

nesota supplemental investment fund made available by the county of Hennepin.

Sec. 11. **EFFECTIVE DATES.**

Sections 1 to 9 are effective July 1, 1986. Section 10 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of Hennepin county.

Approved March 19, 1986

---

**CHAPTER 357—H.F.No. 1940**

*An act relating to Stearns county; authorizing the Stearns county board to designate the county auditor as the local registrar of the county.*

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

Section 1. **STEARNS COUNTY; LOCAL REGISTRAR.**

Notwithstanding Minnesota Statutes, section 144.214, subdivision 1, the county board of Stearns county may designate the county auditor as the local registrar in the county, with the approval of the court administrator.

Sec. 2. **STEARNS COUNTY; MARRIAGE LICENSING.**

Notwithstanding Minnesota Statutes, chapter 517, the county board of Stearns county may authorize the county auditor to perform the functions and duties of the court administrator required under Minnesota Statutes, chapter 517, with the approval of the court administrator.

Approved March 19, 1986

---

**CHAPTER 358—H.F.No. 1984**

*An act relating to commerce; regulating securities; regulating the assignment of certain real property loans and the administration of certain escrow accounts; providing certain exemptions; regulating real estate brokers and salespersons; modifying re-examination requirements; providing trust account requirements for licensees acting as principals; granting certain enforcement powers to the commissioner; providing certain remedies; requiring storage of abstracts of title within Minnesota; amending Minnesota Statutes 1984, sections 47.20, subdivision 9; 80A.14, subdivision 18; 80A.15, subdivision 1; 82.17, subdivision 4; 82.22, subdivisions 3, 6, and 13; 82.24, subdivision 2; 82.26; 82.27, subdivision 1; 82.33, subdivision 2; 386.375; and Minnesota Statutes 1985 Supplement, sections 80A.13, subdivision 1; 80A.15, subdivision 2; and 82.19, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 47.*

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

Section 1. [47.205] ASSIGNMENT OF MORTGAGE; DUTIES; PENALTIES.

Subdivision 1. DEFINITIONS. For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Lender" means all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions making a loan, or any person making a conventional loan as defined under section 47.20, subdivision 2, clause (3) or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4). A "selling lender" is a lender who sells, assigns, or transfers the servicing of a loan, to a "purchasing lender or a servicing agent."

(b) "Loan" means all loans and advances of credit authorized under section 47.20, subdivision 1, clauses (1) to (4) and conventional loans as defined under section 47.20, subdivision 2, clause (3) or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4).

(c) "Escrow account" means escrow, agency, or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one-to-four family, owner occupied residence located in this state.

(d) "Person" means an individual, corporation, business trust, partnership or association, or any other legal entity.

Subd. 2. ASSIGNMENT OR SALE OF MORTGAGE LOANS. If the servicing of mortgage loans financing one-to-four family owner occupied residences located in this state is sold or assigned to another person:

(1) the selling lender shall notify the mortgagor of the sale no less than ten days after the actual date of transfer. The notification must include the name, address, and telephone number of the person who will assume responsibility for servicing and accept payments for the mortgage loan and the notification must also include a detailed written financial breakdown, including but not limited to, interest rate, monthly payment amount, and current escrow balance;

(2) the purchasing lender shall issue corrected coupon or payment books, if used, and shall provide notification to the mortgagor within 20 days after the first payment to the purchasing lender is due, of the name, address, and telephone number of the person from whom the mortgagor can receive information regarding the servicing of the loan, and shall inform the mortgagor of any changes made regarding the mortgage escrow accounts or servicing requirements including, but not limited to, interest rate, monthly payment amount, and current escrow balance; and

(3) the purchasing lender shall respond within 15 business days to a written request for information from a mortgagor. A written response must include the telephone number of the company representative who can assist the mortgagor.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. ADMINISTRATION OF ESCROW ACCOUNTS. Each lender requiring funds of a mortgagor to be paid into an escrow account for payment of taxes or insurance premiums with respect to a mortgaged one-to-four family owner occupied residence located in this state shall make payments for the taxes or insurance from the escrow account in a timely manner as these obligations become due provided that funds paid into the account by the mortgagor are sufficient for the payment. If there is a shortage of funds, the lender shall promptly notify the mortgagor of the shortage. If the lender fails to make timely payments, the lender is liable to the mortgagor for actual damages caused by the failure to pay the amounts when due and is subject to penalties provided in subdivision 4, except that the lender may present any legal defense in any subsequent hearing. The lender is permitted to make a payment on behalf of the mortgagor even though there are not sufficient funds in a particular account to cover the payment.

Subd. 4. PENALTIES. If a lender fails to comply with the requirements of subdivisions 2 and 3, the lender is liable to the mortgagor for \$500 per occurrence, in addition to actual damages caused by the violation.

Sec. 2. Minnesota Statutes 1984, section 47.20, subdivision 9, is amended to read:

Subd. 9. (1) For purposes of this subdivision the term "mortgagee" shall mean all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions or assignees of the above. Each mortgagee requiring funds of a mortgagor to be paid into an escrow, agency or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one to four family, owner occupied residence located in this state, unless the account is required by federal law or regulation or maintained in connection with a conventional loan in an original principal amount in excess of 80 percent of the lender's appraised value of the residential unit at the time the loan is made or maintained in connection with loans insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration, shall calculate interest on such funds at a rate of not less than five percent per annum. Such interest shall be computed on the average monthly balance in such account on the first of each month for the immediately preceding 12 months of the calendar year or such other fiscal year as may be uniformly adopted by the mortgagee for such purposes and shall be annually credited to the remaining principal balance on the mortgage, or at the election of the mortgagee, paid to the mortgagor or credited to his account. If the interest exceeds the remaining balance, the excess shall be paid to the mortgagor or vendee. The requirement to pay interest shall apply to such accounts created prior to June 1, 1976 as well as to accounts created after June 1, 1976.

(2) A mortgagee offering the following option (c) to a mortgagor but not requiring maintenance of escrow accounts as described in clause (1), whether or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

not the accounts were required by the mortgagee or were optional with the mortgagor, shall offer to each of such mortgagors the following options:

(a) the mortgagor may manage the payment of insurance and taxes by himself;

(b) the mortgagor may open with the mortgagee a passbook savings account carrying the current rate of interest being paid on such accounts by the mortgagee in which the mortgagor can deposit the funds previously paid into the escrow account; or

(c) the mortgagor may elect to maintain a non-interest bearing escrow account as described in clause (1) to be serviced by the mortgagee at no charge to the mortgagor.

A mortgagee that is not a depository institution offering passbook savings accounts shall instead of offering option (b) above notify its mortgagors (1) that they may open such accounts at a depository institution and (2) of the current maximum legal interest rate on such accounts.

A mortgagee offering option (c) above to a mortgagor but not requiring the maintenance of escrow accounts shall notify its mortgagor of the options under (a), (b) and (c). The notice shall state the option and state that an escrow account is not required by the mortgagee, that the mortgagor is legally responsible for the payment of taxes and insurance, and that the notice is being given pursuant to this subdivision.

Notice shall be given within 30 days after the effective date of the provisions of Laws 1977, Chapter 350 amending the subdivision, as to mortgagees offering option (c) above to mortgagors but not requiring escrow accounts as of the effective date, or within 30 days after a mortgagee's decision to discontinue requiring escrow accounts if the mortgagee continues to offer option (c) above to mortgagors. If no reply is received within 30 days, option (c) shall be selected for the mortgagor but the mortgagor may, at any time, select another option.

A mortgagee making a new mortgage and offering option (c) above to a prospective mortgagor shall, at the time of loan application, notify the prospective mortgagor of options (a), (b) and (c) above which must be extended to the prospective mortgagor. The mortgagor shall select one of the options at the time the loan is made.

Any notice required by this clause (2) shall be on forms approved by the commissioner of commerce and shall provide that at any time a mortgagor may select a different option. The form shall contain a blank where the current passbook rate of interest shall be entered by the mortgagee. Any option selected by the mortgagor shall be binding on the mortgagee.

This clause ~~(2)~~ does not apply to escrow accounts which are excepted from the interest paying requirements of clause (1).

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(3) A mortgagee shall be prohibited from charging a direct fee for the administration of the escrow account.

(4) A mortgagee shall make timely payments of tax and insurance bills provided that funds paid into the account by the mortgagor are sufficient for the payment. If there is a shortage of funds the mortgagee shall promptly notify the mortgagor of the shortage. Failure to make the payment required by this clause shall subject the mortgagee to liability for all damages caused by the failure except that this sentence shall not deprive the mortgagee of the right to present any legal defenses in any subsequent proceeding. The mortgagee is permitted to make any payment on behalf of the mortgagor even though there are not sufficient funds in a particular account to cover the payment.

Sec. 3. Minnesota Statutes 1985 Supplement, section 80A.13, subdivision 1, is amended to read:

Subdivision 1. The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds (a) that the order is in the public interest and (b) that

(1) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under section 80A.12, subdivision 9, as of its effective date, or any report under section 80A.12, subdivision 8, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) any provision of sections 80A.01 to 80A.31 or any rule, order, or condition lawfully imposed under sections 80A.01 to 80A.31 has been willfully violated in connection with the offering, by (i) the person filing the registration statement, (ii) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (iii) any underwriter;

(3) the security registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but (i) the commissioner may not institute a proceeding against an effective registration statement under this clause more than one year from the date of the order or injunction relied on, and (ii) may not enter an order under this clause on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(4) the issuer's enterprise or method of business includes or would include activities which are illegal where performed;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(5) the offering has worked or tended to work a fraud upon purchasers or would so operate;

(6) except with respect to securities which are being registered by notification, the terms of the securities are unfair and inequitable; provided, however, that the commissioner may not determine that an offering is unfair and inequitable solely on the grounds that the securities are to be sold at an excessive price where the offering price has been determined by arms length negotiation between nonaffiliated parties. The selling price of any security being sold by a broker-dealer licensed in this state shall be presumed to have been determined by arms length negotiation;

(7) when a security is sought to be registered by coordination there has been a failure to comply with the undertaking required by section 80A.10, subdivision 2, clause (d);

(8) the applicant or registrant has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause and he shall vacate any such order when the deficiency has been corrected; or

(9) the offering of securities sought to be registered is not firmly underwritten and (i) the ~~maximum~~ minimum amount of proceeds from the sale of the securities is ~~(+)~~ not more than \$500,000, and (ii) the maximum amount of proceeds is more than 200 percent of the minimum amount of proceeds required to go forward with the offering.

The commissioner may not institute a stop order proceeding against an effective registration statement solely on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next 30 days.

Sec. 4. Minnesota Statutes 1984, section 80A.14, subdivision 18, is amended to read:

Subd. 18. **SECURITY.** (a) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable shares; investment contract; investment metal contract or investment gem contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining right, title or lease or in payments out of production under the right, title or lease; or, in general, any interest or instrument commonly known as a security, or any 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. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) A security that is offered and sold pursuant to section 4(5) of the Securities Act of 1933 or that is a "mortgage related security" (as defined in section 3(a)(41) of the Securities Exchange Act of 1934) is not a security exempt from registration under section 80A.15, subdivision 1, paragraph (a), in the same manner as obligations issued or guaranteed as to principal and interest by the United States or its agencies or instrumentalities. This provision specifically overrides the preemption of state law contained in section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, Public Law Number 98-440.

Sec. 5. Minnesota Statutes 1984, section 80A.15, subdivision 1, is amended to read:

Subdivision 1. The following securities are exempted from sections 80A.08 and 80A.16:

(a) Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state or any corporate or other instrumentality of one or more of the foregoing; but this exemption shall not include any industrial revenue bond. Pursuant to section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, Public Law Number 98-440, this exemption does not apply to a security that is offered or sold pursuant to section 106(a)(1) or (2) of that act.

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any province, any agency or corporate or other instrumentality of one or more of the foregoing, if the security is recognized as a valid obligation by the issuer or guarantor; but this exemption shall not include any revenue obligation payable solely from payments to be made in respect of property or money used under a lease, sale or loan arrangement by or for a nongovernmental industrial or commercial enterprise.

(c) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution or trust company organized under the laws of any state and subject to regulation in respect of the issuance or guarantee of its securities by a governmental authority of that state.

(d) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(e) Any security issued or guaranteed by any federal credit union or any credit union, or similar association organized and supervised under the laws of this state.

(f) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange, or the Chicago Board Options Exchange;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing.

(g) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or any guarantee of the paper or of any renewal which are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television or direct mailing.

(h) Any interest in any employee's savings, stock purchase, pension, profit sharing or similar benefit plan, or a self-employed person's retirement plan.

(i) Any security issued or guaranteed by any railroad, other common carrier or public utility which is subject to regulation in respect to the issuance or guarantee of its securities by a governmental authority of the United States.

(j) Any interest in a common trust fund or similar fund maintained by a state bank or trust company organized and operating under the laws of Minnesota, or a national bank wherever located, for the collective investment and reinvestment of funds contributed thereto by the bank or trust company in its capacity as trustee, executor, administrator, or guardian; and any interest in a collective investment fund or similar fund maintained by the bank or trust company, or in a separate account maintained by an insurance company, for the collective investment and reinvestment of funds contributed thereto by the bank, trust company or insurance company in its capacity as trustee or agent, which interest is issued in connection with an employee's savings, pension, profitsharing or similar benefit plan, or a self-employed person's retirement plan.

(k) Any security which meets all of the following conditions:

(1) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of the agent in its prospectus;

(2) A class of the issuer's securities is required to be and is registered under section 12 of the Securities Exchange Act of 1934, and has been so registered for the three years immediately preceding the offering date;

(3) Neither the issuer nor a significant subsidiary has had a material default during the last seven years, or for the period of the issuer's existence if less than seven years, in the payment of (i) principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money, or (ii) rentals under leases with terms of three years or more;

(4) The issuer has had consolidated net income, before extraordinary items

Changes or additions are indicated by underline, deletions by ~~strikeout~~.



and the cumulative effect of accounting changes, of at least \$1,000,000 in four of its last five fiscal years including its last fiscal year; and if the offering is of interest bearing securities, has had for its last fiscal year, net income, before deduction for income taxes and depreciation, of at least 1-1/2 times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. For the purposes of this clause "last fiscal year" means the most recent year for which audited financial statements are available, provided that such statements cover a fiscal period ended not more than 15 months from the commencement of the offering;

(5) If the offering is of stock or shares other than preferred stock or shares, the securities have voting rights and the rights include (i) the right to have at least as many votes per share, and (ii) the right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law; and

(6) If the offering is of stock or shares, other than preferred stock or shares, the securities are owned beneficially or of record, on any date within six months prior to the commencement of the offering, by at least 1,200 persons, and on that date there are at least 750,000 such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least \$3,750,000.

In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith for the purposes of this clause upon written information furnished by the record owners.

(l) Any certificate of indebtedness sold or issued for investment, other than a certificate of indebtedness pledged as a security for a loan made contemporaneously therewith, and any savings account or savings deposit issued, by an industrial loan and thrift company.

Sec. 6. Minnesota Statutes 1985 Supplement, section 80A.15, subdivision 2, is amended to read:

Subd. 2. The following transactions are exempted from sections 80A.08 and 80A.16:

(a) Any isolated sales, whether or not effected through a broker-dealer, provided that no person shall make more than ten sales of securities of the same issuer pursuant to this exemption during any period of 12 consecutive months; provided further, that in the case of sales by an issuer, except sales of securities registered under the Securities Act of 1933 or exempted by section 3(b) of that act, (1) the seller reasonably believes that all buyers are purchasing for investment, and (2) the securities are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television, electronic means or similar communications media, or through a program of general solicitation by means of mail or telephone.

(b) Any nonissuer distribution of an outstanding security if (1) either Moody's,

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Fitch's, or Standard & Poor's Securities Manuals, or other recognized manuals approved by the commissioner contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than 18 months prior to the date of the sale, and a profit and loss statement for the fiscal year preceding the date of the balance sheet, and (2) the issuer or its predecessor has been in active, continuous business operation for the five-year period next preceding the date of sale, and (3) if the security has a fixed maturity or fixed interest or dividend provision, the issuer has not, within the three preceding fiscal years, defaulted in payment of principal, interest, or dividends on the securities.

(c) The execution of any orders by a licensed broker-dealer for the purchase or sale of any security, pursuant to an unsolicited offer to purchase or sell; provided that the broker-dealer acts as agent for the purchaser or seller, and has no direct material interest in the sale or distribution of the security, receives no commission, profit, or other compensation from any source other than the purchaser and seller and delivers to the purchaser and seller written confirmation of the transaction which clearly itemizes his commission, or other compensation.

(d) Any nonissuer sale of notes or bonds secured by a mortgage lien if the entire mortgage, together with all notes or bonds secured thereby, is sold to a single purchaser at a single sale.

(e) Any judicial sale, exchange, or issuance of securities made pursuant to an order of a court of competent jurisdiction.

(f) The sale, by a pledge holder, of a security pledged with him in good faith as collateral for a bona fide debt.

(g) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(h) Any sales by an issuer to the number of persons that shall not exceed 25 persons in this state, or 35 persons if the sales are made in compliance with Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.501 to 230.506, (other than those designated in paragraph (a) or (g)), whether or not any of the purchasers is then present in this state, if (1) the issuer reasonably believes that all of the buyers in this state (other than those designated in clause (g)) are purchasing for investment, and (2) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this state (other than those designated in clause (g)), except reasonable and customary commissions paid by the issuer to a broker-dealer licensed under this chapter, and (3) the issuer has, ten days prior to any sale pursuant to this paragraph, supplied the commissioner with a statement of issuer on forms prescribed by the commissioner, containing the following information: (i) the name and address of the issuer, and the date and state of its organization; (ii) the number of units, price per unit, and a

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

description of the securities to be sold; (iii) the amount of commissions to be paid and the persons to whom they will be paid; (iv) the names of all officers, directors and persons owning five percent or more of the equity of the issuer; (v) a brief description of the intended use of proceeds; (vi) a description of all sales of securities made by the issuer within the six-month period next preceding the date of filing; and (vii) a copy of the investment letter, if any, intended to be used in connection with any sale. Sales that are made more than six months before the start of an offering made pursuant to this exemption or are made more than six months after completion of an offering made pursuant to this exemption will not be considered part of the offering, so long as during those six-month periods there are no sales of unregistered securities (other than those made pursuant to paragraph (a) or (g)) by or for the issuer that are of the same or similar class as those sold under this exemption. The commissioner may by rule or order as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase the number of offers and sales permitted, or waive the conditions in clause (1), (2), or (3) with or without the substitution of a limitation or remuneration.

(i) Any offer (but not a sale) of a security for which a registration statement has been filed under sections 80A.01 to 80A.31, if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending; and any offer of a security if the sale of the security is or would be exempt under this section. The commissioner may by rule exempt offers (but not sales) of securities for which a registration statement has been filed as he deems appropriate, consistent with the purposes of sections 80A.01 to 80A.31.

(j) The offer and sale by a cooperative association organized under chapter 308, 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 such association, or when such securities are issued as patronage dividends.

(l) The issuance and delivery of any securities of one corporation to another corporation or its security holders in connection with a merger, exchange of shares, or transfer of assets whereby the approval of stockholders of the other corporation is required to be obtained, provided, that the commissioner has been furnished with a general description of the transaction and with other information as he by rule prescribes not less than ten days prior to the issuance and delivery.

(m) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters.

(n) The distribution by a corporation of its or other securities to its own security holders as a stock dividend or as a dividend from earnings or surplus or as a liquidating distribution; or upon conversion of an outstanding convertible security; or pursuant to a stock split or reverse stock split.

(o) Any offer or sale of securities by an affiliate of the issuer thereof if: (1)

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

a registration statement is in effect with respect to securities of the same class of the issuer and (2) the offer or sale has been exempted from registration by rule or order of the commissioner.

(p) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if: (1) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state; and (2) the commissioner has been furnished with a general description of the transaction and with other information as the commissioner may by rule prescribe no less than ten days prior to the transaction.

Sec. 7. Minnesota Statutes 1984, section 82.17, subdivision 4, is amended to read:

Subd. 4. "Real estate broker" or "broker" means any person who:

(a) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds himself, herself, or itself out as engaged in these activities;

(b) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly negotiates or offers or attempts to negotiate a loan, secured or to be secured by a mortgage or other encumbrance on real estate;

(c) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option, exchange, purchase or rental of any business opportunity or business, or its goodwill, inventory, or fixtures, or any interest therein;

(d) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers, sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;

(e) engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby he or she undertakes to promote the sale of real estate through its listing in a publication issued primarily for this purpose;

(f) engages wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person. A person shall be presumed to be engaged in the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

business of selling real estate if the person engages as principal in five or more transactions during any 12-month period, unless the person is represented by a licensed real estate broker or salesperson;

(g) makes more than five conventional loans under section 47.20 during any 12-month period and who is not a bank, savings bank, mutual savings bank, building and loan association, or savings and loan association organized under the laws of this state or the United States, trust company, trust company acting as a fiduciary, or other financial institution subject to the supervision of the commissioner of commerce, or mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified by the Federal Home Loan Mortgage Corporation, or approved or certified by the Federal National Mortgage Association.

Sec. 8. Minnesota Statutes 1985 Supplement, section 82.19, subdivision 3, is amended to read:

Subd. 3. No real estate broker or salesperson shall offer, pay or give, and no person shall accept, any compensation or other thing of value from any real estate broker or salesperson by way of commission-splitting, rebate, finder's fees or otherwise, in connection with any real estate or business opportunity transaction; provided this subdivision does not apply to transactions (1) between a licensed real estate broker or salesperson and the person by whom he is engaged to purchase or sell real estate or business opportunity, (2) among persons licensed as provided herein, ~~and~~ (3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction, and (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. 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 of which the licensed real estate broker or salesperson is the sole owner.

Sec. 9. Minnesota Statutes 1984, section 82.22, subdivision 3, is amended to read:

Subd. 3. **RE-EXAMINATIONS.** An examination may be required before the renewal of any license which has been suspended, or before the issuance of a license to any person whose license has been ineffective for a period of ~~one~~ two years, except no re-examination shall be required of any individual who has failed to cause renewal of an existing license because of absence from the state while on active duty with the armed services of the United States of America.

Sec. 10. Minnesota Statutes 1984, section 82.22, subdivision 6, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 6. INSTRUCTION; NEW LICENSES. (a) Every salesperson, licensed after July 1, 1973 and before July 1, 1976 shall, within two years of the date his license was first granted be required to successfully complete a course of study in the real estate field consisting of not less than 60 hours of instruction, approved by the commissioner. Upon appropriate showing of hardship by the licensee, or for persons licensed pursuant to section 82.20, subdivision 1, clause (b), the commissioner may waive or modify the requirements of this subdivision. Every salesperson licensed after July 1, 1976 and before July 1, 1978 shall, within three years of the date his license was first issued, be required to successfully complete a course of study in the real estate field consisting of not less than 90 hours of instruction, approved by the commissioner;

(b) After July 1, 1978, and before January 1, 1984 January 1, 1987, every 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 salesperson licensed after July 1, 1978, and before January 1, 1984, shall, within one year of the date his license was first issued, be required to successfully complete a course of study in the real estate field consisting of 60 hours of instruction approved by the commissioner.~~ After January 1, 1987, every 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 before filing an application for the license. Every salesperson licensed after January 1, 1987, shall, within one year of licensure, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(e) (b) After December 31, 1983, and before January 1, 1987, every 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. After December 31, 1983, and before January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before filing an application for the license. Every salesperson licensed after December 31, 1983, and before January 1, 1987, shall, within one year of the date his license was first issued, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(d) (c) 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. The commissioner may by rule prescribe the curriculum and qualification of those employed as instructors.

Sec. 11. Minnesota Statutes 1984, section 82.22, subdivision 13, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 13. **CONTINUING EDUCATION.** (a) After July 1, ~~1978~~ 1987, all real estate salespersons ~~not subject to or who have completed the educational requirements contained in subdivision 6~~ and all real estate brokers shall be required to successfully complete 45 15 hours of real estate education, either as a student or a lecturer, in courses of study approved by the commissioner, within three years each year after their initial annual renewal date or after the expiration of their currently assigned three year continuing education due date. All salespersons and brokers shall report continuing education on an annual basis no later than June 30, 1990. Hours in excess of 15 earned in any one year may be carried forward to the following year.

(b) ~~For the purposes of administration, the commissioner shall classify by lot, the real estate brokers and salespersons subject to (a) above, in three classifications of substantially equal size. The first class shall complete 15 hours of approved real estate study between July 1, 1978 and June 30, 1979 inclusive. The second class shall complete 30 hours of approved real estate study between the dates of July 1, 1978 and June 30, 1980 inclusive. The third class shall complete 45 hours of approved real estate study between the dates of July 1, 1978 and June 30, 1981. After the first period, each class shall complete the prescribed educational requirements during successive three year periods.~~

(c) The commissioner shall adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of this subdivision.

(d) (c) Any program approved by Minnesota Continuing Legal Education shall be approved by the commissioner of commerce for continuing education for real estate brokers and salespeople if the program or any part thereof relates to real estate.

Sec. 12. Minnesota Statutes 1984, section 82.24, subdivision 2, is amended to read:

Subd. 2. **LICENSEE ACTING AS PRINCIPAL.** Any licensed real estate broker or salesperson acting in the capacity of principal in the sale or rental of interests in real estate owned or rented by him shall deposit in a Minnesota bank or trust company, any foreign bank which authorizes the commissioner to examine its records of ~~such~~ the deposits, or an industrial loan and thrift company organized under chapter 53 with deposit liabilities, in a trust account, those parts of all payments received on contracts ~~which~~ that are necessary to meet any amounts concurrently due and payable on any existing mortgages, contracts for deed or other conveyancing instruments, and reserve for taxes and insurance or any other encumbrance on ~~such~~ the receipts. ~~Such~~ The deposits ~~shall~~ must be maintained until disbursement is made under the terms of the encumbrance ~~pertaining thereto~~ and proper accounting on ~~such~~ the property made to the parties entitled ~~thereto~~ to an accounting.

Sec. 13. Minnesota Statutes 1984, section 82.26, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

**82.26 LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.**

Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order hereunder adopted or issued under this chapter, ~~he~~ the commissioner has the following powers:

(a) The commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder adopted or issued under this chapter, or he may refer the matter to the attorney general. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief shall must be granted.

(b) The commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from violations of sections 82.17 to 82.28 or any rule or order adopted or issued under this chapter. The order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. All hearings must be conducted in accordance with chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be deemed to be true. The commissioner shall adopt rules of procedure concerning all proceedings conducted pursuant to this subdivision.

Sec. 14. Minnesota Statutes 1984, section 82.27, subdivision 1, is amended to read:

Subdivision 1. The commissioner may by order deny, suspend or revoke any license or may censure a licensee if he finds (1) that the order is in the public interest, and (2) that the applicant or licensee or, in the case of a broker, any officer, director, partner, employee or agent or any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker or controlled by the broker:

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

(b) Has engaged in a fraudulent, deceptive or dishonest practice;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.



(c) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the real estate business;

(d) Has failed to reasonably supervise his brokers or salesperson so as to cause injury or harm to the public; or

(e) Has violated or failed to comply with any provision of this chapter or any rule or order under this chapter; or

(f) Has, in the conduct of the licensee's affairs under the license, been shown to be incompetent, untrustworthy, or financially irresponsible.

Sec. 15. Minnesota Statutes 1984, section 82.33, subdivision 2, is amended to read:

Subd. 2. No person required by this chapter to be licensed shall bring or maintain any action in the courts for any commission, fee or other compensation with respect to the purchase, sale, lease or other disposition or conveyance of real property, or with respect to the negotiation or attempt to negotiate any sale, lease or other disposition or conveyance of real property unless such property was first listed in writing for sale, lease or other disposition there is a written agreement with the person bringing or maintaining the action.

Sec. 16. Minnesota Statutes 1984, section 386.375, is amended to read:

**386.375 ABSTRACT OF TITLE; STORAGE WITHIN MINNESOTA OF ABSTRACTS.**

Subdivision 1. DEFINITIONS. For the purposes of this section, "lender" means all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions making a loan, or any person making a conventional loan as defined under section 47.20, subdivision 2, clause (3), or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4). A "selling lender" is a lender who sells, assigns, or transfers a loan and/or the servicing of a loan to a "purchasing lender" or "servicing agent."

Subd. 2. RESPONSIBILITY FOR STORAGE. Any title company, lender, or anyone other than the mortgagor or fee simple owner holding an abstract of title to Minnesota real estate shall be stored within the state of Minnesota transfer the abstract of title to the mortgagor or fee simple owner of the real estate to which the abstract pertains before August 1, 1987. After August 1, 1987, the abstract of title shall be provided to the mortgagor or fee simple owner at the time of closing. This section does not apply if the holder of the abstract of title is the mortgagor or fee simple owner of the real estate to which the abstract pertains.

Subd. 3. PENALTIES. If a title company or lender fails to comply with the requirements of subdivision 2, the mortgagor or fee simple owner has the right to have an abstract made at the expense of the lender or title company holding the abstract.

Approved March 19, 1986

Changes or additions are indicated by underline, deletions by ~~strikeout~~.