

Sec. 3. [116C.92] COORDINATION OF ACTIVITIES.

The environmental quality board is designated the state coordinating organization for state and federal regulatory activities relating to genetically engineered organisms.

Sec. 4. [116C.93] ADVISORY COMMITTEE.

The board shall establish an advisory committee on genetically engineered organisms to provide advice at the request of the board on general issues involving genetic engineering and on issues relating to specific proposals, including the identification of research needed for adequate regulation of field trials.

Sec. 5. [116C.94] RULES.

The board shall adopt rules consistent with sections 2 to 6 that require an environmental assessment worksheet for a proposed release and a permit for a release. The rules shall provide that a permit from the board is not required if the proposer can demonstrate to the board that a significant environmental permit is required for the proposal by another state agency. The board shall consult with local units of government and with private citizens before adopting any rules.

Sec. 6. [116C.95] LIABILITY.

Rules established by the board under section 5 shall not affect liability under any other law or regulation for adverse effects resulting from activities relating to genetically engineered organisms.

Sec. 7. APPROPRIATION.

\$55,000 is appropriated to the chair of the environmental quality board to administer sections 2 to 6 to be available until July 1, 1991.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:06 p.m.

CHAPTER 347—S.F.No. 1227

An act relating to commerce; providing for the regulation of real estate closing agents; prescribing penalties; amending Minnesota Statutes 1988, sections 82.17, subdivisions 7, 9, and 10; 82.18; 82.19, subdivisions 1, 2, 3, and 4, and by adding a subdivision; 82.20, subdivisions 1, 2, 3, 5, 8, 12, and by adding a subdivision; 82.21, subdivision 1; 82.22, subdivisions 1, 5, 6, 10, and 11; 82.23, subdivisions 2 and 3; 82.24, subdivisions 1, 2, 3, 4, 5, and 6; 82.27, subdivisions 1 and 2; 82.30, subdivision 1; 82.31, subdivision 1; 82.33, subdivision 1; 82.34, subdivisions 3, 4, 6, 7, 13, and 14; and 507.45, subdivision 2; repealing Minnesota Statutes 1988, section 82.34, subdivision 12.

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

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

Section 1. Minnesota Statutes 1988, section 82.17, subdivision 7, is amended to read:

Subd. 7. "Trust funds" means funds received by a broker ~~or~~, salesperson, or closing agent in a fiduciary capacity as a part of a real estate or business opportunity transaction, pending the consummation or termination of a transaction, and includes all down payments, earnest money deposits, rents for clients, tax and insurance escrow payments, damage deposits, and any funds received on behalf of any person.

Sec. 2. Minnesota Statutes 1988, section 82.17, subdivision 9, is amended to read:

Subd. 9. "Public member" means a person who is not, or never was, a real estate broker ~~or~~, real estate salesperson, or a closing agent or the spouse of such person, or a person who has no, or never has had a material financial interest in acting as a real estate broker ~~or~~, real estate salesperson, or a closing agent or a directly related activity.

Sec. 3. Minnesota Statutes 1988, section 82.17, subdivision 10, is amended to read:

Subd. 10. "Closing agent" or "real estate closing agent" means any person whether or not 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. 4. Minnesota Statutes 1988, section 82.18, is amended to read:

82.18 EXCEPTIONS.

Unless a person is licensed or otherwise required to be licensed under this chapter, the term real estate broker does not include:

(a) a licensed practicing attorney ~~acting solely as an incident to the practice of law~~ if the attorney complies in all respects with the trust account provisions of this chapter;

(b) a receiver, trustee, administrator, guardian, executor, or other person appointed by or acting under the judgment or order of any court;

(c) any person owning and operating a cemetery and selling lots therein solely for use as burial plots;

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

(d) any custodian, janitor, or employee of the owner or manager of a residential building who leases residential units in the building;

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

(f) public officers while performing their official duties;

(g) employees of persons enumerated in clauses (b), (e) and (f), when engaged in the specific performance of their duties;

(h) any person who acts as an auctioneer bonded in conformity with section 330.02, when that person is engaged in the specific performance of duties as an auctioneer, and when that person has been employed to auction real estate by a person licensed under this chapter or when the auctioneer has engaged a licensed attorney to supervise the real estate transaction;

(i) any person who acquires real estate for the purpose of engaging in and does engage in, or who is engaged in the business of constructing residential, commercial or industrial buildings for the purpose of resale if no more than 25 such transactions occur in any 12-month period and the person complies with section 82.24;

(j) any person who offers to sell or sells an interest or estate in real estate which is a security registered pursuant to chapter 80A, when acting solely as an incident to the sale of these securities;

(k) any person who offers to sell or sells a business opportunity which is a franchise registered pursuant to chapter 80C, when acting solely to sell the franchise;

(l) any person who contracts with or solicits on behalf of a provider a contract with a resident or prospective resident to provide continuing care in a facility, pursuant to the Continuing Care Facility Disclosure and Rehabilitation Act (chapter 80D), when acting solely as incident to the contract;

(m) any broker-dealer or agent of a broker-dealer when participating in a transaction in which all or part of a business opportunity or business, including any interest therein, is conveyed or acquired pursuant to an asset purchase, merger, exchange of securities or other business combination, if the agent or broker-dealer is licensed pursuant to chapter 80A;

(n) an accountant acting incident to the practice of the accounting profession if the accountant complies in all respects with the trust account provisions of this chapter.

Sec. 5. Minnesota Statutes 1988, section 82.19, subdivision 1, is amended to read:

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

Subdivision 1. No person shall act as a real estate broker ~~or~~, salesperson, or real estate closing agent unless licensed as herein provided.

Sec. 6. Minnesota Statutes 1988, section 82.19, subdivision 2, is amended to read:

Subd. 2. No persons shall advertise or represent themselves to be real estate brokers ~~or~~, salespeople, or closing agents unless licensed as herein provided.

Sec. 7. Minnesota Statutes 1988, section 82.19, subdivision 3, is amended to read:

Subd. 3. No real estate broker ~~or~~, salesperson, or closing agents shall offer, pay or give, and no person shall accept, any compensation or other thing of value from any real estate broker ~~or~~, salesperson, or closing agents by way of commission-splitting, rebate, finder's fees or otherwise, in connection with any real estate or business opportunity transaction; provided this subdivision does not apply to transactions (1) between a licensed real estate broker or salesperson and the person by whom the broker or salesperson is engaged to purchase or sell real estate or business opportunity, (2) among persons licensed as provided herein, (3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction, and (4) involving time-share 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. 8. Minnesota Statutes 1988, section 82.19, subdivision 4, is amended to read:

Subd. 4. No real estate broker ~~or~~, salesperson, or closing agent shall engage or authorize any person, except one licensed as provided herein, to act as a real estate broker ~~or~~, salesperson, or closing agent on the engager's or authorizer's behalf.

Sec. 9. Minnesota Statutes 1988, section 82.19, is amended by adding a subdivision to read:

Subd. 6. CLOSING AGENTS. A real estate closing agent may not charge a fee for closing services to a borrower, and a borrower may not be required to pay such a fee at settlement, if the fee was not previously disclosed in writing at least one business day before the settlement. This disclosure requirement will be considered satisfied if a disclosure is made or an estimate given under section 507.45.

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

Sec. 10. Minnesota Statutes 1988, section 82.20, subdivision 1, is amended to read:

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

(b) The commissioner is authorized to establish by rule a special license for real estate brokers and real estate salespeople engaged solely in the rental or management of an interest or estate in real estate, to prescribe qualifications for the license, and to issue the license consistent with the terms of this chapter. This clause shall not be construed to require those owners or managers or their agents or employees who are excluded by section 82.18, clause (d) from the definition of real estate broker, to obtain the special license.

Sec. 11. Minnesota Statutes 1988, section 82.20, subdivision 2, is amended to read:

Subd. 2. **QUALIFICATION OF APPLICANTS.** Every applicant for a real estate broker ~~or~~, real estate salesperson, or real estate closing agent license shall be at least 18 years of age at the time of making application for said license.

Sec. 12. Minnesota Statutes 1988, section 82.20, subdivision 3, is amended to read:

Subd. 3. **APPLICATION FOR LICENSE; CONTENTS.** (a) Every applicant for a license as a real estate broker ~~or~~, real estate salesperson, or closing agent shall make an application in writing upon forms prepared and furnished by the commissioner. Each application shall be signed and sworn to by the applicant and shall be accompanied by the license fee required by this chapter;

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

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

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

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

Sec. 13. Minnesota Statutes 1988, section 82.20, subdivision 5, is amended to read:

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

Subd. 5. **RESPONSIBILITY.** Each broker shall be responsible for the acts of any and all of the broker's sales people and closing agents while acting as agents on the broker's behalf. Each officer of a corporation or partner in a partnership licensed as a broker shall have the same responsibility under this chapter as a corporate or partnership broker with regard to the acts of the salespeople and closing agents acting on behalf of the corporation or partnership.

Sec. 14. Minnesota Statutes 1988, section 82.20, subdivision 8, is amended to read:

Subd. 8. **RENEWALS.** (a) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are deemed to have been approved for renewal and may continue to transact business either as a real estate broker ~~or~~, salesperson, or closing agent whether or not the renewed license has been received on or before July 1. Application for renewal of a license shall be deemed to have been timely filed if received by the commissioner by, or mailed with proper postage and postmarked by, June 15 in each year. Applications for renewal shall be deemed properly filed if made upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter and contain any information which the commissioner may require.

(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 July 1, shall be unlicensed until such time as the license has been issued by the commissioner and is received.

Sec. 15. Minnesota Statutes 1988, section 82.20, subdivision 12, is amended to read.

Subd. 12. **NONRESIDENTS.** A nonresident of Minnesota may be licensed as a real estate broker ~~or~~, real estate salesperson, or a real estate closing agent upon compliance with all provisions of this chapter.

Sec. 16. Minnesota Statutes 1988, section 82.20, is amended by adding a subdivision to read:

Subd. 15. EXEMPTION. The following closing agents are exempt from the requirements of sections 82.19 and 82.24 unless otherwise required in this section or chapter:

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

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

(3) a licensed real estate broker or salesperson;

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

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

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

Sec. 17. Minnesota Statutes 1988, section 82.21, subdivision 1, is amended to read:

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

(a) A fee of \$50 for each initial individual broker's license, and a fee of \$25 for each annual renewal thereof;

(b) A fee of \$25 for each initial salesperson's license, and a fee of \$10 for each annual renewal thereof;

(c) A fee of \$25 for each initial real estate closing agent license, and a fee of \$10 for each annual renewal;

(d) A fee of \$50 for each initial corporate or partnership license, and a fee of \$25 for each annual renewal thereof;

~~(d)~~ (e) A fee not to exceed \$40 per year for payment to the education, research and recovery fund in accordance with section 82.34;

~~(e)~~ (f) A fee of \$10 for each transfer;

~~(f)~~ (g) A fee of \$25 for a corporation or partnership name change;

~~(g)~~ (h) A fee of \$5 for an agent name change;

~~(h)~~ (i) A fee of \$10 for a license history;

~~(i)~~ (j) A fee of \$5 for a duplicate license; and

~~(j)~~ (k) A fee of \$5 for each hour or fraction of one hour of course approval sought.

Sec. 18. Minnesota Statutes 1988, section 82.22, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** Each applicant for a license must pass an examination conducted by the commissioner. The examinations shall be of sufficient scope to establish the competency of the applicant to act as a real estate broker ~~or~~, as a real estate salesperson, or as a real estate closing agent.

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

Sec. 19. Minnesota Statutes 1988, section 82.22, subdivision 5, is amended to read:

Subd. 5. **PERIOD FOR APPLICATION.** An applicant who obtains an acceptable score on a salesperson's or closing agent's 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. If a new examination is required, prelicense education must be completed in accordance with subdivision 6.

Sec. 20. Minnesota Statutes 1988, section 82.22, subdivision 6, is amended to read:

Subd. 6. **INSTRUCTION; NEW LICENSES.** (a) After 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 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.

(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 a 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.

(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 shall not approve any course offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business. The commissioner may by rule prescribe the curriculum and qualification of those employed as instructors.

(d) After January 1, 1988, an applicant for a broker's license must successfully complete a course of study in the real estate field consisting of 30 hours of

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

instruction approved by the commissioner. The course must have been completed within six months prior to the date of application for the broker's license.

(e) After the effective date of this section, an applicant for a real estate closing agent's license must successfully complete a course of study relating to closing services consisting of eight hours of instruction approved by the commissioner.

Sec. 21. Minnesota Statutes 1988, section 82.22, subdivision 10, is amended to read:

Subd. 10. **RENEWAL; EXAMINATION.** Except as provided in subdivisions 3 and 7, no examination shall be required for the renewal of any license, provided, however, any licensee having been licensed as a broker ~~or~~, salesperson, or closing agent in the state of Minnesota and who shall fail to renew the license for a period of two years shall be required by the commissioner to again take an examination.

Sec. 22. Minnesota Statutes 1988, section 82.22, subdivision 11, is amended to read:

Subd. 11. **EXAMINATION ELIGIBILITY; REVOCATION.** No applicant shall be eligible to take any examination if a license as a real estate broker ~~or~~, salesperson, or closing agent has been revoked in this or any other state within two years of the date of the application.

Sec. 23. Minnesota Statutes 1988, section 82.23, subdivision 2, is amended to read:

Subd. 2. **DELIVERY.** Each real estate broker ~~or~~, real estate salesperson, or closing agent shall furnish parties to a transaction a true and accurate copy of any document pertaining to their interests as the commissioner through appropriate rules may require.

Sec. 24. Minnesota Statutes 1988, section 82.23, subdivision 3, is amended to read:

Subd. 3. **EXAMINATION OF RECORDS.** The commissioner may make examinations within or without this state of each broker's or closing agent's records at such reasonable time and in such scope as is necessary to enforce the provisions of this chapter.

Sec. 25. Minnesota Statutes 1988, section 82.24, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** All trust funds received by a broker or the broker's salespeople or closing agents shall be deposited forthwith upon receipt in a trust account, maintained by the broker for such purpose in a bank, savings and loan association, credit union, or an industrial loan and thrift company with deposit liabilities designated by the broker or closing agent, except as such

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

money may be paid to one of the parties pursuant to express written agreement between the parties to a transaction. The depository bank shall be a Minnesota bank or trust company or any foreign bank and shall authorize the commissioner to examine its records of such deposits upon demand by the commissioner. The industrial loan and thrift company shall be organized under chapter 53. The savings and loan association or credit union shall be organized under the laws of any state or the United States.

Sec. 26. Minnesota Statutes 1988, section 82.24, subdivision 2, is amended to read:

Subd. 2. **LICENSEE ACTING AS PRINCIPAL.** A ~~real estate~~ licensee acting in the capacity of principal in a real estate transaction where the seller retains any liability, contingent or otherwise, for the payment of an obligation on the property shall deposit in a Minnesota bank or trust company, any foreign bank which authorizes the commissioner to examine its records of the deposits, a savings and loan association, credit union, 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 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 the receipts. The deposits must be maintained until disbursement is made under the terms of the encumbrance and proper accounting on the property made to the parties entitled to an accounting. The provisions of this subdivision relating to rental of interests in real estate apply only to ~~single-family~~ residential property.

Sec. 27. Minnesota Statutes 1988, section 82.24, subdivision 3, is amended to read:

Subd. 3. **NONDEPOSITABLE ITEMS.** Any instrument or equity or thing of value received by a broker ~~or~~ salesperson, or closing agent in lieu of cash as earnest money or down payment in a real estate transaction shall be held by an authorized escrow agent, whose authority is evidenced by a written agreement executed by the offeror and the escrow agent.

Sec. 28. Minnesota Statutes 1988, section 82.24, subdivision 4, is amended to read:

Subd. 4. **COMMINGLING FUNDS.** A broker ~~or~~ salesperson, or closing agent shall deposit only trust funds in a trust account and shall not commingle personal funds or other funds in a trust account, except that a broker ~~or~~ salesperson, or closing agent may deposit and maintain a sum ~~not to exceed \$500~~ in a trust account from personal funds, which sum shall be specifically identified and used to pay service charges or satisfy the minimum balance requirements relating to the trust account.

Sec. 29. Minnesota Statutes 1988, section 82.24, subdivision 5, is amended to read:

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

Subd. 5. **TRUST ACCOUNT RECORDS.** Each broker or closing agent shall maintain and retain records of all trust funds and trust accounts. The commissioner may prescribe information to be included in the records by appropriate rules.

Sec. 30. Minnesota Statutes 1988, section 82.24, subdivision 6, is amended to read:

Subd. 6. **NOTICE OF TRUST ACCOUNT STATUS.** The names of the banks, savings and loan associations, credit unions, and industrial loan and thrift companies and the trust account numbers used by a broker or closing agent shall be provided to the commissioner at the time of application for the broker's or closing agent's license. The broker shall immediately report to the commissioner any change of trust account status including changes in banks, savings and loan associations, credit unions, and industrial loan and thrift companies, account numbers, or additional accounts in the same or other banks, savings and loan associations, credit unions, and industrial loan and thrift companies. A broker or closing agent shall not close an existing trust account without giving ten days written notice to the commissioner.

Sec. 31. Minnesota Statutes 1988, 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 the commissioner 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 closing agent or controlled by the broker or closing agent:

(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;

(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 brokers ~~or salesperson~~, salespersons, or closing agents so as to cause injury or harm to the public;

(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.

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

Sec. 32. Minnesota Statutes 1988, section 82.27, subdivision 2, is amended to read:

Subd. 2. The commissioner may promulgate rules further specifying and defining those actions and omissions which constitute fraudulent, deceptive or dishonest practices, and establishing standards of conduct for real estate brokers ~~and~~, salespeople, or closing agents.

Sec. 33. Minnesota Statutes 1988, section 82.30, subdivision 1, is amended to read:

Subdivision 1. The commissioner of commerce shall appoint a real estate advisory task force. The task force shall include ~~real estate brokers licensees~~ with at least five years experience ~~as licensed real estate brokers~~ in Minnesota and public members. The task force may advise the commissioner on all matters relating to education of licensees, preclicensing requirements, and other policy matters relating to the administration of sections 82.17 to 82.34. The task force shall expire and the terms, compensation, and removal of members shall be as provided in section 15.059. No member of the real estate advisory task force may establish, own, operate, invest in a course designed to fulfill any requirement of Minnesota law pertaining to licenses for real estate salespersons ~~or~~, brokers, or closing agents.

Sec. 34. Minnesota Statutes 1988, section 82.31, subdivision 1, is amended to read:

Subdivision 1. Every nonresident, before being licensed as a real estate broker ~~or~~, real estate salesperson, or real estate closing agent 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 any action or proceedings against such person, or in which such person may be a party, in relation to or involving any transaction covered by this chapter or any rule or order hereunder, which appointment shall be irrevocable. Service upon such attorney shall be as valid and binding as if due and personal service had been made upon such person. Any such appointment shall be effective upon the issuance of the license in connection with which the appointment was filed.

Sec. 35. Minnesota Statutes 1988, section 82.33, subdivision 1, is amended to read:

Subdivision 1. No person shall bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts for which a license is required under this chapter without alleging and proving that the person was a duly licensed real estate broker ~~or~~, salesperson, or closing agent at the time the alleged cause of action arose.

Sec. 36. Minnesota Statutes 1988, section 82.34, subdivision 3, is amended to read:

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

Subd. 3. Each real estate broker ~~and~~, real estate salesperson, and real estate closing agent entitled under this chapter to renew a license, ~~when renewing for the first time after July 1, 1973,~~ shall pay in addition to the appropriate renewal fee a further fee of ~~\$20~~ \$5 which shall be credited to the real estate education, research and recovery fund. Any person who receives a ~~new real estate broker's or real estate salesperson's license after July 1, 1973~~ shall pay ~~said~~ the fee of ~~\$20~~ \$40 in addition to all other fees payable, ~~provided that in no case shall any real estate broker or real estate salesperson be required under this subdivision to pay said fee of \$20 more than once. The one time fee shall increase to \$40 for any person who receives a new real estate broker's or real estate salesperson's license after July 1, 1980. In addition each real estate broker or real estate salesperson when renewing a license after July 1, 1980, shall each time pay a fee of \$5 to be credited to the real estate education, research and recovery fund.~~

Sec. 37. Minnesota Statutes 1988, section 82.34, subdivision 4, is amended to read:

Subd. 4. If at the end of any fiscal year prior to calendar year 1981 following the establishment of the real estate education, research and recovery fund, the amount remaining in the fund is less than \$200,000, every licensed real estate broker and real estate salesperson, when renewing a license, shall pay in addition to the annual renewal fee, a sum not to exceed \$20 said sum having been determined by the commissioner to be sufficient to restore the balance in the fund to at least \$200,000.

Commencing with calendar year 1981, not to exceed No less than \$400,000 of the fund shall be available for recovery purposes to satisfy all claims authorized for payment each calendar year. This shall be designated as the recovery portion of the fund. ~~Commencing in calendar year 1981,~~ If the amount remaining in the fund after payment of all amounts authorized during the preceding calendar year for payment to claimants is less than \$400,000 plus the amount appropriated pursuant to subdivision 6, every licensed ~~real estate broker and real estate salesperson~~ licensee, when renewing a license, shall pay, in addition to the annual renewal fee and the \$5 fee set forth in subdivision 3, a sum not to exceed ~~\$35~~ \$50, said sum having been reasonably determined by the commissioner to be necessary to restore the balance in the fund.

Sec. 38. Minnesota Statutes 1988, section 82.34, subdivision 6, is amended to read:

Subd. 6. The commissioner may expend money as appropriated for the following purposes:

- (a) To promote the advancement of education and research in the field of real estate for the benefit of those licensed under this chapter;
- (b) To underwrite educational seminars and other forms of educational projects for the benefit of real estate licensees;

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

(c) To establish a real estate chair or courses at Minnesota state institutions of higher learning for the purpose of making such courses available to licensees and the general public;

(d) To contract for a particular educational or research project in the field of real estate to further the purposes of this chapter;

(e) To pay the costs of the real estate advisory council established under section 82.30;

(f) To pay any reasonable costs and disbursements, excluding attorney's fees, incurred in defending actions against the real estate education, research and recovery fund including the cost of mailing or publication of notice pursuant to ~~subdivisions 12 and~~ subdivision 14; and

(g) To provide information to the public on housing issues, including but not limited to, environmental safety and housing affordability.

Sec. 39. Minnesota Statutes 1988, section 82.34, subdivision 7, is amended to read:

Subd. 7. When any aggrieved person obtains a final judgment in any court of competent jurisdiction against an individual licensed under this chapter, on grounds of fraudulent, deceptive or dishonest practices, or conversion of trust funds arising directly out of any transaction when the judgment debtor was licensed and performed acts for which a license is required under this chapter, or performed acts permitted by section 327B.04, subdivision 5, and which cause of action occurred on or after July 1, 1973, the aggrieved person may, upon the judgment becoming final, and upon termination of all proceedings, including reviews and appeals, file a verified application in the court in which the judgment was entered for an order directing payment out of the recovery portion of the fund of the amount of actual and direct out of pocket loss in the transaction, but excluding any attorney's fees, interest on the loss and on any judgment obtained as a result of the loss, up to the sum of ~~\$20,000~~ \$150,000 of the amount unpaid upon the judgment, provided that nothing in this chapter shall be construed to obligate the fund for more than ~~\$20,000~~ \$150,000 per ~~transaction~~ claimant, per transaction, subject to the limitations set forth in ~~subdivisions 12 and~~ subdivision 14, regardless of the number of persons aggrieved or parcels of real estate involved in the transaction, provided that regardless of the number of claims against a licensee, nothing in this chapter may obligate the fund for more than \$250,000 per licensee per year. For purposes of this section persons who are joint tenants or tenants in common are deemed to be a single claimant. A copy of the verified application shall be served upon the commissioner and upon the judgment debtor, and a certificate or affidavit of service filed with the court. For the purpose of this section "aggrieved person" shall not include a real estate licensee unless (1) the licensee is acting in the capacity of principal in the sale of interests in real property owned by the licensee; or (2) the licensee is acting in the capacity of principal in the purchase of interests in real property to be owned by the licensee. Under no circumstances shall a real estate licensee be entitled to payment under this section for the loss of a commission or similar fee.

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

Sec. 40. Minnesota Statutes 1988, section 82.34, subdivision 13, is amended to read:

Subd. 13. Should the commissioner pay from the recovery portion of the fund any amount in settlement of a claim or toward satisfaction of a judgment against a ~~licensed broker or salesperson~~ licensee, the ~~license of the broker or salesperson~~ shall be automatically suspended upon the effective date of an order by the court as set forth herein authorizing payment from the recovery portion of the fund. No ~~such broker or salesperson, or closing agent~~ shall be granted reinstatement until the person has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the recovery portion of the fund on the person's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of \$40,000. The bond shall be filed with the commissioner, with the state of Minnesota as obligee, conditioned for the prompt payment to any aggrieved person entitled thereto, of any amounts received by the real estate broker ~~or salesperson, or closing agent~~ or to protect any aggrieved person from loss resulting from fraudulent, deceptive or dishonest practices or conversion of trust funds arising out of any transaction when the real estate broker or salesperson was licensed and performed acts for which a license is required under this chapter. The bond shall remain operative for as long as that real estate broker ~~or salesperson, or closing agent~~ is licensed. No payment shall be made from the recovery portion of the fund based upon claims against any broker ~~or salesperson, or closing agent~~ who is granted reinstatement pursuant to this subdivision. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this section.

Sec. 41. Minnesota Statutes 1988, section 82.34, subdivision 14, is amended to read:

Subd. 14. The commissioner shall satisfy all claims against licensees for which an order pursuant to subdivision 11 directing payment from the recovery portion of the fund has become final during the calendar year. Each claim shall be satisfied by the commissioner in not less than 30 and not more than 90 days following the end of the calendar year in which the order directing payment of the claim becomes final, commencing with calendar year 1981. If, at the end of any calendar year, the commissioner determines that the courts have issued orders that have become final during the year directing payment out of the recovery portion of the fund in a total amount in excess of ~~\$400,000~~ the funds available for recovery purposes, the commissioner shall allocate the ~~\$400,000~~ funds available for recovery purposes among all claimants in the ratio that the amount ordered paid to each claimant bears to the aggregate of all amounts ordered paid. The commissioner shall mail notice of the allocation to all claimants not less than 45 days following the end of the calendar year. Any claimant who objects to the plan of allocation shall file a petition in the district court of Ramsey or Hennepin county within 20 days of the mailing of notice setting forth the grounds for objection. Upon motion of the commissioner the court shall summarily dismiss the petition and order distribution in accordance

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

with the proposed plan of allocation unless it finds substantial reason to believe that the distribution would be in violation of the provisions of this section. If a petition is filed, no distribution shall be made except in accordance with a final order of the court. In the event no petition is filed within 20 days of the mailing of notice, the commissioner shall make a distribution in accordance with the plan of allocation. Any distribution made by the commissioner in accordance with this subdivision shall be deemed to satisfy and extinguish the claims of any claimant receiving a distribution against the recovery portion of the fund.

Sec. 42. Minnesota Statutes 1988, section 507.45, subdivision 2, if amended by Laws 1989, chapter 217, section 22, is amended to read:

Subd. 2. No charge for closing services, except a charge disclosed under Regulation Z, Code of Federal Regulations, title 12, section 226, ~~or~~ and except a charge for which an estimate has been given pursuant to the Federal Real Estate Settlement Procedures Act, and regulations thereunder, 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 or on behalf of the party charging for the closing services.

Sec. 43. **REPEALER.**

Minnesota Statutes 1988, section 82.34, subdivision 12, is repealed.

Sec. 44. **EFFECTIVE DATES.**

Sections 36 to 41 and 43 are effective for claims submitted after January 1, 1990.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 6:15 p.m.

CHAPTER 348—S.F.No. 1009

An act relating to Carver and Scott counties; providing for the location of offices for the county attorney, court administrator, and sheriff, and for the location of the district court and the county jail.

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

Section 1. **LOCATION OF CERTAIN OFFICES.**

The Carver county board and the Scott county board may provide one or more offices for the county attorney, court administrator, and sheriff at sites at the county seat or elsewhere in the county as determined by the county board. If more than one office is established pursuant to this section for any of the officials, at least one shall be at the county seat. Except as provided for the location of the offices, the other provisions of Minnesota Statutes, sections 375.14 and 382.04, or other law, shall continue to apply.

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