Minnesota resident men and women attending the University of Minnesota.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 85. Minnesota Statutes 2008, section 326.3382, subdivision 3, is amended to read:

Subd. 3. **Proof of insurance.** (a) No license may be issued to a private detective or protective agent applicant until the applicant has complied with the requirements in this subdivision.

(b) The applicant shall execute a surety bond to the state of Minnesota in the penal sum of $10,000 and file it with the board. The surety bond must be executed by a company authorized to do business in the state of Minnesota, must name the applicant as principal, and must state that the applicant and each of the applicant's employees shall faithfully observe all of the laws of Minnesota and of the United States and shall pay all

damages suffered by any person by reason of a violation of law by the applicant or by the commission of any willful and malicious wrong by the applicant in the course of business.

(c) The applicant shall furnish proof, acceptable to the board, of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings arising out of the ownership and operation of a private detective or protective agent business. Compliance with paragraph (d), (e), or (f) is satisfactory proof of financial responsibility for purposes of this paragraph.

(d) The applicant may file with the board a certificate of insurance demonstrating coverage for general liability, completed operations, and personal injury. Personal injury insurance must include coverage for:

(1) false arrest, detention, imprisonment, and malicious prosecution;

(2) libel, slander, defamation, and violation of rights of privacy; and

(3) wrongful entry, eviction, and other invasion of rights of private occupancy.

~~The certificate must provide that the insurance may not be modified or canceled unless 30 days prior notice is given to the board.~~ In the event of a policy cancellation, the insurer will send notice to the board at the same time that a cancellation request is received from or a notice is sent to the insured.

(e) The applicant may file with the board an annual net worth statement, signed by a licensed certified public accountant, evidencing that the applicant has a net worth of at least the following:

(1) for an applicant with no employees, $10,000;

(2) for an applicant with one to ten employees, $15,000;

(3) for an applicant with 11 to 25 employees, $25,000;

(4) for an applicant with 26 to 50 employees, $50,000; or

(5) for an applicant with 51 or more employees, $100,000.

Data indicating with which of the above requirements an applicant must comply is public data. The contents of the net worth statement are private data on individuals or nonpublic data, as defined in section 13.02.

(f) The applicant may file with the board an irrevocable letter of credit from a financial institution acceptable to the board in the amount listed in the appropriate category in paragraph (e).

Sec. 86. Minnesota Statutes 2008, section 326B.33, subdivision 16, is amended to read:

Subd. 16. **Insurance required.** Each contractor shall have and maintain in effect general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least $100,000 per occurrence,

$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least $50,000 or a policy with a single limit for bodily injury and property damage of $300,000 per occurrence and $300,000 aggregate limits. Such insurance shall be written by an insurer licensed to do business in the state of Minnesota and each contractor shall maintain on file with the commissioner a certificate evidencing such insurance ~~which provides that such insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner of such cancellation~~. In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 87. Minnesota Statutes 2009 Supplement, section 326B.46, subdivision 2, is amended to read:

Subd. 2. **Bond; insurance.** Any person contracting to do plumbing work must give bond to the state in the amount of at least $25,000 for (1) all plumbing work entered into within the state or (2) all plumbing work and subsurface sewage treatment work entered into within the state. If the bond is for both plumbing work and subsurface sewage treatment work, the bond must comply with the requirements of this section and section 115.56, subdivision 2, paragraph (e). The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure to comply with the requirements of the State Plumbing Code and, if the bond is for both plumbing work and subsurface sewage treatment work, financial loss by reason of failure to comply with the requirements of sections 115.55 and 115.56. The bond shall be filed with the commissioner and shall be written by a corporate surety licensed to do business in the state.

In addition, each applicant for a master plumber license or restricted master plumber license, or renewal thereof, shall provide evidence of public liability insurance, including products liability insurance with limits of at least $50,000 per person and $100,000 per occurrence and property damage insurance with limits of at least $10,000. The insurance shall be written by an insurer licensed to do business in the state of Minnesota and each licensed master plumber shall maintain on file with the commissioner a certificate evidencing the insurance ~~providing that the insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner. The term of the insurance shall be concurrent with the term of the license~~. In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 88. Minnesota Statutes 2008, section 326B.46, is amended by adding a subdivision to read:

Subd. 6. **Well contractor exempt from licensing and bond; conditions.** No license, registration, or bond under sections 326B.42 to 326B.49 is required of a well contractor or a limited well/boring contractor who is licensed and bonded under section 103I.525 or 103I.531 and is engaged in the work or business of installing (1) water service pipe from a well to a pressure tank or a frost-free water hydrant with an antisiphon device which is located entirely outside of a structure requiring potable water, or (2) a temporary shut-off valve on a well water service pipe. For the purposes of this subdivision, "temporary" means a time period not to exceed six months. This subdivision expires one year after the date of enactment.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 89. Minnesota Statutes 2008, section 326B.56, subdivision 2, is amended to read:

Subd. 2. **Insurance.** (a) Each applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to maintain insurance to obtain or maintain the license may comply with any political subdivision's insurance requirement by maintaining the insurance described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the insurance described in paragraph (b) shall be otherwise required to meet the insurance requirements of any political subdivision.

(b) The insurance shall provide coverage, including products liability coverage, for all damages in connection with licensed work for which the licensee is liable, with personal damage limits of at least $50,000 per person and $100,000 per occurrence and property damage insurance with limits of at least $10,000. The insurance shall be written by an insurer licensed to do business in this state and a certificate evidencing the insurance shall be filed with the commissioner. The insurance must remain in effect at all times while the application is pending and while the license is in effect. ~~The insurance shall not be canceled without the insurer first giving 15 days' written notice to the commissioner.~~ In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 90. Minnesota Statutes 2008, section 326B.86, subdivision 2, is amended to read:

Subd. 2. **Insurance.** Each licensee shall have and maintain in effect commercial general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least $100,000 per occurrence,

$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least $25,000 or a policy with a single limit for bodily injury and property damage of $300,000 per occurrence and $300,000 aggregate limits. The insurance must be written by an insurer licensed to do business in this state. Each licensee shall maintain on file with the commissioner a certificate evidencing the insurance ~~which provides that the insurance shall not be canceled without the insurer first giving 15 days' written notice of cancellation to the commissioner~~. In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured. The commissioner may increase the minimum amount of insurance required for any licensee or class of licensees if the commissioner considers it to be in the public interest and necessary to protect the interests of Minnesota consumers.

Sec. 91. Minnesota Statutes 2008, section 326B.921, subdivision 6, is amended to read:

Subd. 6. **Insurance.** In addition to the bond described in subdivision 5, each applicant for a high pressure pipefitting business license or renewal shall have in force public liability insurance, including products liability insurance, with limits of at least $100,000 per person and $300,000 per occurrence and property damage insurance with limits of at least $50,000.

The insurance must be kept in force for the entire term of the high pressure pipefitting business license, and the license shall be suspended by the department if at any time the insurance is not in force.

The insurance must be written by an insurer licensed to do business in the state and shall be in lieu of any other insurance required by any subdivision of government for high pressure pipefitting. Each person holding a high pressure pipefitting business license shall maintain on file with the department a certificate evidencing the insurance. ~~Any purported cancellation of insurance shall not be effective without the insurer first giving 30 days' written notice to the department.~~ In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 92. Minnesota Statutes 2008, section 327B.04, subdivision 4, is amended to read:

Subd. 4. **License prerequisites.** No application shall be granted nor license issued until the applicant proves to the commissioner that:

(a) the applicant has a permanent, established place of business at each licensed location. An "established place of business" means a permanent enclosed building other than a residence, or a commercial office space, either owned by the applicant or leased by

the applicant for a term of at least one year, located in an area where zoning regulations allow commercial activity, and where the books, records and files necessary to conduct the business are kept and maintained. The owner of a licensed manufactured home park who resides in or adjacent to the park may use the residence as the established place of business required by this subdivision, unless prohibited by local zoning ordinance.

If a license is granted, the licensee may use unimproved lots and premises for sale, storage, and display of manufactured homes, if the licensee first notifies the commissioner in writing;

(b) if the applicant desires to sell, solicit or advertise the sale of new manufactured homes, it has a bona fide contract or franchise in effect with a manufacturer or distributor of the new manufactured home it proposes to deal in;

(c) the applicant has secured: (1) a surety bond in the amount of $20,000 for each agency and each subagency location that bears the applicant's name and the name under which the applicant will be licensed and do business in this state. Each bond is for the protection of consumer customers, and must be executed by the applicant as principal and issued by a surety company admitted to do business in this state. Each bond shall be exclusively for the purpose of reimbursing consumer customers and shall be conditioned upon the faithful compliance by the applicant with all of the laws and rules of this state pertaining to the applicant's business as a dealer or manufacturer, including sections 325D.44, 325F.67 and 325F.69, and upon the applicant's faithful performance of all its legal obligations to consumer customers; and (2) a certificate of liability insurance in the amount of $1,000,000 that provides aggregate coverage for the agency and each subagency location. In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured;

(d) the applicant has established a trust account as required by section 327B.08, subdivision 3, unless the applicant states in writing its intention to limit its business to selling, offering for sale, soliciting or advertising the sale of new manufactured homes; and

(e) the applicant has provided evidence of having had at least two years' prior experience in the sale of manufactured homes, working for a licensed dealer.

Sec. 93. **[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 their 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.

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

Sec. 94. Minnesota Statutes 2008, section 332.34, is amended to read:

332.34 BOND.

The commissioner of commerce shall require each collection agency licensee to ~~annually~~ file and maintain in force a corporate surety bond, in a form to be prescribed by, and acceptable to, the commissioner, and in a sum of at least ~~$20,000~~ $50,000 plus an additional $5,000 for each $100,000 received by the collection agency from debtors located in Minnesota during the previous calendar year, less commissions earned by the collection agency on those collections for the previous calendar year. The total amount of the bond shall not exceed $100,000. A collection agency may deposit cash in and with a depository acceptable to the commissioner in an amount and in the manner prescribed and approved by the commissioner in lieu of a bond.

EFFECTIVE DATE. This section is effective for bonds obtained or renewed after January 1, 2011.

Sec. 95. Minnesota Statutes 2009 Supplement, section 340A.404, subdivision 4a, is amended to read:

Subd. 4a. **Publicly owned recreation; entertainment facilities.** (a) Notwithstanding any other law, local ordinance, or charter provision, the commissioner may issue on-sale intoxicating liquor licenses:

(1) to the state agency administratively responsible for, or to an entity holding a concession or facility management contract with such agency for beverage sales at, the premises of any Giants Ridge Recreation Area building or recreational improvement area owned by the state in the city of Biwabik, St. Louis County;

(2) to the state agency administratively responsible for, or to an entity holding a concession or facility management contract with such agency for beverage sales at, the

premises of any Ironworld Discovery Center building or facility owned by the state at Chisholm;

(3) to the Board of Regents of the University of Minnesota for events at Northrop Auditorium, the intercollegiate football stadium, or at no more than seven other locations within the boundaries of the University of Minnesota, provided that the Board of Regents has approved an application for a license for the specified location and provided that a license for an arena or stadium location is void unless it requires the sale or service of intoxicating liquor ~~throughout the arena or stadium if intoxicating liquor is sold or served anywhere in the arena or stadium~~ in a public portion consisting of at least one-third of the general seating of a stadium or arena. It is solely within the discretion of the Board of Regents to choose the manner in which to carry out this condition; and

(4) to the Duluth Entertainment and Convention Center Authority for beverage sales on the premises of the Duluth Entertainment and Convention Center Arena during intercollegiate hockey games.

The commissioner shall charge a fee for licenses issued under this subdivision in an amount comparable to the fee for comparable licenses issued in surrounding cities.

(b) No alcoholic beverage may be sold or served at TCF Bank Stadium unless the Board of Regents holds an on-sale intoxicating liquor license for the stadium as provided in paragraph (a), clause (3).

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 96. Minnesota Statutes 2008, section 340A.409, subdivision 1, is amended to read:

Subdivision 1. **Insurance required.** (a) No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by section 340A.801. The issuing authority must submit to the commissioner the applicant's proof of financial responsibility. This subdivision does not prohibit a local unit of government from requiring higher insurance or bond coverages, or a larger deposit of cash or securities. The minimum requirement for proof of financial responsibility may be given by filing:

(1) a certificate that there is in effect for the license period an insurance policy issued by an insurer required to be licensed under section 60A.07, subdivision 4, or by an insurer recognized as an eligible surplus lines carrier pursuant to section 60A.206 or pool providing at least $50,000 of coverage because of bodily injury to any one person in any one occurrence, $100,000 because of bodily injury to two or more persons in any one occurrence, $10,000 because of injury to or destruction of property of others in any one

occurrence, $50,000 for loss of means of support of any one person in any one occurrence, and $100,000 for loss of means of support of two or more persons in any one occurrence;

(2) a bond of a surety company with minimum coverages as provided in clause (1); or

(3) a certificate of the commissioner of management and budget that the licensee has deposited with the commissioner of management and budget $100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of $100,000.

(b) This subdivision does not prohibit an insurer from providing the coverage required by this subdivision in combination with other insurance coverage.

(c) An annual aggregate policy limit for dram shop insurance of not less than $300,000 per policy year may be included in the policy provisions.

(d) A liability insurance policy required by this section must provide that it may not be canceled for:

(1) any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given ~~30~~ 60 days' notice in writing to the ~~issuing authority~~ insured of intent to cancel the policy; ~~and~~

(2) nonpayment of premium unless the canceling party has first given ten days' notice in writing to the ~~issuing authority~~ insured of intent to cancel the policy~~.~~; and

(3) in the event of a policy cancellation, the insurer will send notice to the issuing authority at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 97. Minnesota Statutes 2008, section 471.61, subdivision 2b, is amended to read:

Subd. 2b. **Insurance continuation.** A unit of local government must allow a former employee and the employee's dependents to continue to participate indefinitely in the employer-sponsored hospital, medical, and dental insurance group that the employee participated in immediately before retirement, under the following conditions:

(a) The continuation requirement of this subdivision applies only to a former employee who is receiving a disability benefit or an annuity from a Minnesota public pension plan other than a volunteer firefighter plan, or who has met age and service requirements necessary to receive an annuity from such a plan.

(b) Until the former employee reaches age 65, the former employee and dependents must be pooled in the same group as active employees for purposes of establishing premiums and coverage for hospital, medical, and dental insurance. However, a former employee under the age of 65 who is enrolled in Medicare Parts A and B due to the former employee's disability and for whom Medicare's obligation to pay claims is primary, and

the former employee's dependents, must be pooled in the same group for purposes of this paragraph as former employees who have reached age 65.

(c) A former employee may receive dependent coverage only if the employee received dependent coverage immediately before leaving employment. This subdivision does not require dependent coverage to continue after the death of the former employee. For purposes of this subdivision, "dependent" has the same meaning for former employees as it does for active employees in the unit of local government.

(d) Coverage for a former employee and dependents may not discriminate on the basis of evidence of insurability or preexisting conditions unless identical conditions are imposed on active employees in the group that the employee left.

(e) The former employee must pay the entire premium for continuation coverage, except as otherwise provided in a collective bargaining agreement or personnel policy. A unit of local government may discontinue coverage if a former employee fails to pay the premium within the deadline provided for payment of premiums under federal law governing insurance continuation.

(f) An employer must notify an employee before termination of employment of the options available under this subdivision, and of the deadline for electing to continue to participate.

(g) A former employee must notify the employer of intent to participate within the deadline provided for notice of insurance continuation under federal law. A former employee who does not elect to continue participation does not have a right to reenter the employer's group insurance program.

(h) A former employee who initially selects dependent coverage may later drop dependent coverage while retaining individual coverage. A former employee may not drop individual coverage and retain dependent coverage.

(i) This subdivision does not limit rights granted to former employees under other state or federal law, or under collective bargaining agreements or personnel plans.

(j) Unless otherwise provided by a collective bargaining agreement, if retired employees were not permitted to remain in the active employee group prior to August 1, 1992, a public employer may assess active employees through payroll deduction for all or part of the additional premium costs from the inclusion of retired employees in the active employee group. This paragraph does not apply to employees covered by section 179A.03, subdivision 7.

(k) Notwithstanding section 179A.20, subdivision 2a, insurance continuation under this subdivision may be provided for in a collective bargaining agreement or personnel policy.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to coverage in existence on or after that date.

Sec. 98. Minnesota Statutes 2008, section 514.20, is amended to read:

514.20 SALE.

If any sum secured by such lien be not paid within 90 days after it becomes due, the lienholder may sell the property and out of the proceeds of such sale there shall be paid, first, the disbursements aforesaid; second, all charges against the property paid by such person to any other person; and, third, the total indebtedness then secured by the lien. The remainder, if any, shall be paid on demand to the owner or other person entitled thereto. If the property subject to the lien is a motor vehicle registered in this state and subject to a certificate of title, then the lienholder must provide written notice, by ~~registered~~ certified mail, to all secured creditors listed on the certificate of title 45 days before the lienholder's right to sell the motor vehicle is considered effective. The notice must state the name, address, and telephone number of the lienholder, the amount of money owed, and the rate at which storage charges, if any, are accruing. Costs for ~~registered~~ certified mail and other reasonable costs related to complying with this notice provision constitute "lawful charges" pursuant to section 514.19. Failure to comply with the notice provision in this section renders any lien created by this chapter ineffective against any secured party listed on the certificate of title of the motor vehicle involved.

EFFECTIVE DATE. This section is effective the day following final enactment, and applies to notices mailed on or after that date, provided however that it is also permissible to send notices under this section by registered mail prior to August 1, 2010, and the costs of those notices are lawful charges under this section.

Sec. 99. Laws 2007, chapter 147, article 12, section 14, is amended to read:

Sec. 14. **AGRICULTURAL COOPERATIVE HEALTH PLAN FOR FARMERS.**

Subdivision 1. **Pilot project requirements.** Notwithstanding contrary provisions of Minnesota Statutes, chapter 62H, the following apply to a joint self-insurance pilot project administered by a trust sponsored by one or more agricultural cooperatives organized under Minnesota Statutes, chapter 308A or 308B, or under a federal charter for the purpose of offering health coverage to members of the cooperatives and their families, provided the project satisfies the other requirements of Minnesota Statutes, chapter 62H:

(1) Minnesota Statutes, section 62H.02, paragraph (b), does not apply;

(2) the notice period required under Minnesota Statutes, section 62H.02, paragraph (e), is 90 days;

(3) a joint self-insurance plan may elect to treat the sale of a health plan to or for an employer that has only one eligible employee who has not waived coverage as the sale of an individual health plan as allowed under Minnesota Statutes, section 62L.02, subdivision 26;

(4) Minnesota Statutes, section 297I.05, subdivision 12, paragraph (c), applies; and

(5) the trust must pay the assessment for the Minnesota Comprehensive Health Association as provided under Minnesota Statutes, section 62E.11.

Subd. 2. **Evaluation and renewal.** The pilot project authorized under this section is for a period of four years from the date of initial enrollment. The commissioner of commerce shall grant an extension of four additional years if the trust provides evidence that it remains in compliance with the requirements of this section and other applicable laws and rules. If the commissioner determines that the operation of the trust has not improved access, expanded health plan choices, or improved the affordability of health coverage for farm families, or that it has significantly damaged access, choice, or affordability for other consumers not enrolled in the trust, the commissioner shall provide at least 180 days' advance written notice to the trust and to the chairs of the senate and house finance and policy committees with jurisdiction over health and insurance of the commissioner's intention not to renew the pilot project at the expiration of a four-year period.

Subd. 3. **Use of surplus lines.** Plans created under this section may use surplus lines carriers to fulfill its obligations under Minnesota Statutes, chapter 62H.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 100. **ON-SALE LICENSE; THEATRE L'HOMME DIEU.**

Notwithstanding any law, ordinance, or charter provision to the contrary, Douglas County may issue a wine and intoxicating malt liquor license to Theatre L'Homme Dieu. The license authorizes sales on all days of the week to holders of tickets for performances presented by the theater and to members of the nonprofit corporations holding the license and to their guests.

EFFECTIVE DATE. This section is effective upon approval by the licensing authority in the manner specified by Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 101. **2011 APPOINTMENTS TO REAL ESTATE APPRAISER ADVISORY BOARD.**

The terms of all members of the Real Estate Appraiser Advisory Board expire the effective date of this section. The commissioner of commerce shall, as soon as practicable after this date, appoint members to an initial term of office as follows: three years for one consumer of appraisal services member, one certified residential real property appraiser member, and one certified general real property appraiser member; two years for one consumer of appraisal services member, one certified residential real property appraiser member, and one certified general real property appraiser member; and one year for one consumer of appraisal services member, one certified residential real property appraiser member, and one certified general real property appraiser member.

Upon the expiration of the term of office established in this section, the successor must be appointed pursuant to Minnesota Statutes, section 82B.05.

All provisions of Minnesota Statutes, section 82B.05, not inconsistent with this section apply to the initial board appointed pursuant to this section.

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

Sec. 102. **COORDINATION OF BENEFITS STUDY.**

The commissioner of commerce, in consultation with the commissioner of health and health plan companies, shall consider the appropriateness of adopting the National Association of Insurance Commissioners 2005 Coordination of Benefits Model Regulation. The commissioner shall submit recommendations and draft legislation, if any, needed to implement the recommendations, to the legislature by January 15, 2011.

Sec. 103. **SAUK RAPIDS; ON-SALE LICENSE.**

Notwithstanding any other law, ordinance, or charter provision to the contrary, the city of Sauk Rapids may issue an on-sale intoxicating liquor license, or an on-sale 3.2 percent malt liquor license, to the owner of an arena located on the Benton County Fairgrounds or to an entity holding a concession contract with the owner for use on the premises of that arena. Any license authorized by this section may be issued for space that is not compact or contiguous, provided that all of the space is within the boundaries of the arena and is included in the description of the licensed premises on the approved license application. A license issued under this section authorizes sales on all days of the week to persons attending activities or events at the arena. All other provisions of Minnesota Statutes, chapter 340A not inconsistent with this section apply to the license authorized under this section.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 104. **REPEALER.**

Minnesota Statutes 2008, sections 82.19, subdivision 3; 82.22, subdivisions 1, 6, 7, 8, and 9; 82.31, subdivision 6; 82.34, subdivision 16; 82.41, subdivisions 3 and 7; 332.31, subdivision 7; and 332.335, are repealed.

Minnesota Statutes 2009 Supplement, section 65B.133, subdivision 3; and 72B.02, subdivision 11, are repealed.

Minnesota Statutes 2008, section 72B.04, is repealed effective July 1, 2010.

Minnesota Statutes 2008, section 62L.056, is repealed effective January 1, 2012.

62L.056 SMALL EMPLOYER FLEXIBLE BENEFITS PLANS.

(a) Notwithstanding any provision of this chapter, chapter 363A, or any other law to the contrary, a health carrier may offer, sell, issue, and renew a health benefit plan that is a flexible benefits plan under this section to a small employer if the following requirements are satisfied:

(1) the health benefit plan must be offered in compliance with this chapter, except as otherwise permitted in this section;

(2) the health benefit plan to be offered must be designed to enable employers and covered persons to better manage costs and coverage options through the use of co-pays, deductibles, and other cost-sharing arrangements;

(3) the health benefit plan must be issued and administered in compliance with sections 62E.141; 62L.03, subdivision 6; and 62L.12, subdivisions 3 and 4, relating to prohibitions against enrolling in the Minnesota Comprehensive Health Association persons eligible for employer group coverage;

(4) the health benefit plan may modify or exclude any or all coverages of benefits that would otherwise be required by law, except for maternity benefits and other benefits required under federal law;

(5) each health benefit plan must be approved by the commissioner of commerce, but the commissioner may not disapprove a plan on the grounds of a modification or exclusion permitted under clause (4); and

(6) prior to sale of the health benefit plan, the small employer must be given a written list of the coverages otherwise required by law that are modified or excluded in the health benefit plan. The list must include a description of each coverage in the list and indicate whether the coverage is modified or excluded. If a coverage is modified, the list must describe the modification. The list may, but need not, also list any or all coverages otherwise required by law that are included in the health benefit plan and indicate that they are included. The insurer must require that a copy of this written list be provided, prior to the effective date of the health benefit plan, to each employee who is eligible for health coverage under the employer's plan.

(b) The definitions in section 62L.02 apply to this section as modified by this section.

(c) An employer may provide a health benefit plan permitted under this section to its employees, the employees' dependents, and other persons eligible for coverage under the employer's plan, notwithstanding chapter 363A or any other law to the contrary.

65B.133 SURCHARGE DISCLOSURE.

Subd. 3. **Disclosure to policyholders.** An insurer or its agent shall mail or deliver a surcharge disclosure statement or written notice of the statement's availability on the insurer's Web site to the named insured either before or with the first notice to renew a policy on or after January 1, 1983. If a surcharge disclosure statement or written Web site notice has been provided pursuant to subdivision 2, no surcharge disclosure statement is required to be mailed or delivered to the same named insured pursuant to subdivision 3.

72B.02 DEFINITIONS.

Subd. 11. **Catastrophe.** "Catastrophe" means an event that results in large numbers of deaths or injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; or severely affects state, local, and private sector capabilities to begin and sustain response activities. A catastrophe must be declared by the governor of the state, district, or territory in which the catastrophe occurred.

72B.04 LICENSE PROCEDURE AND REQUIREMENTS; EXAMINATIONS; FEES.

Subdivision 1. **Application.** A license to act as an adjuster, or public adjuster solicitor shall only be granted by the commissioner to a qualified person upon request.

Subd. 2. **Qualifications.** An applicant for licensing as an adjuster under sections 72B.01 to 72B.14 shall be at least 18 years of age. The applicant shall be competent and trustworthy and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of the application.

An applicant for licensing as a public adjuster solicitor under sections 72B.01 to 72B.14 shall be at least 18 years of age, shall be competent and trustworthy, and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of the application.

In the case of any applicant who has been convicted of a felony within the ten years next preceding the date of the application, and who in the judgment of the commissioner, meets the other qualifications, the commissioner may impose the additional requirement of the filing of a bond in accordance with the requirements of section 72B.08, subdivision 8.

Subd. 3. **Application.** The application for any initial or renewal license under sections 72B.01 to 72B.14 or for a temporary permit shall be signed and sworn to by the applicant and accompanied by the appropriate fee. An application for an initial license or temporary permit shall state the applicant's name, age, residence address, business name and address, educational background, previous experience in the field and class in which a license or permit is sought, the class of license applied for, and, in the case of an applicant for an adjuster's license the field in which the license is being sought, and such other information as the commissioner deems appropriate to determine the applicant's trustworthiness and competency. The application for an initial license or permit shall also state whether or not the application is being made on the basis of an examination. If the application is not made on the successful completion of an examination, it shall state the reasons why no examination is required. Renewal of a license or permit shall be made on the basis of an application for renewal. All applicants for a license as a public adjuster must attach to their application evidence that the bonding requirement has been satisfied.

Subd. 4. **Bonding.** No initial or renewal public adjuster's license shall be issued to any applicant unless there is on file with the commissioner a good and sufficient surety bond, issued by an insurer authorized to do business in this state. The bond shall be in the amount of $10,000 with the state of Minnesota as obligee, conditioned for the prompt payment to any person entitled thereto, other than a partner or associate of the applicant, of any amounts received by the applicant or to protect any person other than a partner or associate of the applicant from loss resulting from fraud, dishonesty, forgery or theft in connection with the applicant's duties under sections 72B.01 to 72B.14; provided, however, that the aggregate liability of the surety to all persons for all losses shall, in no event, exceed the amount of such bond. The bond shall remain in effect during the term of the license, or until the surety is released from liability by the commissioner, or until canceled by the surety. The surety may cancel a bond, without prejudice to any liability which occurred prior to the cancellation, by giving at least 30 days' written notice to the commissioner. In the event that the required bond is terminated, the public adjuster's license shall automatically be suspended until a new bond is filed with the commissioner.

Subd. 5. **Examinations.** A person applying for a license under sections 72B.01 to 72B.14 must successfully complete an examination prescribed by the commissioner, which examination shall be at least in part a written examination. Examinations shall be given at such time and place as designated by the commissioner and there shall be different examinations for adjusters, public adjuster solicitors, and applicants for temporary permits. Adjusters' examinations shall be given in at least each of three fields: fire and allied lines, inland marine lines and including all perils under homeowners policies; all lines written as casualty insurance under section 60A.06, and including workers' compensation; and a combination of the two foregoing fields. Each examination shall be, in the judgment of the commissioner with the advice of the advisory committee, sufficient to require for a satisfactory score such knowledge of insurance, adjusting practices and appraisal techniques, to the extent that such knowledge is necessary for the class of license applied for and the field in which the applicant is being examined, that the people of Minnesota will receive insurance claim service from persons who are sufficiently trained to make fair and well informed judgments in the evaluation or settlement of insured losses. The examination for an applicant for a temporary permit may be oriented to the specified fields, but shall be less exacting than the examination for a license.

The commissioner may by rule determine the period of time between failure of an examination and reexamination.

A person shall not be eligible to take an examination if that person's license as an adjuster or public adjuster solicitor has been revoked in this or any other state within the three years next preceding the date of the application.

No examination shall be required for the timely renewal of a license, unless the license has been revoked.

Subd. 6. **Exceptions.** A person who on January 1, 1972, meets all of the qualifications specified in subdivision 2 with regard to the class of license applied for and, if experience is one of the requisites, has gained the experience within the three years next preceding January 1, 1972, shall be eligible for the issuance of a license without taking an examination.

A person who has held a license of any given class or in any field or fields within three years prior to the application shall be entitled to a renewal of the license in the same class or in the same fields without taking an examination.

A person applying for a license as a crop hail adjuster shall not be required to comply with the requirements of subdivision 5.

The commissioner may issue a license under sections 72B.01 to 72B.14 without an examination, if the applicant presents sufficient and satisfactory evidence of having passed a similar examination in another state and if the commissioner, with the advice of the advisory board, has determined that the standards of such other state are equivalent to those in Minnesota for the class of license applied for. Any applicant who presents sufficient and satisfactory evidence of having successfully completed all six parts of the Insurance Institute of America program in adjusting or other programs approved by the commissioner shall be entitled to an adjuster's license without taking the examination prescribed in subdivision 5.

Subd. 7. **License term.** (a) Initial licenses issued under this section are valid for a period not to exceed two years. Each initial license must expire on October 31 of the expiration year assigned by the commissioner.

(b) Licenses issued under this section may be renewed upon the timely filing of an application for renewal. Every renewal license is valid for a period of 24 months.

Subd. 8. **Renewal.** An application for renewal of a license issued under sections 72B.01 to 72B.14 shall be on a form prescribed by the commissioner and shall be filed with the commissioner with payment of the renewal fee prior to the expiration date of the license.

Subd. 9. **Notice of changes.** Each licensee or holder of a temporary permit shall give written notice to the commissioner of any change in name, or residence address not later than ten days after such change. The commissioner may, upon receipt of such notice, issue an amendment to the license incorporating such changes.

Subd. 10. **Fees.** A fee of $50 is imposed for each initial license or temporary permit and $50 for each renewal thereof or amendment thereto. A fee of $20 is imposed for the registration of each nonlicensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the Department of Commerce.

82.19 COMPENSATION.

Subd. 3. **Limitation on broker when transaction not completed.** When the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser.

82.22 DISCLOSURE REQUIREMENTS.

Subdivision 1. **Advertising.** Each licensee shall identify himself or herself as either a broker or an agent salesperson in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to the licensee's own property or the property of others.

Subd. 6. **Agent of broker disclosure.** A salesperson shall only conduct business under the licensed name of and on behalf of the broker to whom the salesperson is licensed. An individual broker shall only conduct business under the broker's licensed name. A broker licensed to a corporation or partnership shall only conduct business under the licensed corporate or partnership name. A licensee shall affirmatively disclose, before the negotiation or consummation of any transaction, the licensed name of the broker under whom the licensee is authorized to conduct business in accordance with this section.

Subd. 7. **Financial interests disclosure; licensee.** (a) Prior to the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner of real property that the licensee is a real estate broker or agent salesperson, and in what capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

(b) When a principal in the transaction is a licensee or a relative or business associate of the licensee, that fact must be disclosed in writing.

Subd. 8. **Material facts.** (a) Licensees shall disclose to any prospective purchaser all material facts of which the licensees are aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensees are aware.

(b) It is not a material fact relating to real property offered for sale the fact or suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity; or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under that section, if the broker or salesperson, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee or employee of the licensee has no duty to disclose information regarding airport zoning regulations if the broker or salesperson, in a timely manner, provides a written notice that a copy of the airport zoning regulations as adopted can be reviewed or obtained at the office of the county recorder where the zoned area is located.

(e) A licensee is not required to disclose, except as otherwise provided in paragraph (f), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

(f) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report, if a copy of the report is provided to the licensee, described in paragraph (e).

(g) The limitation on disclosures set forth in paragraphs (b) and (c) shall modify any common law duties with respect to disclosure of material facts.

Subd. 9. **Nonperformance of any party.** If a licensee is put on notice by any party to a real estate transaction that the party will not perform in accordance with the terms of a purchase agreement or other similar written agreement to convey real estate, the licensee shall immediately disclose the fact of that party's intent not to perform to the other party or parties to the transaction. Whenever reasonably possible, the licensee shall inform the party who will not perform of the licensee's obligation to disclose this fact to the other party or parties to the transaction prior to making the disclosure. The obligation required by this section shall not apply to notice of a party's inability to keep or fulfill any contingency to which the real estate transaction has been made subject.

82.31 LICENSING: APPLICATION.

Subd. 6. **Change of application information.** The commissioner must be notified in writing of a change of information contained in the license application on file with the commissioner within ten days of the change.

82.34 LICENSING; OTHER REQUIREMENTS.

Subd. 16. **Exemption.** The following persons, when acting as closing agents, are exempt from the requirements of sections 82.41 and 82.50 unless otherwise required in this chapter:

(1) a direct employee of a title insurance company authorized to do business in this state, or a direct employee of a title company, or a person who has an agency agreement with a title insurance company or a title company in which the agent agrees to perform closing services on the title insurance company's or title company's behalf and the title insurance company or title company assumes responsibility for the actions of the agent as if the agent were a direct employee of the title insurance company or title company;

(2) a licensed attorney or a direct employee of a licensed attorney;

(3) a licensed real estate broker or salesperson;

(4) a direct employee of a licensed real estate broker if the broker maintains all funds received in connection with the closing services in the broker's trust account;

(5) any bank, trust company, savings association, credit union, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of businesses within the scope of its corporate powers as provided by law;

(6) a title insurance company authorized to do business in this state; and

(7) a title company that has a contractual agency relationship with a title insurance company authorized to do business in this state, where the title insurance company assumes responsibility for the actions of the title company and its employees or agents as if they were the employees or agents of the title insurance company.

82.41 PROHIBITIONS.

Subd. 3. **Commission-splitting, rebates, and fees.** No real estate broker, salesperson, or closing agents shall offer, pay, or give, and no person shall accept, any compensation or other thing of value from any real estate broker, salesperson, or closing agents by way of commission-splitting, rebate, finder's fees, or otherwise, in connection with any real estate or business opportunity transaction. This subdivision does not apply to transactions (1) between a licensed real estate broker or salesperson and the parties to the transaction, (2) among persons licensed as provided herein, (3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction, (4) involving timeshare or other recreational lands where the amount offered or paid does not exceed $150, and payment is not conditioned upon any sale but is made merely for providing the referral and the person paying the fee is bound by any representations the person receiving the fee makes, and (5) involving a person who receives a referral fee from a person or an agent of a person licensed under this section, provided that in any 12-month period, no recipient may earn more than the value of one month's rent, that the recipient is a resident of the property or has lived there within 60 days of the payment of the fee, and that the person paying the fee is bound by any representations made by the recipient of the fee. A licensed real estate broker or salesperson may assign or direct that commissions or other compensation earned in connection with any real estate or business opportunity transaction be paid to a corporation, limited liability company, or sole proprietorship of which the licensed real estate broker or salesperson is the sole owner.

Subd. 7. **Closing agents.** A real estate closing agent may not charge a fee for closing services to a borrower, and a borrower may not be required to pay such a fee at settlement, if the fee was not previously disclosed in writing at least one business day before the settlement. This disclosure requirement will be considered satisfied if a disclosure is made or an estimate given under section 507.45.

332.31 DEFINITIONS.

Subd. 7. **Exempt out-of-state collection agency.** "Exempt out-of-state collection agency" means a collection agency that has no physical presence in this state, that is engaged in the business of collecting claims on behalf of creditors that have no physical presence in this state, and that only conducts business within this state by means of interstate communications including telephone, mail, and facsimile transmission.

332.335 EXEMPTION FROM LICENSURE.

Subdivision 1. **Requirements.** An exempt out-of-state collection agency, as defined by section 332.31, subdivision 7, that has obtained a certificate of exemption under subdivision 2 is exempt from the collector registration requirements and collection agency licensing requirements of this chapter, but is subject to all other provisions of sections 45.027 and 332.31 to 332.45.

Subd. 2. **Certificate of exemption.** To qualify as an exempt out-of-state collection agency, a person, except for those excluded from the definition of collection agency under section 332.32, must, before initiating collection activity, obtain a certificate of exemption from the commissioner. A certificate of exemption must be issued upon the applicant's filing an application on a form approved by the commissioner if the applicant is found to be qualified under this chapter. The form must include:

(1) a signed statement that the exempt out-of-state collection agency holds a valid license to do business as a collection agency in another state whose requirements for licensing are similar to the requirements imposed under this chapter along with a copy of the licensing document from the other state;

(2) certification that the exempt out-of-state collection agency will not solicit or collect claims for any creditor who has a business presence in this state. A creditor has a business

presence in this state if either the creditor or an affiliate or subsidiary of the creditor has an office in this state;

(3) certification that the exempt out-of-state collection agency will not establish a physical presence in this state and that all collection activity in this state will be conducted exclusively by means of interstate communications including telephone, mail, or facsimile transmission;

(4) evidence of a corporate surety bond substantially similar, as determined by the commissioner, to the bond required under section 332.34;

(5) appointment of the commissioner as the exempt out-of-state collection agency's agent for service of process in this state; and

(6) written acknowledgment that the exempt out-of-state collection agency agrees to be subject to the jurisdiction of Minnesota courts and the Minnesota Administrative Procedure Act, chapter 14, in connection with the commissioner's enforcement of Minnesota law pertaining to collection activities in Minnesota, including compliance with this chapter and chapter 45.

Subd. 3. **Notice.** An exempt out-of-state collection agency must advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change.

Subd. 4. **Loss of exemption.** In addition to fines and other authorized sanctions, a certificate of exemption is considered revoked if the exempt out-of-state collection agency is found to be in violation of any provision of chapter 45 or 332, or the Fair Debt Collection Practices Act of 1977, United States Code, title 15, sections 1691 to 1693r.