

with the written or verbal consent of the prescriber, and in no event more than six months after the date on which such prescription was issued and no such prescription may be refilled more than five times.

Presented to the governor April 18, 1995

Signed by the governor April 19, 1995, 2:24 p.m.

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### CHAPTER 67—H.F.No. 670

*An act relating to Winona county; authorizing Winona county to negotiate and enter into a contract for deed with Winona county developmental achievement center.*

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

Section 1. **CONTRACT FOR DEED AUTHORIZATION.**

Winona county may negotiate and enter into a contract for deed with the Winona county developmental achievement center for the purchase of real property, owned by Winona county and currently leased by the center for its operations, without complying with the bid requirements of Minnesota Statutes, section 373.01, subdivision 1.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment. Under Minnesota Statutes, section 645.023, subdivision 1, clause (a), this section takes effect without local approval.

Presented to the governor April 18, 1995

Signed by the governor April 19, 1995, 2:25 p.m.

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### CHAPTER 68—H.F.No. 457

*An act relating to commerce; real estate; regulating certain licensees and registrants and recovery fund actions; amending Minnesota Statutes 1994, sections 82.18; 82.19, subdivision 7; 82.195, subdivision 1; 82.20, subdivision 13; 82.34, subdivision 7; 82A.11, subdivision 3; 83.26, subdivision 2; 83.28, subdivision 5; 386.65, subdivision 1; 386.66; 386.67; 386.68; and 386.69.*

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

Section 1. Minnesota Statutes 1994, section 82.18, is amended to read:

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

**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 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;

(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 is licensed as a securities broker-dealer or is licensed as a securities agent representing a broker-dealer pursuant to chapter 80A and who offers to sell or sells an interest or estate in real estate which is a security as defined in section 80A.14, subdivision 18, and is registered or exempt from registration or part of a transaction exempt from registration 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;

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(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;

(o) a person who negotiates mortgage loans as described in section 82.17, subdivision 4, clause (b), if the person is the actual lender on at least 80 percent of all mortgage lending and brokering transactions conducted by the person and if the person is also a lender: (1) approved or certified by the secretary of housing and urban development; (2) approved or certified by the administrator of Veterans Affairs; (3) approved or certified by the Administrator of the Farmers Home Administration; (4) approved or certified by the Federal Home Loan Mortgage Corporation; or (5) approved or certified by the Federal National Mortgage Association.

Sec. 2. Minnesota Statutes 1994, section 82.19, subdivision 7, is amended to read:

Subd. 7. **SECURITIES SOLD BY BUSINESSES OUTSIDE SCOPE OF LICENSING.** A license issued under this chapter does not allow a licensee to engage in the business of buying, selling, negotiating, brokering, or otherwise dealing in vendor's interests in contracts for deed, mortgagee's interests in mortgages, or other evidence of indebtedness regarding real estate, except that a licensee may, if there is no compensation in addition to the brokerage commission or fee, and if the licensee represents the seller, buyer, lessor, or lessee in the sale, lease, or exchange of real estate, arrange for the sale of a contract, mortgage, or similar evidence of indebtedness for the subject property.

Sec. 3. Minnesota Statutes 1994, section 82.195, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** Licensees shall obtain a signed listing agreement or other signed written authorization from the owner of real property or from another person authorized to offer the property for sale or lease before advertising to the general public that the real property is available for sale or lease.

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

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Sec. 4. Minnesota Statutes 1994, section 82.20, subdivision 13, is amended to read:

Subd. 13. **LIMITED BROKER'S LICENSE.** The commissioner shall have the authority to issue a limited real estate broker's license authorizing the licensee to engage in transactions as principal only. Such license shall be issued only after receipt of the application described in subdivision 3 and payment of the fee prescribed by section 82.21, subdivision 1. No salesperson may be licensed to act on behalf of an individual holding a limited broker's license. An officer of a corporation or partner of a partnership licensed as a limited broker may act on behalf of that corporation or partnership without being subject to the licensing requirements. A limited broker's license shall also authorize the licensee to engage in negotiation of mortgage loans as described in section 82.17, subdivision 4, clause (b).

Sec. 5. Minnesota Statutes 1994, 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 regardless of whether the judgment has been discharged by a bankruptcy court 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, 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~~. The application shall state with specificity the grounds upon which the application seeks to recover from the fund, and request an order directing payment out 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 \$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 \$150,000 per claimant, per transaction, subject to the limitations set forth in 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. An aggrieved person who has a cause of action under section 80A.23 shall first seek recovery as provided in section 80A.05, subdivision 5, before the commissioner may order payment from the recovery fund. 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 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 pur-

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chase of interests in real property to be owned by the licensee. Under no circumstances shall a licensee be entitled to payment under this section for the loss of a commission or similar fee.

For the purposes of this section, recovery is limited to transactions where the property involved is intended for the direct personal habitation or commercial use of the buyer.

Except for securities permitted to be sold by a licensee pursuant to section 82.19, subdivision 7, for any action commenced after July 1, 1993, recovery under this section is not available where the buyer's participation is for investment purposes only, and is limited to providing capital to fund the transaction.

Sec. 6. Minnesota Statutes 1994, section 82A.11, subdivision 3, is amended to read:

Subd. 3. **RIGHT OF RESCISSION.** A purchaser has an unconditional right to rescind any membership camping contract, or revoke any offer, at any time prior to or within ~~three~~ five business days after the date the purchaser actually receives a legible copy of the binding contract. Predating of a document does not affect the time in which the right to rescind may be exercised.

Sec. 7. Minnesota Statutes 1994, section 83.26, subdivision 2, is amended to read:

Subd. 2. **GENERALLY; TRANSACTIONS.** Unless the method of offer or sale is adopted for the purpose of evasion of sections 83.20 to 83.42, 83.43 and 83.44, the following transactions are exempt from sections 83.23, 83.24, 83.25, 83.28, 83.29, and 83.30:

(a) the offer or sale of an interest in subdivided land by an owner, other than the subdivider, acting as principal in a single or isolated transaction;

(b) the offer or sale of all of the subdivided lands within a subdivision in a single transaction to any person;

(c) the offer or sale of subdivided land pursuant to an order of competent jurisdiction, other than a court of bankruptcy;

(d) the offer or sale of subdivided land consisting of not more than ten separate lots, units, parcels, or interests in the aggregate;

(e) the offer or sale of subdivided lands which have been registered under section 83.23, subdivision 2, if there are no more than ten separate lots, units, parcels, or interests remaining to be sold and no material change has occurred in the information on file with the commissioner;

(f) the offer and sale of subdivided land located within the corporate limits of a municipality as defined in section 462.352, subdivision 2, which municipality has adopted subdivision regulations as defined in section 462.352, except those lands described in section 83.20, subdivision 13;

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(g) the offer and sale of apartments or condominium units as defined in chapters 515 and 515A, and units in common interest communities as defined in chapter 515B;

(h) the offer and sale of subdivided lands used primarily for agricultural purposes provided each parcel is at least ten acres in size;

(i) the offer or sale of improved lots if:

(1) the subdivider has filed with the commissioner, no later than ten business days prior to the date of the first sale, a written notice of its intention to offer or sell improved lots, which notice shall be accompanied by a fee of \$50, together with a copy of the public offering statement accepted by the situs state and the standard purchase agreement which documents are required to be supplied by the subdivider to the purchaser; and

(2) the subdivider deposits all downpayments in an escrow account until all obligations of the subdivider to the purchaser, which are pursuant to the terms of the purchase agreement to be performed prior to the closing, have been performed. The subdivider shall provide the purchaser with a purchase receipt for the downpayment paid, a copy of the escrow agreement and the name, address, and telephone number of the escrow agent. The escrow agent shall be a bank located in Minnesota. All downpayments shall be deposited in the escrow account within two business days after receipt; and

(j) the offer of sale of subdivided lands by a subdivider that has been granted an exemption from registration by the federal Department of Housing and Urban Development under the multiple site subdivision exemption, if the subdivider provides a written notice of the offer of sale to the commissioner before any offers or sale commence.

The written notice must include the name of the subdivision, the county and state in which the subdivision is located, and the number of lots in the subdivision, and a notarized affidavit that all proposed improvements have been completed and the costs of all the improvements have been fully paid, or that the cost of any uncompleted road construction or survey expenses are covered by a bond or escrow account payable to the entities responsible for providing or completing the roads or surveys. The escrow account must be with an independent escrow agent.

The subdivider must also provide to the commissioner a copy of the federal Housing and Urban Development exemption order and the most recent annual confirmation letter which indicates that the order is still in effect.

If the closing services are provided by the subdivider or an affiliate of the subdivider, purchasers must manually initial in the Housing and Urban Development Lot Information Statement both the disclosure on all the liens, reservations, taxes, assessments, easements, and restrictions applicable to the lot purchased and the disclosure on the risks of not obtaining clear title.

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The commissioner may, by rule or order, suspend, revoke, or further condition the exemptions contained in clauses (f), (g), (h), (i), and (j), or may require such further information as may be necessary for the protection of purchasers.

The commissioner may by rule or order suspend, revoke, or further condition the exemptions contained in clauses (f), (g), (h), and (i) or may require such further information as may be necessary for the protection of purchasers.

The rulemaking authority in this subdivision does not include emergency rulemaking authority pursuant to chapter 14.

Sec. 8. Minnesota Statutes 1994, section 83.28, subdivision 5, is amended to read:

Subd. 5. **NOTICE TO PURCHASER.** The first contract, agreement, or other evidence of indebtedness shall prominently contain upon its face the following notice in bold type, which shall be at least 4 point type larger than the body of the document, stating, in one of the following forms:

(a) Registration by notification: "Notice to Purchaser" — "You are entitled to rescind this agreement for any reason within five days from the date you actually received a legible copy of this document signed by all parties. The rescission must be in writing and mailed to the subdivider or subdivider's agent or the lender at the address stated in this document. Upon rescission you will receive a refund of all money paid within 30 days after the subdivider receives notice of your rescission." or;

(b) Registration by qualification: "Notice to Purchaser" — "You are entitled to rescind this agreement for any reason within five days from the date you actually received a legible copy of this document signed by all parties and a public offering statement. The rescission must be in writing and mailed to the subdivider or subdivider's agent or the lender at the address stated in this document. Upon rescission you will receive a refund of all money paid within 30 days after the subdivider receives notice of your rescission."

The contract, agreement, or other evidence of indebtedness shall contain sufficient space upon its face in immediate proximity to the above notice for the signature of each purchaser obligated under such instrument, acknowledging that such purchaser has read the notice.

Sec. 9. Minnesota Statutes 1994, section 386.65, subdivision 1, is amended to read:

Subdivision 1. Applications for a license shall be made to the commissioner and shall be upon a form to be prepared by the commissioner and contain such information as may be required by it. ~~Upon receiving such application, the commissioner shall fix a time and place for the examination of such applicant. Notice of such examination shall be given to the applicant by certified mail, who shall thereon take the examination pursuant to such notice. The examination shall be conducted by the commissioner under such rules as the commissioner~~

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may prescribe, and such rules shall prescribe that the applicant must show qualification by experience, education or training to qualify as being Each applicant must pass an examination approved for use by the commissioner. The examination must be of sufficient scope to establish the applicant as capable of performing the duties of an abstractor whose work will be for the use and protection of the public. If application is made by a firm or corporation, one of the members or managing officials thereof shall take such examination. If the applicant successfully passes the examination and complies with all the provisions of sections 386.61 to 386.76, the commissioner shall issue a license to the applicant.

Sec. 10. Minnesota Statutes 1994, section 386.66, is amended to read:

**386.66 BOND OR ABTRACTER'S LIABILITY INSURANCE POLICY.**

Before a license shall be issued, the applicant shall file with the commissioner a bond or abstractor's liability insurance policy to be approved by the commissioner, running to the state of Minnesota in the penal sum of at least \$100,000 conditioned for the payment by such abstractor of any damages that may be sustained by or accrue to any person by reason of or on account of any error, deficiency or mistake arising wrongfully or negligently in any abstract, or continuation thereof, or in any certificate showing ownership of, or interest in, or liens upon any lands in the state of Minnesota, whether registered or not, made by and issued by such abstractor, provided however, that the aggregate liability of the surety to all persons under such bond shall in no event exceed the amount of such bond. If the applicant intends to engage in the business of abstracting in any county having more than 200,000 inhabitants, the bond or insurance policy required herein shall be in the penal sum of at least \$250,000. Applicants that are title insurance companies regulated by chapter 68A and licensed pursuant to sections 60A.02 and 60A.06, subdivision 1, clause (7), and their employees or those having cash or securities on deposit with the state of Minnesota in an amount equal to the said bond or insurance policy shall be exempt from furnishing the bond or an insurance policy herein required but shall be liable to the same extent as if a bond or insurance policy has been given and filed. The bond or insurance policy required hereunder shall be written by some surety or other company authorized to do business in this state issuing bonds or abstractor's liability insurance policies and shall be issued for a period of one or more years, and renewed for one or more years at the date of expiration as principal continues in business. The aggregate liability of such surety on such bond or insurance policy for all damages shall, in no event, exceed the sum of said bond or insurance policy.

Sec. 11. Minnesota Statutes 1994, section 386.67, is amended to read:

**386.67 LICENSED ABTRACTER, SEAL.**

A licensed abstractor furnishing abstracts of title to real property under the provisions hereof shall provide a seal, which seal shall show the name of such licensed abstractor, and shall file with the commissioner ~~an impression of or copy made by such seal and~~ the signatures of persons authorized to sign certifi-

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cates on abstracts and continuations of abstracts and certificates showing ownership of, or interest in, or liens upon any lands in the state of Minnesota, whether registered or not, issued by such licensed abstracter.

Sec. 12. Minnesota Statutes 1994, section 386.68, is amended to read:

**386.68 FEES.**

The following fees must be paid to the commissioner: ~~an examination fee of \$25~~; an initial licensing fee of \$50; and a license renewal fee of \$40.

Sec. 13. Minnesota Statutes 1994, section 386.69, is amended to read:

**386.69 LICENSES.**

Licenses issued by the commissioner under the provisions hereof shall recite that such bond or insurance policy has been duly filed and approved, and the license shall authorize the official, person, firm or corporation named in it to engage in and carry on the business of an abstracter of real estate titles in the county in which said official, person, firm or corporation is authorized to make abstracts state of Minnesota. The license shall be issued for a period as determined by the commissioner, and shall thereafter be renewed upon conditions prescribed by the commissioner.

Sec. 14. **EFFECTIVE DATE.**

Sections 1 to 13 are effective the day following final enactment.

Presented to the governor April 18, 1995

Signed by the governor April 20, 1995, 2:20 p.m.

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**CHAPTER 69—H.F.No. 612**

*An act relating to health; requiring equal treatment of prescription drug prescribers; clarifying the role of practice guidelines in prescribing legend drugs; amending Minnesota Statutes 1994, section 151.37, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 62A.*

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

**Section 1. [62A.307] PRESCRIPTION DRUGS; EQUAL TREATMENT OF PRESCRIBERS.**

Subdivision 1. SCOPE OF REQUIREMENT. This section applies to any of the following if issued or renewed to a Minnesota resident or to cover a Minnesota resident:

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