

CHAPTER 341—H.F.No. 624

An act relating to commerce; regulating real estate appraisers; creating the real estate appraiser advisory board; providing for membership, compensation, powers, and duties; providing licensing and education requirements; regulating the issuance, renewal, suspension, and revocation of licenses; providing fees; prescribing penalties; appropriating money; authorizing certain investments by state banks; regulating lending practices of industrial loan and thrifts; prescribing the qualifications of the directors of certain companies; regulating delinquency and collection charges or retail installment contracts; amending Minnesota Statutes 1988, sections 48.61, by adding a subdivision; 53.04, by adding a subdivision; 53.06; and 168.71; proposing coding for new law as Minnesota Statutes, chapter 82B.

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

ARTICLE 1

Section 1. [82B.02] DEFINITIONS.

Subdivision 1. SCOPE. For the purposes of this chapter, the terms in this section have the meanings given them.

Subd. 2. ANALYSIS. “Analysis” means a study of real estate or real property other than estimating value.

Subd. 3. APPRAISAL OR REAL ESTATE APPRAISAL. “Appraisal” or “real estate appraisal” means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate for purposes of preparing an appraisal report. An appraisal may be classified by subject matter into either a valuation or an analysis.

Subd. 4. APPRAISAL ASSIGNMENT. “Appraisal assignment” means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in giving an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate.

Subd. 5. APPRAISAL REPORT. “Appraisal report” means an oral or written communication of an appraisal for compensation that is not a contingent fee as defined in section 82B.22 given or signed by a licensed real estate appraiser.

Subd. 6. BOARD. “Board” means the real estate appraisal advisory board established under section 82B.05.

Subd. 7. COMMISSIONER. “Commissioner” means the commissioner of commerce.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 8. LICENSED REAL ESTATE APPRAISER. “Licensed real estate appraiser” means a person who develops and communicates real estate appraisals and who holds a current, valid license issued for licensed appraisal level I or II under this chapter, including an appraiser employed by a state agency.

Subd. 9. MARKET ANALYSIS. “Market analysis” means a price opinion prepared by a licensed real estate salesperson or broker for marketing purposes.

Subd. 10. REAL ESTATE. “Real estate” means an identified parcel or tract of land, including improvements, if any.

Subd. 11. REAL PROPERTY. “Real property” means one or more defined interests, benefits, and rights inherent in the ownership of real estate.

Subd. 12. STANDARDS OF PROFESSIONAL PRACTICE. “Standards of professional practice” means the uniform standards of professional appraisal practice adopted by the Appraisers Standards Board of the Appraisal Foundation as of January 1, 1989, or other version of these standards the commissioner may by order designate.

Subd. 13. VALUATION. “Valuation” means an estimate of value of real estate or real property.

Sec. 2. [82B.03] PROHIBITIONS.

Subdivision 1. LICENSE REQUIRED. (a) It is unlawful for a person to act as a real estate appraiser in this state unless licensed under this chapter.

(b) Only persons licensed under this chapter may advertise or represent themselves to be real estate appraisers.

(c) No person, other than a licensed real estate appraiser, may assume or use that title or a title, designation, or abbreviation likely to create the impression of licensure as a real estate appraiser by this state.

Subd. 2. LICENSE NOT REQUIRED. (a) An officer or employee of a corporation, partnership, or other business entity may act as a real estate appraiser without obtaining a license under this chapter if the corporation, partnership, or other business entity in which the person is employed or is an officer has an interest in the real estate that is the subject of the appraisal as owners, lenders, investors, or insurers.

(b) An appraisal conducted by a person exempt under this subdivision is subject to the guidelines for real estate appraisal policies and review procedures of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Reserve Board, the Farm Credit Administration, or the comptroller of the currency.

(c) If a real estate appraisal is made by a person who is exempt from licensing under this subdivision, the person for whom the appraisal is conducted

New language is indicated by underline, deletions by ~~strikeout~~.

must be given written notice that the appraisal was not conducted by a licensed appraiser, and the appraisal report must clearly state that it was conducted by an interested party and not by a licensed real estate appraiser.

Sec. 3. [82B.035] EXEMPTION.

Subdivision 1. MARKET ANALYSIS. This chapter does not apply to a licensed real estate salesperson or broker who, in the ordinary course of the licensee's business, gives a market analysis of the price of real estate, if the market analysis is not referred to or construed as an appraisal.

Subd. 2. ASSESSORS. Nothing in this chapter shall be construed as requiring the licensing of persons employed and acting in their capacity as assessors for political subdivisions of the state.

Sec. 4. [82B.04] RESPONSIBILITY FOR AGENTS.

A real estate appraiser is responsible for the acts of persons acting on the appraiser's behalf.

Sec. 5. [82B.05] REAL ESTATE APPRAISER ADVISORY BOARD.

Subdivision 1. CREATION. The real estate appraiser advisory board consists of 15 members appointed by the commissioner of commerce. Three of the members must be public members, four must be consumers of appraisal services, and eight must be licensed real estate appraisers of whom not less than two members shall be level II. Mere membership in an organization does not make a person the organization's representative on the board.

Subd. 2. QUALIFICATIONS. The real estate appraiser members first appointed to the board must: (1) be members in good standing of a nationally recognized real estate appraisal organization that as of January 1, 1989, required appraisal experience, education, and testing to become a designated member, in addition to adherence to standards of professional practice to keep the designation; or (2) have five years of active appraisal experience.

Each real estate appraiser member of the board appointed after January 1, 1991, must be a licensed real estate appraiser.

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.

New language is indicated by underline, deletions by ~~strikeout~~.

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 from among the members to preside at board meetings.

A quorum of the board is eight members.

The board shall meet at least quarterly, except that a meeting may be canceled, subject to the approval by the commissioner if a majority of the members determine that the meeting is not necessary.

The commissioner or a majority of the members may schedule additional meetings as necessary.

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 Minnesota Statutes, section 15.0575.

Sec. 6. [82B.06] POWERS OF THE BOARD.

The board shall make recommendations to the commissioner as the commissioner requests 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.

Sec. 7. [82B.07] POWERS OF THE COMMISSIONER.

The commissioner shall:

New language is indicated by underline, deletions by ~~strikeout~~.

- (1) receive applications for licenses;
- (2) establish the procedures for processing applications for licensing;
- (3) issue a license for appraisers;
- (4) maintain a registry of the names and addresses of people licensed under this chapter;
- (5) keep records and all application materials submitted to the commissioner;
- (6) conduct investigations;
- (7) deny, revoke, and suspend licenses; and
- (8) take other actions necessary to carry out the purposes of this chapter.

Sec. 8. [82B.08] LICENSING REQUIREMENTS.

Subdivision 1. GENERALLY. The commissioner shall issue a license as a real estate appraiser to a person who qualifies for the license under the terms of this chapter.

Subd. 2. QUALIFICATION OF APPLICANTS. An applicant must be at least 18 years of age when making application.

Subd. 3. APPLICATION FOR LICENSE; CONTENTS. (a) An applicant for a license must apply in writing upon forms prescribed by the commissioner. Each application must be signed and sworn to by the applicant and must be accompanied by the license fee required by this chapter.

(b) An application must contain information required by the commissioner consistent with the provisions and purposes of this chapter.

(c) An application must give the applicant's name, age, residence address, and the name and place of business.

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

(e) When filing an initial application or application for renewal for a license, the applicant shall state that the person agrees to comply with the standards set forth in this chapter and that the person understands the types of misconduct for which disciplinary proceedings may be started against a licensed real estate appraiser.

(f) The application for original licensing, renewal licensing, and examination must specify the classification of licensing being applied for and previously granted.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. EFFECTIVE DATE OF LICENSE. A license issued under this chapter expires on the August 31 next following the issuance of the license.

Subd. 5. RENEWALS. (a) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are considered to have been approved for renewal and may continue to transact business as a real estate appraiser whether or not the renewed license has been received on or before September 1. Application for renewal of a license is considered to have been timely filed if received by the commissioner by, or mailed with proper postage and postmarked by, August 1 in each year. Applications for renewal are considered properly filed if made upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter and containing information the commissioner requires.

(b) Persons who have failed to make a timely application for renewal of a license and who have not received the renewal license as of September 1 are unlicensed until the time the license has been issued by the commissioner and is received.

Subd. 6. NOTICE. Notice in writing must be given to the commissioner by each licensee of any change in personal name, trade name, address or business location not later than ten days after the change. The commissioner shall issue a new license if required for the unexpired period.

Subd. 7. NONRESIDENTS. A nonresident of Minnesota may be licensed as a real estate appraiser upon compliance with all provisions of this chapter.

Sec. 9. [82B.09] FEES.

Subdivision 1. AMOUNTS. The following fees must be paid to the commissioner:

(1) a fee of \$50 for each initial individual real estate appraiser's license and a fee of \$25 for each annual renewal;

(2) a fee of \$5 for a change in personal name or trade name or personal address or business location;

(3) a fee of \$10 for a license history; and

(4) a fee of \$20 for a duplicate license.

Subd. 2. FORFEITURE. All fees must be kept by the commissioner and are nonreturnable, except that an overpayment of a fee shall be refunded upon proper application.

Sec. 10. [82B.10] EXAMINATIONS.

Subdivision 1. GENERALLY. An applicant for a license must pass an examination conducted by the commissioner. The examinations must be of sufficient scope to establish the competency of the applicant to act as a real estate appraiser.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. REEXAMINATIONS. An examination must be required before renewal of a license that has been suspended, or before the issuance of a license to a person whose license has been ineffective for a period of two years. No reexamination is required of an individual who has failed to renew an existing license because of absence from the state while on active duty with the armed services of the United States of America.

Subd. 3. EXAMINATION FREQUENCY. The commissioner shall hold examinations at times and places the commissioner determines.

Subd. 4. PERIOD FOR APPLICATION. An applicant who obtains an acceptable score on an examination must file an application and obtain the license within one year of the date of successful completion of the examination or a second examination must be taken to qualify for the license.

Subd. 5. RENEWAL; EXAMINATION. Except as provided in subdivision 2, no examination is required for the renewal of a license. However, a licensee who has been licensed in the state of Minnesota and who fails to renew the license for a period of two years must be required by the commissioner to again take an examination.

Subd. 6. EXAMINATION ELIGIBILITY; REVOCATION. No applicant may take an examination if a license as a real estate appraiser has been revoked in this or another state within two years of the date of the application.

Subd. 7. RECIPROCITY. This section may be waived by the commissioner for individuals of other jurisdictions if: (1) a written reciprocal licensing agreement is in effect between the commissioner and the licensing officials of that jurisdiction, (2) the individual is licensed in that jurisdiction, and (3) the licensing requirements of that jurisdiction are substantially similar to the provisions of this chapter.

Subd. 8. FEES. The commissioner may assess an examination fee sufficient to recover the actual direct costs of holding the examination.

Sec. 11. [82B.11] CLASSES OF LICENSE.

Subdivision 1. GENERALLY. There are two classes of license for licensed real estate appraisers.

Subd. 2. LEVEL I. The licensed level I residential real estate appraiser is a person meeting the requirements for licensing relating to the appraisal of residential real property or agricultural acreage when a net income capitalization analysis is not required by the uniform standards of professional appraisal practice.

Subd. 3. LEVEL II. The licensed level II real estate appraiser is a person meeting the requirements for licensing relating to the appraisal of all types of real property.

New language is indicated by underline, deletions by strikeout.

Sec. 12. [82B.12] EXAMINATION REQUIREMENT.

An original license as a licensed real estate appraiser must be issued to a person who has demonstrated through a written examination process that the appraiser has the following qualifications:

(1) appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate;

(2) understanding the principles of land economics, real estate appraisal processes, and problems likely to be encountered in gathering, interpreting, and processing of data in carrying out appraisal disciplines;

(3) understanding the standards for the development and communication of real estate appraisals as provided in this chapter;

(4) knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of license for which the person is applying;

(5) knowledge of other principles and procedures appropriate for the classification of license for which the person is applying;

(6) basic understanding of real estate law; and

(7) understanding the types of misconduct and ethical considerations for which disciplinary proceedings may be started against a licensed real estate appraiser.

Sec. 13. [82B.13] EXAMINATION PREREQUISITES.

Subdivision 1. LEVEL I CLASSIFICATION. As a prerequisite to taking the examination for licensing as a licensed level I real estate appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 75 classroom hours of courses. The courses must consist of 60 hours of general real estate appraisal principles and 15 hours related to standards of professional practice and the provisions of this chapter.

Subd. 2. LEVEL II CLASSIFICATION. As a prerequisite to taking the examination for licensing as a licensed general real estate appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 150 classroom hours of courses in subjects related to real estate appraisal. All applicants shall complete 15 classroom hours related to standards of professional practice and the provisions of this chapter.

Subd. 3. COMMISSIONER'S APPROVAL; RULES. The courses and instruction and procedures of courses must be approved by the commissioner. The commissioner may adopt rules to administer this section. These rules must, to the extent practicable, conform to the rules adopted for real estate and insurance education.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 14. [82B.14] EXPERIENCE REQUIREMENT.

(a) An original license as a level II licensed real estate appraiser may not be issued to a person who does not have the equivalent of two years of experience in real property appraisal supported by adequate written reports or file memoranda. This experience, or the equivalent of this experience, must be acquired within a period of five years immediately preceding the filing of the application for licensing.

(b) Each applicant for license as a level II licensed real estate appraiser shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for each year 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.

Sec. 15. [82B.15] NONRESIDENT SERVICE OF PROCESS.

Subdivision 1. APPOINTMENT OF COMMISSIONER. A nonresident, before being licensed as a real estate appraiser, shall appoint the commissioner and a successor or successors in office as true and lawful attorney, upon whom may be served all legal process in an action or proceedings against the person, or in which the person may be a party, in relation to or involving a transaction covered by this chapter or a rule or order under this chapter. The appointment is irrevocable. Service upon the attorney is as valid and binding as if due and personal service had been made upon the person. The appointment is effective upon the issuance of the license in connection with which the appointment was filed.

Subd. 2. EFFECT OF NONAPPOINTMENT. The commission of an act constituting a violation of this chapter or rule or order adopted under this chapter by a nonresident person who has not appointed the commissioner as attorney in compliance with subdivision 1, is conclusively considered an irrevocable appointment by the person of the commissioner and a successor or successors in an action or proceedings against the nonresident or in which the nonresident may be a party in relation to or involving the violation. The violation is a signification of agreement that all legal process that is served is as valid and binding upon the nonresident as if due and personal service had been made.

Subd. 3. PROCEDURE. Service of process under this section may be made by filing a copy of the process with the commissioner or a representative, but is not effective unless:

(1) the plaintiff, who may be the commissioner in an action or proceeding started by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the address as shown by the records at the office of the commissioner in the case of service made on the commissioner as attorney by appointment under subdivision 1, and at the defendant's or respondent's last known address in the case of service on the commissioner as attorney by appointment under subdivision 2; and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the plaintiff's affidavit of compliance with this subdivision is filed in the action or proceeding on or before the return day of the process, if any, or within any additional time the court or administrative law judge allows.

Sec. 16. [82B.16] PRINCIPAL PLACE OF BUSINESS AND NOTICE.

A licensed real estate appraiser shall advise the commissioner of the address of the person's principal place of business and all other addresses at which the person is now engaged in the business of preparing real property appraisal reports.

When a licensed real estate appraiser changes a place of business, the person shall immediately give written notification of the change to the commissioner and apply for an amended license.

A licensed real estate appraiser shall notify the commissioner of the person's current residence address.

Sec. 17. [82B.17] LICENSE DESIGNATION.

When a licensed real estate appraiser uses the designation real estate appraiser or licensed real estate appraiser in an appraisal report or in a contract or other instrument used by the license holder in conducting real property appraisal activities or in advertisements, the appraiser shall place the person's license number adjacent to or immediately below the designation used and indicate the class of license held.

Sec. 18. [82B.18] USE OF TERM.

The term "licensed real estate appraiser" may only be used to refer to individuals who hold the license. The term may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group; or in a manner that might cause it to be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the license.

No license may be issued under this chapter to a corporation, partnership, firm, or group. This does not prevent a licensed real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice.

Sec. 19. [82B.19] CONTINUING EDUCATION.

Subdivision 1. LICENSE RENEWALS. A licensed real estate appraiser shall present evidence satisfactory to the commissioner of having met the continuing education requirements of this chapter before the commissioner renews a license.

The basic continuing education requirement for renewal of a license is the completion by the applicant either as a student or as an instructor, during the

New language is indicated by underline, deletions by ~~strikeout~~.

immediately preceding term of licensing, of at least 15 classroom hours per year, of instruction in courses or seminars that have received the approval of the commissioner.

Subd. 2. RULES. The commissioner may adopt rules to assure that persons renewing their licenses as licensed real estate appraisers have current knowledge of real property appraisal theories, practices, and techniques that will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of their license. The rules must include the following:

(1) policies and procedures for obtaining approval of courses of instruction;

(2) standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to approval of courses for credit; and

(3) coordination with real estate continuing education requirements so that as the commissioner considers courses or parts of courses appropriate they may be used to satisfy both real estate and appraiser continuing education requirements.

Subd. 3. REINSTATEMENTS. On or after September 1, 1991, a license as a real estate appraiser that has been revoked as a result of disciplinary action by the commissioner may not be reinstated unless the applicant presents evidence of completion of the continuing education required by this chapter. This requirement may not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for licensed real estate appraiser as a condition to reinstatement of a license.

Sec. 20. [82B.20] PROHIBITED PRACTICES.

Subdivision 1. ENFORCEMENT. The license of a licensed real estate appraiser may be denied, revoked, or suspended, or the person may be otherwise disciplined in accordance with this chapter, upon any of the grounds set forth in this section.

Subd. 2. CONDUCT PROHIBITED. No person may:

(1) obtain or try to obtain a license under this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for license, or through any form of fraud or misrepresentation;

(2) fail to meet the minimum qualifications established by this chapter;

(3) be convicted, including a conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) engage in an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the license holder or another person or with the intent to substantially injure another person;

(5) engage in a violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter;

(6) fail or refuse without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(7) engage in negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(8) willfully disregard or violate any of the provisions of this chapter or the rules of the commissioner for the administration and enforcement of the provisions of this chapter;

(9) accept an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(10) violate the confidential nature of governmental records to which the person gained access through employment or engagement as an appraiser by a governmental agency;

(11) offer, pay, or give, and no person shall accept, any compensation or other thing of value from a real estate appraiser by way of commission-splitting, rebate, finder's fee, or otherwise in connection with a real estate appraisal. This prohibition does not apply to transactions among persons licensed under this chapter if the transactions involve appraisals for which the license is required;

(12) engage or authorize a person, except a person licensed under this chapter, to act as a real estate appraiser on the appraiser's behalf;

(13) violate standards of professional practice as defined by section 82B.02, subdivision 11;

(14) make an oral appraisal report without also making a written report within a reasonable time after the oral report is made;

(15) represent a market analysis to be an appraisal report;

(16) give an appraisal in any circumstances where the appraiser has a conflict of interest, as determined under rules adopted by the commissioner; or

(17) engage in other acts the commissioner by rule prohibits.

Sec. 21. [82B.21] CLASSIFICATION OF SERVICES.

New language is indicated by underline, deletions by ~~strikeout~~.

A client or employer may retain or employ a licensed real estate appraiser to act as a disinterested third party in giving an unbiased estimate of value or analysis. A client or employer may also retain or employ a licensed real estate appraiser to provide a market analysis to facilitate the client's or employer's objectives. In either case, the appraisal and the appraisal report must comply with the provisions of this chapter.

Sec. 22. **[82B.22] CONTINGENT FEES.**

A licensed real estate appraiser may not accept a commission for an appraisal assignment that is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion, or is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.

A licensed real estate appraiser who enters into an agreement to perform a market analysis may be paid a fixed fee or a fee that is contingent on the results achieved by the specialized services.

If a licensed real estate appraiser enters into an agreement to perform a market analysis for a contingent fee, this fact must be clearly stated in each written and oral report. In each written report, this fact must be clearly stated in a prominent location in the report and also in each letter of transmittal and in the licensing statement made by the appraiser in the report.

Sec. 23. **[82B.225] TRANSITIONAL LICENSES.**

Until September 1, 1991, a person already engaged in the business of real estate appraisal may apply to the commissioner of commerce for a license as a real estate appraiser. The application must contain the information listed in section 82B.08. The commissioner shall issue a license to a person who satisfies the requirements of section 82B.08 and who demonstrates at least one year's experience as a real estate appraiser.

An appraiser who is issued a license under this section shall pass an examination conducted by the commissioner of commerce under section 82B.10 or successfully complete sufficient classroom hours of courses under section 82B.13, no later than August 31, 1991. If the appraiser intends to satisfy the requirements of section 82B.13, the appraiser must provide adequate written reports or file memoranda as evidence of compliance. An appraiser who has not met either of those requirements as of that date may not be issued a renewal license and must meet all the requirements for a new licensee.

Sec. 24. **INITIAL APPOINTMENTS.**

Notwithstanding section 5, subdivision 3, the commissioner of commerce shall appoint the initial members of the real estate appraiser advisory board to the following terms:

(1) two public members, three appraiser members, and two consumer members to three-year terms;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) two public members, three appraiser members, and one consumer member to two-year terms; and

(3) two appraiser members to one-year terms.

Sec. 25. **APPROPRIATION.**

\$213,000 is appropriated from the general fund to the commissioner of commerce to administer Minnesota Statutes, chapter 82B. \$121,000 is for fiscal year 1990 and \$92,000 is for fiscal year 1991. The approved complement of the department of commerce is increased by two positions.

Sec. 26. **REPEALER.**

Section 23 is repealed September 1, 1991.

ARTICLE 2

Section 1. Minnesota Statutes 1988, section 48.61, is amended by adding a subdivision to read:

Subd. 8. **PARITY WITH NATIONAL BANKS.** A state bank or trust company may invest in any securities that are authorized investments for national banks on the effective date of this section, subject to the same restrictions as apply to national banks. The commissioner may authorize a state bank or trust company to invest in any securities that become authorized investments for national banks after the effective date of this section, subject to the same restrictions as apply to national banks. This authority is in addition to the investment authority granted to state banks under other provisions of state law.

Sec. 2. Minnesota Statutes 1988, section 53.04, is amended by adding a subdivision to read:

Subd. 3c. **The right to extend credit and make loans under chapter 51A on the same terms and subject to the same conditions as apply to other lenders under that chapter. This subdivision does not authorize an industrial loan and thrift company to make loans under a credit card or overdraft checking plan.**

Sec. 3. Minnesota Statutes 1988, section 53.06, is amended to read:

53.06 DIRECTORS, RESIDENCE.

At least three-fourths of the directors of any industrial loan and thrift company holding a certificate that includes the right to issue thrift certificates for investment must be residents of the county in which the industrial loan and thrift company maintains its principal place of business, an adjacent county or any county in which the industrial loan and thrift company maintains a place of business pursuant to this chapter Minnesota.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1988, section 168.71, is amended to read:

168.71 RETAIL INSTALLMENT CONTRACTS.

(a)(1) Every retail installment contract shall be in writing, shall contain all the agreements of the parties, shall be signed by the retail buyer and seller, and a copy thereof shall be furnished to such retail buyer at the time of the execution of the contract.

(2) No provisions for confession of judgment or power of attorney therefor contained in any retail installment contract or contained in a separate agreement relating thereto, shall be valid or enforceable.

(3) The holder of a precomputed retail installment contract may, if the contract so provides, collect a delinquency and collection charge on each installment in arrears for a period not less than ten days in an amount not in excess of five percent of each installment or \$5, whichever is ~~the less~~ greater. In addition to such delinquency and collection charge, the retail installment contract, whether interest-bearing or precomputed, may provide for the payment of attorneys' fees not exceeding 15 percent of the amount due and payable under such contract where such contract is referred to an attorney not a salaried employee of the holder of the contract for collection plus the court costs.

(4) Unless written notice has been given to the retail buyer of actual or intended assignment of a retail installment contract, payment thereunder or tender thereof made by the retail buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees.

(5) Upon written request from the retail buyer, the holder of the retail installment contract shall give or forward to the retail buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A retail buyer shall be given a written receipt for any payment when made in cash.

(b) The retail installment contract shall contain the following items:

(1) The cash sale price of the motor vehicle which is the subject matter of the retail installment contract;

(2) The total amount of the retail buyer's down payment, whether made in money or goods, or partly in money or partly in goods;

(3) The difference between items one and two;

(4) The charge, if any, included in the transaction for any insurance and other benefits not included in clause (1), specifying the types of coverage and taxes, fees, and charges that actually are or will be paid to public officials or government agencies, including those for perfecting, releasing, or satisfying a security interest if such taxes, fees, or charges are not included in clause (1);

New language is indicated by underline, deletions by ~~strikeout~~.

- (5) Principal balance, which is the sum of items three and four;
- (6) The amount of the finance charge;

(7) The total of payments payable by the retail buyer to the retail seller and the number of installment payments required and the amount of each installment expressed in dollars or percentages, and date of each payment necessary finally to pay the total of payments which is the sum of item five and item six.

Provided, however, that said items one to seven inclusive need not be stated in the terms, sequence or order set forth above. Provided further, that clauses (6) and (7) may be disclosed on the assumption that all scheduled payments under the contract will be made when due.

In lieu of the above clauses, the retail seller may give the retail buyer disclosures which satisfy the requirements of the Federal Truth-In-Lending Act in effect as of the time of the contract, notwithstanding whether or not that act applies to the transaction.

(c) Every retail seller or sales finance company, if a charge for insurance on the motor vehicle is included in a retail installment contract shall within 30 days after execution of the retail installment contract send or cause to be sent to the retail buyer a policy or policies or certificate of insurance, which insurance shall be written by a company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of the insurance. The buyer of a motor vehicle under a retail installment contract shall have the privilege of purchasing such insurance from an agent or broker of the buyer's own selection and selecting an insurance company mutually acceptable to the seller and the buyer; provided, however, that the inclusion of the cost of the insurance premium in the retail installment contract when the buyer selects the agent, broker or company, shall be optional with the seller.

(d) Any sales finance company hereunder may purchase or acquire from any retail seller any retail installment contract on such terms and conditions as may be mutually agreed upon between them.

(e) An acknowledgment by the retail buyer of the delivery of any such copy or notice as required in subsection (a) contained in the body of the statement or contract shall be conclusive proof of delivery in any action or proceeding by or against any assignee of a retail installment contract.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective the day following final enactment.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 6:10 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.