

(2) the total amount of interest accruing on the stated principal amount of the bonds and on interest previously accrued, from the bonds' date of issue to and including the second July 1 following the transfer of appropriated money; less

(3) the amount in the sinking fund account for the payment of the compounded maturity amount of the bonds, including interest earnings on amounts in the account. This appropriation is in lieu of all other appropriations made with respect to zero coupon bonds. The appropriated amounts must be transferred from the general fund to the sinking fund account in the state bond fund by December 1 of each year.

### Sec. 3. APPROPRIATION.

The amount necessary to pay for the cost of the marketing study under section 1, subdivision 2, and the marketing plan under section 2, subdivision 3, is appropriated to the commissioner of finance out of the proceeds of the college savings bonds. The cost of the marketing study must not exceed \$60,000.

### Sec. 4. REPEALER.

Sections 1 to 3 are repealed December 31, 1989.

### Sec. 5. EFFECTIVE DATE.

This act is effective the day following final enactment and applies to authorizations of state bonds under laws enacted before or after the effective date of this act.

Approved April 28, 1988

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## CHAPTER 695—H.F.No. 2526

*An act relating to consumer protection; regulating the provision of real estate closing services; amending Minnesota Statutes 1986, sections 82.17, by adding a subdivision; and 481.02, by adding subdivisions; Minnesota Statutes 1987 Supplement, section 481.02, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 507.*

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

### Section 1. POLICY STATEMENT; LEGISLATIVE FINDINGS.

Since 1931 the expressed policy of the state of Minnesota, stated by law in Minnesota Statutes, section 481.02, subdivision 3, clause (3), has been that real estate brokers and salespeople may provide drafting services incident to real estate closings. The legislature continues to find that the public interest will be served by permitting the provision of those services by brokers, salespeople, and

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closing agents with or without compensation. The legislature also finds it appropriate, and it is the purpose of this act, to provide clarification of the role of real estate brokers, salespeople, and closing agents.

Sec. 2. Minnesota Statutes 1986, section 82.17, is amended by adding a subdivision to read:

Subd. 10. "Closing agent" or "real estate closing agent" means any person acting as an agent for a title company, a licensed attorney, real estate broker, or real estate salesperson, who for another and with or without a commission, fee, or other valuable consideration or with or without the intention or expectation of receiving a commission, fee, or other valuable consideration, directly or indirectly provides closing services incident to the sale, trade, lease, or loan of residential real estate, including drawing or assisting in drawing papers incident to the sale, trade, lease, or loan, or advertises or claims to be engaged in these activities.

Sec. 3. Minnesota Statutes 1987 Supplement, section 481.02, subdivision 3, is amended to read:

Subd. 3. **PERMITTED ACTIONS.** The provisions of this section shall not prohibit:

(1) any person from drawing, without charge, any document to which the person, an employer of the person, a firm of which the person is a member, or a corporation whose officer or employee the person is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will;

(2) a person from drawing a will for another in an emergency if the imminence of death leaves insufficient time to have it drawn and its execution supervised by a licensed attorney-at-law;

~~(3) any one, acting as broker for the parties or agent of one of the parties to a sale or trade or lease of property or to a loan, from drawing or assisting in drawing, with or without charge, papers incident to the sale, trade, lease, or loan;~~

(4) any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of the policies;

~~(5)~~ (4) a licensed attorney-at-law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between the corporations;

~~(6)~~ (5) any bona fide labor organization from giving legal advice to its members in matters arising out of their employment;

~~(7)~~ (6) any person from conferring or cooperating with a licensed attorney-at-law of another in preparing any legal document, if the attorney is not, directly

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or indirectly, in the employ of the person or of any person, firm, or corporation represented by the person;

~~(8)~~ (7) any licensed attorney-at-law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or in which it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing the document shall not exceed the amount paid to and received and retained by the attorney, and the attorney shall not, directly or indirectly, rebate the fee to or divide the fee with the corporation;

~~(9)~~ (8) any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions, or any other conveyances except testamentary dispositions and instruments of trust;

~~(10)~~ (9) a licensed attorney-at-law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom the attorney is employed and by whom no compensation is, directly or indirectly, received for the services;

~~(11)~~ (10) any person or corporation engaged in the business of making collections from engaging or turning over to an attorney-at-law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney-at-law receives the entire compensation for the work;

~~(12)~~ (11) any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers to them, made by a licensed attorney-at-law, if no answer is accompanied or at any time preceded or followed by any charge for it, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for the periodical or any one connected with it or suggested by it, directly or indirectly;

~~(13)~~ (12) any authorized management agent of an owner of rental property used for residential purposes, whether the management agent is a natural person, corporation, partnership, limited partnership, or any other business entity, from commencing, maintaining, conducting, or defending in its own behalf any action in any court in this state to recover or retain possession of the property, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal; and

~~(14)~~ (13) any person from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state pursuant to the provisions of section 566.175 or sections 566.18 to 566.33 or from commencing, maintaining, conducting, or defending on behalf of the plaintiff

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or defendant any action in any court of this state for the recovery of rental property used for residential purposes pursuant to the provisions of section 566.02 or 566.03, subdivision 1, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal, and provided that, except for a nonprofit corporation, a person who is not a licensed attorney-at-law shall not charge or collect a separate fee for services rendered pursuant to this clause.

Sec. 4. Minnesota Statutes 1986, section 481.02, is amended by adding a subdivision to read:

Subd. 3a. REAL ESTATE CLOSING SERVICES. Nothing in this section shall be construed to prevent a real estate broker, a real estate salesperson, or a real estate closing agent, as defined in section 82.17, from drawing or assisting in drawing papers incident to the sale, trade, lease, or loan of property, or from charging for drawing or assisting in drawing them, except as hereafter provided by the supreme court.

Sec. 5. Minnesota Statutes 1986, section 481.02, is amended by adding a subdivision to read:

Subd. 9. Nothing in section 4 shall be construed to allow a person other than a licensed attorney to perform or provide the services of an attorney or be construed to otherwise conflict with section 481.02.

Sec. 6. [507.45] RESIDENTIAL REAL ESTATE CLOSINGS.

Subdivision 1. Residential real estate closing services may be provided and a fee charged by a licensed attorney, real estate broker, real estate salesperson, and real estate closing agent.

Subd. 2. No charge, except a charge required to be disclosed by Regulation Z, Code of Federal Regulations, title 12, section 226, may be made by a closing agent unless the party to be charged is informed of the charge in writing at least five business days before the closing by the party charging for the closing services.

Subd. 3. If the closing services are to be provided by a real estate broker, real estate salesperson, or real estate closing agent, the following regulations shall apply.

(a) The written contract for closing services shall state in at least 10-point type that the real estate broker, real estate salesperson, or real estate closing agent has not and, under applicable state law, may not express opinions regarding the legal effect of the closing documents or of the closing itself.

(b) No closing fee may be charged if a closing is performed without either a mortgagee's or owner's title insurance commitment or a legal opinion regarding the status of title.

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Subd. 4. No financial institution or other person making a mortgage loan may require a borrower to use any particular licensed attorney, real estate broker, real estate salesperson, or real estate closing agent in connection with a residential real estate closing.

Sec. 7. CONSTRUCTION.

Nothing in this act shall be construed to imply that fees charged for closing services before its enactment constituted the unauthorized practice of law.

Sec. 8. NONSEVERABILITY.

If section 4 or section 6, subdivision 1, is found to be unconstitutional or otherwise inoperative, the entire act shall be void and without effect.

Sec. 9. EFFECTIVE DATES.

Sections 2, 3, 4, 5 and 6, subdivision 1, take effect the day after final enactment. The other sections and subdivisions take effect January 1, 1989.

Approved April 28, 1988

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CHAPTER 696—H.F.No. 2537

*An act relating to horse racing; increasing the minimum required purses; changing the date when the racetrack must submit its financial statement to the racing commission; allowing the breeders' fund to be used to supplement purses for Minnesota horses racing in nonrestricted races; decreasing the pari-mutuel tax; amending Minnesota Statutes 1986, sections 240.01, by adding a subdivision; 240.13, subdivisions 4 and 6; 240.15, subdivisions 1, 2, 3, 4, and 6; and 240.18; Minnesota Statutes 1987 Supplement, section 240.13, subdivision 5.*

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

Section 1. Minnesota Statutes 1986, section 240.01, is amended by adding a subdivision to read:

Subd. 12. AVERAGE DAILY HANDLE. "Average daily handle" means the total amount bet in all pari-mutuel pools at a licensed racetrack during the racing meeting divided by the number of days that horse racing was conducted at the racetrack during the racing meeting.

Sec. 2. Minnesota Statutes 1986, section 240.13, subdivision 4, is amended to read:

Subd. 4. TAKEOUT; DISTRIBUTION OF WINNINGS. A licensee conducting pari-mutuel betting must deduct from a straight pari-mutuel pool, before

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