

Subd. 2. **HOMEOWNER'S RISKS.** A township mutual fire insurance company may issue policies for known as "homeowner's insurance" as defined in section 65A.27, subdivision 4, only in combination with a policy issued by an insurer authorized to sell property and casualty insurance in this state. All portions of the combination policy providing homeowner's insurance, including those issued by a township mutual insurance company, shall be subject to the provisions of chapter 65A.

Presented to the governor May 13, 2004

Signed by the governor May 15, 2004, 9:30 p.m.

CHAPTER 203—S.F.No. 2379

An act relating to commerce; regulating real estate brokers and salespersons; making various changes in real property law; recodifying the laws and rules regulating these licensees; making technical and conforming changes; amending Minnesota Statutes 2002, sections 58.13, subdivision 1; 58.16, subdivisions 2, 4; 82.17, subdivision 4, by adding subdivisions; 82.19, subdivisions 3, 5, by adding subdivisions; 82.195; 82.196; 82.197; 82.20, subdivisions 3, 4, 8, by adding subdivisions; 82.21, by adding subdivisions; 82.22, subdivisions 6, 8, 12, 13, by adding subdivisions; 82.24, subdivisions 3, 5, by adding subdivisions; 82.27, by adding a subdivision; 513.55, subdivision 1; 513.56, by adding a subdivision; 515B.4-106; 515B.4-108; 559.21, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 82; 325F; 559; repealing Minnesota Statutes 2002, sections 58.02, subdivision 24; 82.22, subdivision 9; Minnesota Rules, parts 2800.0100; 2800.0200; 2800.0300; 2800.1100; 2800.1200; 2800.1300; 2800.1400; 2800.1500; 2800.1600; 2800.1700; 2800.1750; 2800.1751; 2800.1800; 2800.1900; 2800.2000; 2800.2100; 2800.2150; 2805.0100; 2805.0200; 2805.0300; 2805.0400; 2805.0500; 2805.0600; 2805.0700; 2805.0800; 2805.0900; 2805.1000; 2805.1100; 2805.1300; 2805.1400; 2805.1500; 2805.1600; 2805.1700; 2805.1800; 2805.1900; 2805.2000.

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

ARTICLE 1

CHANGES IN REAL ESTATE LAW

Section 1. Minnesota Statutes 2002, section 58.13, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, shall:

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(1) fail to maintain a trust account to hold trust funds received in connection with a residential mortgage loan;

(2) fail to deposit all trust funds into a trust account within three business days of receipt; commingle trust funds with funds belonging to the licensee or exempt person; or use trust account funds for any purpose other than that for which they are received;

(3) unreasonably delay the processing of a residential mortgage loan application, or the closing of a residential mortgage loan. For purposes of this clause, evidence of unreasonable delay includes but is not limited to those factors identified in section 47.206, subdivision 7, clause (d);

(4) fail to disburse funds according to its contractual or statutory obligations;

(5) fail to perform in conformance with its written agreements with borrowers, investors, other licensees, or exempt persons;

(6) charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service;

(7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(8) violate any provision of any other applicable state or federal law regulating residential mortgage loans including, without limitation, sections 47.20 to 47.208;

(9) make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a residential loan transaction including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any mortgage product;

(10) conduct residential mortgage loan business under any name other than that under which the license or certificate of exemption was issued;

(11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;

(12) issue any document indicating conditional qualification or conditional approval for a residential mortgage loan, unless the document also clearly indicates that final qualification or approval is not guaranteed, and may be subject to additional review;

(13) make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage originator will obtain title to the property through foreclosure;

(14) provide or offer to provide for a borrower, any brokering or lending services under an arrangement with a person other than a licensee or exempt person, provided that a person may rely upon a written representation by the residential mortgage

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originator that it is in compliance with the licensing requirements of this chapter;

(15) claim to represent a licensee or exempt person, unless the person is an employee of the licensee or exempt person or unless the person has entered into a written agency agreement with the licensee or exempt person;

(16) fail to comply with the record-keeping and notification requirements identified in section 58.14 or fail to abide by the affirmations made on the application for licensure;

(17) represent that the licensee or exempt person is acting as the borrower's agent after providing the nonagency disclosure required by section 58.15, unless the disclosure is retracted and the licensee or exempt person complies with all of the requirements of section 58.16;

(18) make, provide, or arrange for a residential mortgage loan that is of a lower investment grade if the borrower's credit score or, if the originator does not utilize credit scoring or if a credit score is unavailable, then comparable underwriting data, indicates that the borrower may qualify for a residential mortgage loan, available from or through the originator, that is of a higher investment grade, unless the borrower is informed that the borrower may qualify for a higher investment grade loan with a lower interest rate and/or lower discount points, and consents in writing to receipt of the lower investment grade loan.

For purposes of this section, "investment grade" refers to a system of categorizing residential mortgage loans in which the loans are: (i) commonly referred to as "prime" or "subprime"; (ii) commonly designated by an alphabetical character with "A" being the highest investment grade; and (iii) are distinguished by interest rate or discount points or both charged to the borrower, which vary according to the degree of perceived risk of default based on factors such as the borrower's credit, including credit score and credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior bankruptcy or foreclosure;

(19) make, publish, disseminate, circulate, place before the public, or cause to be made, directly or indirectly, any advertisement or marketing materials of any type, or any statement or representation relating to the business of residential mortgage loans that is false, deceptive, or misleading;

(20) advertise loan types or terms that are not available from or through the licensee or exempt person on the date advertised, or on the date specified in the advertisement. For purposes of this clause, advertisement includes, but is not limited to, a list of sample mortgage terms, including interest rates, discount points, and closing costs provided by licensees or exempt persons to a print or electronic medium that presents the information to the public; and

(21) use or employ phrases, pictures, return addresses, geographic designations, or other means that create the impression, directly or indirectly, that a licensee or other person is a governmental agency, or is associated with, sponsored by, or in any manner connected to, related to, or endorsed by a governmental agency, if that is not the case;
or

(22) violate section 82.176, relating to table funding.

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Sec. 2. Minnesota Statutes 2002, section 58.16, subdivision 2, is amended to read:

Subd. 2. **CONTRACT PROVISIONS.** (a) A residential mortgage originator who engages in the activities described in subdivision 1 shall enter into a written contract with each borrower and shall provide a copy of the written contract to each borrower at or before the time of receipt of any fee or valuable consideration paid for mortgage origination services. The written contract must:

(1) specifically describe the services to be provided by the residential mortgage originator and if the originator collects an advance fee, the dates by which the services will be performed;

(2) specifically identify whether the residential mortgage originator may receive compensation from sources other than the borrower in connection with the loan transaction;

(3) state the total amount of commission or compensation that the borrower agrees to pay for the residential mortgage originator's services, or the basis on which the compensation will be computed;

(4) state the maximum rate of interest to be charged on any residential mortgage loan obtained;

(5) contain a statement that notifies the borrower of the right to cancel the contract according to subdivision 3 and disclose the cancellation rights and procedures provided in subdivision 3; and

(6) disclose, with respect to the 12-month period ending ten business days before the date of the contract in question, the percentage of the mortgage originator's customers for whom loans have actually been funded as a result of the residential mortgage originator's services.

(b) If an advance fee is solicited or received the contract must also:

(1) identify the trust account into which the fees or consideration will be deposited;

(2) set forth the circumstances under which the residential mortgage originator will be entitled to disbursement from the trust account; and

(3) set forth the circumstances under which the borrower will be entitled to a refund of all or part of the fee.

Sec. 3. Minnesota Statutes 2002, section 58.16, subdivision 4, is amended to read:

Subd. 4. **TRUST ACCOUNT.** The residential mortgage originator shall deposit in a trust account within three business days all fees received before the time a loan is actually funded. The trust account must be in a financial institution located within the state of Minnesota and must be controlled by an unaffiliated accountant, attorney, or bank officer or employee.

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Sec. 4. [325F.691] UNREASONABLE DELAY IN MORTGAGE LOAN CLOSING.

Subdivision 1. PROHIBITED CONDUCT. (a) A lender, as defined in section 47.206, who causes unreasonable delay in processing a loan application beyond the expiration date of an interest rate or discount point agreement is liable to the borrower for a penalty in an amount not to exceed the borrower's actual out-of-pocket damages, including the present value of the increased interest costs over the normal life of the loan, or specific performance of the agreement. This paragraph applies to an agreement entered into after July 1, 2004.

(b) For purposes of this section, evidence of unreasonable delay includes, but is not limited to:

(1) failure of the lender to return telephone calls or otherwise respond to the borrower's inquiries concerning the status of the loan;

(2) the addition by the lender of new requirements for processing or approving the loan that were not disclosed to the borrower under section 47.206, subdivision 2, clause (3), unless the requirements result from governmental agency or secondary mortgage market changes, other than changes in interest rates, that occur after the date of the agreement; or

(3) failure by the lender to take actions necessary to process or approve the loan within a reasonable period of time, if the borrower provided information requested by the lender in a timely manner.

Subd. 2. ADDITIONAL PENALTY. In addition to the remedies in subdivision 1 of this section, a lender is liable to the borrower for \$500 for each unreasonable delay in processing a loan application which causes an interest rate or discount point agreement to expire before closing.

Sec. 5. Minnesota Statutes 2002, section 513.55, subdivision 1, is amended to read:

Subdivision 1. CONTENTS. (a) Before signing an agreement to sell or transfer residential real property, the seller shall make a written disclosure to the prospective buyer. The disclosure must include all material facts pertaining to adverse physical conditions in the property of which the seller is aware that could adversely and significantly affect:

(1) an ordinary buyer's use and enjoyment of the property; or

(2) any intended use of the property of which the seller is aware.

(b) The disclosure must be made in good faith and based upon the best of the seller's knowledge at the time of the disclosure.

Sec. 6. Minnesota Statutes 2002, section 513.56, is amended by adding a subdivision to read:

Subd. 4. EFFECT ON COMMON LAW. The limitation on disclosure in subdivisions 1 and 2 modifies any common law duties with respect to disclosure of material facts.

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Sec. 7. Minnesota Statutes 2002, section 515B.4-106, is amended to read:

515B.4-106 PURCHASER'S RIGHT TO CANCEL.

(a) A person required to deliver a disclosure statement pursuant to section 515B.4-101(b) shall provide at least one of the purchasers of the unit with a copy of the disclosure statement and all amendments thereto before conveyance of the unit. If a purchaser is not given a disclosure statement more than ten five days before execution of the purchase agreement, the purchaser may, before conveyance, cancel the purchase agreement within ten five days after first receiving the disclosure statement. If a purchaser is given the disclosure statement more than ten five days before execution of the purchase agreement, the purchaser may not cancel the purchase agreement pursuant to this section. Except as expressly provided in this chapter, the ten-day five-day rescission period cannot be waived.

(b) If an amendment to the disclosure statement materially and adversely affects a purchaser, then the purchaser shall have ten five days after delivery of the amendment to cancel the purchase agreement in accordance with this section.

(c) If a purchaser elects to cancel a purchase agreement pursuant to this section, the purchaser may do so by giving notice thereof pursuant to section 515B.1-115. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly. Notwithstanding anything in this section to the contrary, the purchaser's cancellation rights under this section terminate upon the purchaser's acceptance of a conveyance of the unit.

(d) If a declarant obligated to deliver a disclosure statement fails to deliver to the purchaser a disclosure statement which substantially complies with this chapter, the declarant shall be liable to the purchaser in the amount of \$1,000, in addition to any damages or other amounts recoverable under this chapter or otherwise. Any action brought under this subsection shall be commenced within the time period specified in section 515B.4-115, subsection (a).

Sec. 8. Minnesota Statutes 2002, section 515B.4-108, is amended to read:

515B.4-108 PURCHASER'S RIGHT TO CANCEL RESALE.

(a) Unless a purchaser is given the information required to be delivered by section 515B.4-107, by a delivery method described in that section, more than ten five days prior to the execution of the purchase agreement for the unit the purchaser may, prior to the conveyance, cancel the purchase agreement within ten five days after receiving the information. Except as expressly provided in this chapter, the ten-day five-day rescission period cannot be waived.

(b) A purchaser who elects to cancel a purchase agreement pursuant to subsection (a), may do so by hand delivering notice thereof or mailing notice by postage prepaid United States mail to the seller or the agent. Cancellation is without penalty and all payments made by the purchaser shall be refunded promptly.

Sec. 9. Minnesota Statutes 2002, section 559.21, subdivision 4, is amended to read:

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Subd. 4. **LAW PREVAILS OVER CONTRACT; PROCEDURE; CONDITIONS.** (a) The notice required by this section must be given notwithstanding any provisions in the contract to the contrary, except that earnest money contracts, purchase agreements, and exercised options that are subject to this section may, unless by their terms they provide for a longer termination period, be terminated on 30 days' notice, or may be canceled under section 559.217. The notice must be served within the state in the same manner as a summons in the district court, and outside of the state, in the same manner, and without securing any sheriff's return of not found, making any preliminary affidavit, mailing a copy of the notice or doing any other preliminary act or thing whatsoever. Service of the notice outside of the state may be proved by the affidavit of the person making the same, made before an authorized officer having a seal, and within the state by such an affidavit or by the return of the sheriff of any county therein.

(b) If a person to be served is a resident individual who has departed from the state, or cannot be found in the state; or is a nonresident individual or a foreign corporation, partnership, or association, service may be made by publication as provided in this paragraph. Three weeks' published notice has the same effect as personal service of the notice. The published notice must comply with subdivision 3 and state (1) that the person to be served is allowed 90 days after the first date of publication of the notice to comply with the conditions of the contract, and (2) that the contract will terminate 90 days after the first date of publication of the notice, unless before the termination date the purchaser complies with the notice. If the real estate described in the contract is actually occupied, then, in addition to publication, a person in possession must be personally served, in like manner as the service of a summons in a civil action in state district court, within 30 days after the first date of publication of the notice. If an address of a person to be served is known, then within 30 days after the first date of publication of the notice a copy of the notice must be mailed to the person's last known address by first class mail, postage prepaid.

(c) The contract is reinstated if, within the time mentioned, the person served:

- (1) complies with the conditions in default;
- (2) if subdivision 1d or 2a applies, makes all payments due and owing to the seller under the contract through the date that payment is made;
- (3) pays the costs of service as provided in subdivision 1b, 1c, 1d, or 2a;
- (4) if subdivision 2a applies, pays two percent of the amount in default, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser; and
- (5) pays attorneys' fees as provided in subdivision 1b, 1c, 1d, or 2a.

(d) The contract is terminated if the provisions of paragraph (c) are not met.

(e) In the event that the notice was not signed by an attorney for the seller and the seller is not present in the state, or cannot be found in the state, then compliance with the conditions specified in the notice may be made by paying to the court administrator

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of the district court in the county wherein the real estate or any part thereof is situated any money due and filing proof of compliance with other defaults specified, and the court administrator of the district court shall be deemed the agent of the seller for such purposes. A copy of the notice with proof of service thereof, and the affidavit of the seller, the seller's agent or attorney, showing that the purchaser has not complied with the terms of the notice, may be recorded with the county recorder, and is prima facie evidence of the facts stated in it; but this section in no case applies to contracts for the sale or conveyance of lands situated in another state or in a foreign country. If the notice is served by publication, the affidavit must state that the affiant believes that the party to be served is not a resident of the state, or cannot be found in the state, and either that the affiant has mailed a copy of the notice by first class mail, postage prepaid, to the party's last known address, or that such address is not known to the affiant.

Sec. 10. [559.217] DECLARATORY CANCELLATION OF PURCHASE AGREEMENT.

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

(b) "Purchase agreement" means an earnest money contract, purchase agreement, or exercised option that could be canceled under section 559.21, subdivision 4, paragraph (a).

(c) "Residential real property" means real property, including vacant land, occupied by, or intended to be occupied by, one to four families as their residence.

Subd. 2. USE OF THIS SECTION. Either the purchaser or the seller may cancel a purchase agreement for residential real property under this section. If either a seller or purchaser initiates a cancellation proceeding under this section and before completion of the proceeding the other party initiates a cancellation proceeding under this section, whether under subdivision 3 or 4, the purchase agreement is deemed canceled as of the date the second cancellation notice is served upon the other party under this section. Either party can later pursue legal remedies at law to recover the earnest money. A court shall make a determination of which party is entitled to the earnest money without regard to which party first initiated the cancellation proceeding and may consider the terms of the canceled purchase agreement in making its determination.

Subd. 3. CANCELLATION WITH RIGHT TO CURE. (a) If a default occurs or an unfulfilled condition exists after the date specified for fulfillment in the terms of a purchase agreement for the conveyance of residential real property, which does not by its terms cancel the purchase agreement, the purchaser or the seller may initiate a cancellation by serving upon the other party to the purchase agreement and any third party that is holding earnest money under the purchase agreement a notice:

(1) specifying the residential real property that is the subject of the purchase agreement, including the legal description;

(2) specifying the purchase agreement by date and names of parties, and the unfulfilled condition or default; and

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(3) stating that the purchase agreement will be canceled 15 days after service of the notice unless prior to the cancellation date the party upon whom the notice is served complies with the conditions in default and completes the unfulfilled conditions, including, if applicable, completion of the purchase or sale of the residential real property according to the terms of the purchase agreement.

(b) The notice must be served in the manner provided in section 559.21, subdivision 4, paragraphs (a) and (b).

(c) The purchase agreement is canceled unless, within 15 days after the service of the notice, the party upon whom the notice was served fully complies with the conditions in default and completes the unfulfilled conditions or secures from a court an order suspending the cancellation.

Subd. 4. DECLARATORY CANCELLATION. (a) If a default occurs or an unfulfilled condition exists after the date specified for fulfillment in the terms of a purchase agreement for the conveyance of residential real property, which by the terms of the purchase agreement cancels the purchase agreement, either the purchaser or the seller may confirm the cancellation by serving upon the other party and any third party that is holding earnest money under the purchase agreement a notice:

(1) specifying the residential real property that is the subject of the purchase agreement, including the legal description;

(2) specifying the purchase agreement by date and names of parties, and the unfulfilled condition or default; and

(3) stating that the purchase agreement has been canceled.

(b) The notice must be served in the manner provided in section 559.21, subdivision 4, paragraphs (a) and (b).

(c) The cancellation of the purchase agreement is complete, unless, within 15 days after the service of the notice, the party upon whom the notice was served secures from a court an order suspending the cancellation.

Subd. 5. FORM OF NOTICE OF CANCELLATION. (a) For purposes of subdivision 3, the term "notice" means a writing stating the information required in subdivision 3, paragraph (a), stating the name, address, and telephone number of that party serving the notice or of an attorney authorized by such party to serve the notice, and including the following information in 12-point or larger underlined uppercase type, or 8-point type if published, or in large legible handwritten letters:

"THIS NOTICE IS TO INFORM YOU THAT BY THIS NOTICE THE (SELLER) (PURCHASER) (STRIKE ONE) HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, SECTION 559.217, TO CANCEL YOUR PURCHASE AGREEMENT FOR THE (PURCHASE) (SALE) (STRIKE ONE) OF THE ABOVE PROPERTY FOR THE REASONS SPECIFIED IN THIS NOTICE. THE PURCHASE AGREEMENT WILL BE CANCELED ... DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DAY OF PUBLICATION OF THIS NOTICE) (STRIKE ONE) UNLESS BEFORE THEN:

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(A) YOU HAVE FULLY COMPLIED WITH ALL OF YOUR OBLIGATIONS UNDER THE PURCHASE AGREEMENT THAT WERE REQUIRED TO BE PERFORMED AS OF THE DATE OF SERVICE OF THIS NOTICE, INCLUDING WITHOUT LIMITATION, THE ITEMS OF DEFAULT SPECIFIED IN THIS NOTICE; OR

(B) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE TERMINATION OF THE PURCHASE AGREEMENT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR PURCHASE AGREEMENT WILL BE CANCELED AT THE END OF THE PERIOD (AND YOU WILL LOSE ALL EARNEST MONEY YOU HAVE PAID ON THE PURCHASE AGREEMENT) (STRIKE IF NOT APPLICABLE); AND YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

(b) For purposes of subdivision 4, the term "notice" means a writing stating the information required in subdivision 4, paragraph (a), stating the name, address, and telephone number of the party serving the notice or of an attorney authorized by that party to serve the notice, and including the following information in 12-point or larger underlined uppercase type, or 8-point type if published, or in large legible handwritten letters:

"THIS NOTICE IS PURSUANT TO MINNESOTA STATUTES, SECTION 559.217, TO INFORM YOU THAT YOUR PURCHASE AGREEMENT FOR THE (PURCHASE) (SALE) (STRIKE ONE) OF THE ABOVE PROPERTY HAS BEEN CANCELED FOR THE REASONS SPECIFIED IN THIS NOTICE. THE CANCELLATION WILL BE CONFIRMED ... DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DAY OF PUBLICATION OF THIS NOTICE) (STRIKE ONE) UNLESS BEFORE THEN YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE CONFIRMATION OF CANCELLATION OF THE PURCHASE AGREEMENT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT OBTAIN SUCH A COURT ORDER WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, THE CONFIRMATION OF CANCELLATION OF YOUR PURCHASE AGREEMENT WILL BE FINAL AT THE END OF THE PERIOD (AND YOU WILL LOSE ALL EARNEST MONEY YOU HAVE PAID ON THE PURCHASE AGREEMENT) (STRIKE IF NOT APPLICABLE); AND YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU

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MIGHT HAVE. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

Subd. 6. **ATTORNEY FEES, COURT FEES, AND COSTS OF SERVICE.** If the party upon whom the notice is served commences a proceeding to obtain a court order to suspend the cancellation of a purchase agreement under this section, the court shall award court filing fees, attorney fees, and costs of service actually expended to the prevailing party in an amount not to exceed \$3,000.

Subd. 7. **AFFIDAVIT OF CANCELLATION.** (a) After a cancellation under subdivision 3 or a confirmation of cancellation under subdivision 4, the purchase agreement is void and of no further force or effect, and, except as provided in subdivision 2, any earnest money held under the purchase agreement must be distributed to, and become the sole property of, the party completing the cancellation of the purchase agreement.

(b) When a cancellation under this section has been completed, the party who served the notice, or that party's attorney, may execute an affidavit stating that the party caused a notice of cancellation to be served upon the other party, that the other party neither complied with the actions required in the notice, if applicable, nor obtained a court order suspending the cancellation, and that the property is residential real property.

(c) A copy of the affidavit of cancellation, when attached to a copy of the notice, is prima facie evidence of the facts therein stated.

(d) Except as provided in subdivision 2, the affidavit of cancellation, when delivered to a person holding earnest money under the purchase agreement, is a sufficient basis for that person to release the earnest money to the party initiating the cancellation.

(e) If either a seller or purchaser commences a cancellation proceeding under this section and before completion of the first proceeding the other party initiates a cancellation proceeding under this section, either party or that party's attorney may execute an affidavit stating that both parties caused the notice of cancellation to be served upon the other party and further specifying the date the second notice of cancellation was served upon the other party. A copy of the affidavit of cancellation, when attached to copies of both notices of cancellation, is prima facie evidence of the cancellation of the purchase agreement and of the effective date of the cancellation of the purchase agreement.

Subd. 8. **ATTORNEY AS AGENT FOR SERVICE.** Any attorney authorized to serve the notice of cancellation by a party initiating a cancellation under this section is designated as the attorney who may receive service as agent for the party initiating the cancellation of all summons, complaints, orders, and motions made in connection with an action by the party upon whom the notice is served to restrain the cancellation. Service in the action may be made upon the party initiating the cancellation by mailing a copy of the process to such party or to such party's attorney, by first class mail, postage prepaid, to the address stated in the notice.

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Sec. 11. REPEALER.

Minnesota Statutes 2002, section 58.02, subdivision 24, is repealed.

Sec. 12. EFFECTIVE DATE.

Sections 1 to 11 are effective August 1, 2004. Section 10 applies to purchase agreements entered into on or after that date.

ARTICLE 2**RECODIFICATION**

Section 1. Minnesota Statutes 2002, section 82.17, subdivision 4, is amended to read:

Subd. 4. **REAL ESTATE BROKER; BROKER.** "Real estate broker" or "broker" means any person who:

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

(b) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly negotiates or offers or attempts to negotiate a loan, secured or to be secured by a mortgage or other encumbrance on real estate, which is not a residential mortgage loan as defined by section 58.02, subdivision 18;

(c) "real estate broker" or "broker" as set forth in clause (b) shall not apply to the originating, making, processing, selling, or servicing of a loan in connection with the broker's ordinary business activities by a mortgagee, lender, or servicer approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified by the federal Home Loan Mortgage Corporation, or approved or certified by the federal National Mortgage Association;

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

~~(d)~~ (e) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers,

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sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;

(e) (f) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same, promotes the sale of real estate by advertising it in a publication issued primarily for this purpose, if the person:

(1) negotiates on behalf of any party to a transaction;

(2) disseminates any information regarding the property to any party or potential party to a transaction subsequent to the publication of the advertisement, except that in response to an initial inquiry from a potential purchaser, the person may forward additional written information regarding the property which has been prepared prior to the publication by the seller or broker or a representative of either;

(3) counsels, advises, or offers suggestions to the seller or a representative of the seller with regard to the marketing, offer, sale, or lease of the real estate, whether prior to or subsequent to the publication of the advertisement;

(4) counsels, advises, or offers suggestions to a potential buyer or a representative of the seller with regard to the purchase or rental of any advertised real estate; or

(5) engages in any other activity otherwise subject to licensure under this chapter;

(f) (g) engages wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person. A person shall be presumed to be engaged in the business of selling real estate if the person engages as principal in five or more transactions during any 12-month period, unless the person is represented by a licensed real estate broker or salesperson.

Sec. 2. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 13. BUSINESS OF FINANCIAL PLANNING. “Business of financial planning” means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. A person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that the person is a “financial planner,” “financial counselor,” “financial adviser,” “investment counselor,” “estate planner,” “investment adviser,” “financial consultant,” or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Sec. 3. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 14. ELECTRONIC AGENT. “Electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances, in whole or in part, without review or action by an individual.

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

Sec. 4. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 15. **ELECTRONIC RECORD.** "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

Sec. 5. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 16. **ELECTRONIC SIGNATURE.** "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Sec. 6. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 17. **LICENSEE.** "Licensee" means a person duly licensed under this chapter.

Sec. 7. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 18. **LOAN BROKER.** "Loan broker" means a licensed real estate broker or salesperson who, for another and for a commission, fee, or other valuable consideration or with the intention or expectation of receiving the same, directly or indirectly, negotiates or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate, or represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson, either in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan, or in connection with the conduct of his or her ordinary business activities as a loan broker.

"Loan broker" does not include a licensed real estate broker or salesperson who, in the course of representing a purchaser or seller of real estate, incidentally assists the purchaser or seller in obtaining financing for the real property in question if the licensee does not receive a separate commission, fee, or other valuable consideration for this service.

Sec. 8. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 19. **OVERPAYMENT.** "Overpayment" means any payment of money in excess of a statutory fee or for a license for which a person does not qualify.

Sec. 9. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 20. **OVERRIDE CLAUSE.** "Override clause" means a provision in a listing agreement or similar instrument allowing the broker to receive compensation when, after the listing agreement has expired, the property is sold to persons with whom a broker or salesperson had negotiated or exhibited the property prior to the expiration of the listing agreement.

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

Sec. 10. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 21. **PRIMARY BROKER.** “Primary broker” means the broker on whose behalf salespersons are licensed to act pursuant to section 82.20, subdivision 6. In the case of a corporation licensed as a broker, “primary broker” means each officer of the corporation who is individually licensed to act as broker for the corporation. In the case of a partnership, “primary broker” means each partner licensed to act as a broker for the partnership.

Sec. 11. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 22. **PROTECTIVE LIST.** “Protective list” means the written list of names and addresses of prospective purchasers with whom a licensee has negotiated the sale or rental of the property or to whom a licensee has exhibited the property before the expiration of the listing agreement. For the purposes of this subdivision, “property” means the property that is the subject of the listing agreement in question.

Sec. 12. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 23. **RENTAL SERVICE.** “Rental service” means a person who gathers and catalogs information concerning apartments or other units of real estate available for rent, and who, for a fee, provides information intended to meet the individual needs of specifically identified lessors or prospective lessees. “Rental service” does not apply to newspapers or other periodicals with a general circulation or individual listing contracts between an owner or lessor of property and a licensee.

Sec. 13. Minnesota Statutes 2002, section 82.17, is amended by adding a subdivision to read:

Subd. 24. **SPONSOR.** “Sponsor” means a person offering or providing real estate education.

Sec. 14. Minnesota Statutes 2002, section 82.19, subdivision 3, is amended to read:

Subd. 3. **COMMISSION-SPLITTING, REBATES, AND FEES.** No real estate broker, 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, 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. 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 parties to the transaction, (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, (4) involving timeshare or other recreational lands where the amount offered or paid does not exceed \$150, and payment is not conditioned upon any sale but is made merely for

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providing the referral and the person paying the fee is bound by any representations the person receiving the fee makes, and (5) involving a person who receives a referral fee from a person or an agent of a person licensed under this section, provided that in any 12-month period, no recipient may earn more than the value of one month's rent, that the recipient is a resident of the property or has lived there within 60 days of the payment of the fee, and that the person paying the fee is bound by any representations made by the recipient of the fee. 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, limited liability company, or sole proprietorship of which the licensed real estate broker or salesperson is the sole owner.

Sec. 15. Minnesota Statutes 2002, section 82.19, subdivision 5, is amended to read:

Subd. 5. DISCLOSURE REGARDING REPRESENTATION OF PARTIES.

(a) No person licensed pursuant to this chapter or who otherwise acts as a real estate broker or salesperson shall fail to provide at the first substantive contact with a consumer in a residential real property transaction an agency disclosure form as set forth in section 82.197.

(b) The seller may, in the listing agreement, authorize the seller's broker to disburse part of the broker's compensation to other brokers, including the buyer's brokers solely representing the buyer. ~~A broker representing a buyer shall make known to the seller or the seller's agent the fact of the agency relationship before any showing or negotiations are initiated.~~

Sec. 16. Minnesota Statutes 2002, section 82.19, is amended by adding a subdivision to read:

Subd. 10. PROHIBITION ON GUARANTEEING FUTURE PROFITS.

Licensees shall not, with respect to the sale or lease of real property, guarantee or affirmatively encourage another person to guarantee future profits or earnings that may result from the purchase or lease of the real property in question unless the guarantee and the assumptions upon which it is based are fully disclosed and contained in the contract, purchase agreement, or other instrument of sale or lease.

Sec. 17. Minnesota Statutes 2002, section 82.19, is amended by adding a subdivision to read:

Subd. 11. PROHIBITION AGAINST DISCOURAGING USE OF ATTORNEY.

Licensees shall not discourage prospective parties to a real estate transaction from seeking the services of an attorney.

Sec. 18. Minnesota Statutes 2002, section 82.19, is amended by adding a subdivision to read:

Subd. 12. FRAUDULENT, DECEPTIVE, AND DISHONEST PRACTICES.

(a) **PROHIBITIONS.** For the purposes of section 82.32, subdivision 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

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(1) act on behalf of more than one party to a transaction without the knowledge and consent of all parties;

(2) act in the dual capacity of licensee and undisclosed principal in any transaction;

(3) receive funds while acting as principal which funds would constitute trust funds if received by a licensee acting as an agent, unless the funds are placed in a trust account. Funds need not be placed in a trust account if a written agreement signed by all parties to the transaction specifies a different disposition of the funds, in accordance with section 82.27, subdivision 1;

(4) violate any state or federal law concerning discrimination intended to protect the rights of purchasers or renters of real estate;

(5) make a material misstatement in an application for a license or in any information furnished to the commissioner;

(6) procure or attempt to procure a real estate license for himself or herself or any person by fraud, misrepresentation, or deceit;

(7) represent membership in any real estate-related organization in which the licensee is not a member;

(8) advertise in any manner that is misleading or inaccurate with respect to properties, terms, values, policies, or services conducted by the licensee;

(9) make any material misrepresentation or permit or allow another to make any material misrepresentation;

(10) make any false or misleading statements, or permit or allow another to make any false or misleading statements, of a character likely to influence, persuade, or induce the consummation of a transaction contemplated by this chapter;

(11) fail within a reasonable time to account for or remit any money coming into the licensee's possession which belongs to another;

(12) commingle with his or her own money or property trust funds or any other money or property of another held by the licensee;

(13) demand from a seller a commission to compensation which the licensee is not entitled, knowing that he or she is not entitled to the commission compensation;

(14) pay or give money or goods of value to an unlicensed person for any assistance or information relating to the procurement by a licensee of a listing of a property or of a prospective buyer of a property (this item does not apply to money or goods paid or given to the parties to the transaction);

(15) fail to maintain a trust account at all times, as provided by law;

(16) engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive activity;

New language is indicated by underline, deletions by strikeout.

(17) represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client and a copy must be left with the client. The disclosure document must contain the following:

(i) the basis of fees, commissions, or other compensation received by him or her in connection with rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

- (a) ... commissions generated from the products I sell you;
- (b) ... fees; or
- (c) ... a combination of (a) and (b). Comments";

(ii) the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

List

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

List";

(iii) the license(s) held by the person under this chapter or chapter 60A or 80A in the following language:

"I am licensed in Minnesota as a(n):

- (a) ... insurance agent;
- (b) ... securities agent or broker/dealer;
- (c) ... real estate broker or salesperson;
- (d) ... investment adviser"; and

(iv) the specific identity of any financial products or services, by category, for example mutual funds, stocks, or limited partnerships, the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

- (a) ... securities, specifically the following: List;
- (b) ... real property;
- (c) ... insurance; and

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(d) ... other: List.”

(b) **DETERMINING VIOLATION.** A licensee shall be deemed to have violated this section if the licensee has been found to have violated sections 325D.49 to 325D.66, by a final decision or order of a court of competent jurisdiction.

(c) **COMMISSIONER'S AUTHORITY.** Nothing in this section limits the authority of the commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this section.

Sec. 19. **[82.191] COMPENSATION.**

Subdivision 1. LICENSEE TO RECEIVE ONLY FROM BROKER. A licensee shall not accept a commission compensation or other valuable consideration for the performance of any acts requiring a real estate license from any person except the real estate broker to whom the licensee is licensed or to whom the licensee was licensed at the time of the transaction.

Subd. 2. UNDISCLOSED COMPENSATION. A licensee shall not accept, give, or charge any undisclosed compensation or realize any direct or indirect remuneration that inures to the benefit of the licensee on an expenditure made for a principal.

Subd. 3. LIMITATION ON BROKER WHEN TRANSACTION NOT COMPLETED. When the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser.

Sec. 20. Minnesota Statutes 2002, section 82.195, is amended to read:

82.195 LISTING AGREEMENTS.

Subdivision 1. (a) **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.

Subd. 2. (b) **CONTENTS.** All listing agreements must be in writing and must include:

- (1) a definite expiration date;
- (2) a description of the real property involved;
- (3) the list price and any terms required by the seller;
- (4) the amount of any compensation or commission or the basis for computing the commission;
- (5) a clear statement explaining the events or conditions that will entitle a broker to a commission;

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(6) information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement;

(7) the following notice in not less than ten point boldface type immediately preceding any provision of the listing agreement relating to compensation of the licensee:

“NOTICE: THE COMPENSATION FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND THE BROKER’S CLIENT.”;

(8) for residential property listings, the following “dual agency” disclosure statement:

If a buyer represented by broker wishes to buy ~~you~~ the seller’s property, a dual agency will be created. This means that broker will represent both you the seller(s) and the buyer(s), and owe the same duties to the buyer(s) that broker owes to you the seller(s). This conflict of interest will prohibit broker from advocating exclusively on ~~your~~ the seller’s behalf. Dual agency will limit the level of representation broker can provide. If a dual agency should arise, you the seller(s) will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless you the seller(s) instruct broker in writing to disclose specific information about you the seller(s). All other information will be shared. Broker cannot act as a dual agent unless both you the seller(s) and the buyer(s) agree to it. By agreeing to a possible dual agency, you the seller(s) will be giving up the right to exclusive representation in an in-house transaction. However, if ~~you the seller(s)~~ you the seller(s) should decide not to agree to a possible dual agency, and ~~you the seller(s)~~ you the seller(s) want broker to represent ~~you the seller(s)~~ you the seller(s), you the seller(s) may give up the opportunity to sell ~~your~~ the property to buyers represented by broker.

Seller’s Instructions to Broker

Having read and understood this information about dual agency, seller(s) now instructs broker as follows:

..... Seller(s) will agree to a dual agency representation and will consider offers made by buyers represented by broker.

..... Seller(s) will not agree to a dual agency representation and will not consider offers made by buyers represented by broker.

.....
Seller Broker Real Estate Company Name

..... By:
Seller Salesperson

Date:

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(9) a notice requiring the seller to indicate in writing whether it is acceptable to the seller to have the licensee arrange for closing services or whether the seller wishes to arrange for others to conduct the closing; and

(10) for residential listings, a notice stating that after the expiration of the listing agreement, the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question. This notice may be used in the listing agreement for any other type of real estate.

Subd. 3. (c) PROHIBITED PROVISIONS. Except as otherwise provided in subdivision 4, paragraph ~~(b)~~ (d)(ii), licensees shall not include in a listing agreement a holdover clause, automatic extension, or any similar provision, or an override clause the length of which is more than six months after the expiration of the listing agreement.

Subd. 4. (d) OVERRIDE CLAUSES. ~~(a)~~ (i) Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the seller within 72 hours after the expiration of the listing agreement.

~~(b)~~ (ii) A listing agreement may contain an override clause of up to two years in length when used in conjunction with the purchase or sale of a business. The length of the override clause must be negotiable between the licensee and the seller of the business. The protective list provided in connection with the override clause must include the written acknowledgment of each party named on the protective list, that the business which is the subject of the listing agreement was presented to that party by the licensee.

Subd. 5. (e) PROTECTIVE LISTS. A broker or salesperson has the burden of demonstrating that each person on the protective list has, during the period of the listing agreement, either made an affirmative showing of interest in the property by responding to an advertisement or by contacting the broker or salesperson involved or has been physically shown the property by the broker or salesperson. For the purpose of this section, the mere mailing or other distribution by a licensee of literature setting forth information about the property in question does not, of itself, constitute an affirmative showing of interest in the property on the part of a subsequent purchaser.

For listings of nonresidential real property which do not contain the notice described in subdivision 2 paragraph (b), clause (10), the protective list must contain the following notice in boldface type:

"IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK COMPETENT ADVICE."

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

Sec. 21. Minnesota Statutes 2002, section 82.196, is amended to read:

82.196 BUYER'S BROKER AGREEMENTS.

~~Subdivision 1.~~ **(a) REQUIREMENTS.** Licensees shall obtain a signed buyer's broker agreement from a buyer before performing any acts as a buyer's representative and before a purchase agreement is signed.

~~Subd. 2.~~ **(b) CONTENTS.** All buyer's broker agreements must be in writing and must include:

(1) a definite expiration date;

(2) the amount of any compensation or commission, or the basis for computing the commission;

(3) a clear statement explaining the services to be provided to the buyer by the broker, and the events or conditions that will entitle a broker to a commission or other compensation;

(4) a clear statement explaining if the agreement may be canceled and the terms under which the agreement may be canceled;

(5) information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the buyer with a protective list within 72 hours after the expiration of the buyer's broker agreement;

(6) the following notice in not less than ten point boldface type immediately preceding any provision of the buyer's broker agreement relating to compensation of the licensee:

"NOTICE: THE COMPENSATION FOR THE PURCHASE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND THE BROKER'S CLIENT.";

(7) the following "dual agency" disclosure statement:

If you the buyer(s) choose(s) to purchase a property listed by broker, a dual agency will be created. This means that broker will represent both you the buyer(s) and the seller(s), and owe the same duties to the seller(s) that broker owes to you the buyer(s). This conflict of interest will prohibit broker from advocating exclusively on your the buyer's behalf. Dual agency will limit the level of representation broker can provide. If a dual agency should arise, you the buyer(s) will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless you the buyer(s) instruct broker in writing to disclose specific information about you the buyer(s). All other information will be shared. Broker cannot act as a dual agent unless both you the buyer(s) and the seller(s) agree to it. By agreeing to a possible dual agency, you the buyer(s) will be giving up the right to exclusive representation in an in-house transaction. However, if you the buyer(s) should decide not to agree to a possible dual agency, and you the buyer(s) want(s)

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broker to represent you the buyer(s), you the buyer(s) may give up the opportunity to purchase the properties listed by broker.

Buyer's Instructions to Broker

..... Buyer(s) will agree to a dual agency representation and will consider properties listed by broker.

..... Buyer(s) will not agree to a dual agency representation and will not consider properties listed by broker.

.....
Buyer Broker Real Estate Company Name

..... By:

Buyer Salesperson

Date:

and

(8) for buyer's broker agreements which involve residential real property, a notice stating that after the expiration of the buyer's broker agreement, the buyer will not be obligated to pay the licensee a fee or commission if the buyer has executed another valid buyer's broker agreement pursuant to which the buyer is obligated to pay a fee or commission to another licensee for the purchase, lease, or exchange of real property.

Subd. 3. (c) PROHIBITED PROVISIONS. Licensees shall not include in a buyer's broker agreement a holdover clause, automatic extension, or any other similar provision, or an override clause the length of which is more than six months after the expiration of the buyer's broker agreement.

Subd. 4. (d) OVERRIDE CLAUSES. Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the buyer within 72 hours after the expiration of the buyer's broker agreement.

Subd. 5. (e) PROTECTIVE LISTS. A licensee has the burden of demonstrating that each property on the protective list has been shown to the buyer, or specifically brought to the attention of the buyer, during the time the buyer's broker agreement was in effect.

Subd. 6. (f) APPLICATION. This section applies only to residential real property transactions.

Sec. 22. Minnesota Statutes 2002, section 82.197, is amended to read:

82.197 DISCLOSURE REQUIREMENTS.

Subdivision 1. ADVERTISING. Each licensee shall identify himself or herself as either a broker or an agent salesperson in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to the licensee's own property or the property of others.

Subd. 2. AGENCY DISCLOSURE. A real estate broker or salesperson shall provide to a consumer in the sale and purchase of a residential real property transaction at the first substantive contact with the consumer an agency disclosure form in

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substantially the form set forth in subdivision 4. The agency disclosure form shall be intended to provide a description of available options for agency and facilitator relationships, and a description of the role of a licensee under each option. The agency disclosure form shall provide a signature line for acknowledgment of receipt by the consumer. The disclosures required by this subdivision apply only to residential real property transactions.

Subd. 2. CREATION OF DUAL AGENCY. If circumstances create a dual agency situation, the broker must make full disclosure to all parties to the transaction as to the change in relationship of the parties to the broker due to dual agency. A broker, having made full disclosure, must obtain the consent of all parties to these circumstances in residential real property transactions in the purchase agreement in the form set forth below which shall be set off in a boxed format to draw attention to it:

Broker represents both the seller(s) and the buyer(s) of the property involved in this transaction, which creates a dual agency. This means that broker and its salespersons owe fiduciary duties to both seller(s) and buyer(s). Because the parties may have conflicting interests, broker and its salespersons are prohibited from advocating exclusively for either party. Broker cannot act as a dual agent in this transaction without the consent of both seller(s) and buyer(s). Seller(s) and buyer(s) acknowledge that:

(1) confidential information communicated to broker which regards price, terms, or motivation to buy or sell will remain confidential unless seller(s) or buyer(s) instructs broker in writing to disclose this information. Other information will be shared;

(2) broker and its salespersons will not represent the interests of either party to the detriment of the other; and

(3) within the limits of dual agency, broker and its salespersons will work diligently to facilitate the mechanics of the sale.

With the knowledge and understanding of the explanation above, seller(s) and buyer(s) authorize and instruct broker and its salespersons to act as dual agents in this transaction.

Subd. 3. SCOPE AND EFFECT. Disclosures made in accordance with the requirements for disclosure of agency relationships set forth in this chapter are sufficient to satisfy common law disclosure requirements. In addition, when a principal in the transaction is a licensee or a relative or business associate of the licensee, that fact must be disclosed in writing in addition to any other required disclosures.

Subd. 4. AGENCY DISCLOSURE FORM. The agency disclosure form shall be in substantially the form set forth below:

AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS

Minnesota law requires that early in any relationship, real estate brokers or salespersons discuss with consumers what type of agency representation or relation-

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ship they desire.(1) The available options are listed below. This is **not** a contract. **This is an agency disclosure form only. If you desire representation, you must enter into a written contract according to state law** (a listing contract or a buyer representation contract). Until such time as you choose to enter into a written contract for representation, you will be treated as a customer and will not receive any representation from the broker or salesperson. The broker or salesperson will be acting as a Facilitator (see paragraph V below), unless the broker or salesperson is representing another party as described below.

ACKNOWLEDGMENT: I/We acknowledge that I/We have been presented with the below-described options. I/We understand that until I/We have signed a representation contract, I/We are not represented by the broker/salesperson. I/We understand that written consent is required for a dual agency relationship. THIS IS A DISCLOSURE ONLY, NOT A CONTRACT FOR REPRESENTATION.

.....
Signature	Date
.....
Signature	Date

I.

Seller's Broker: A broker who lists a property, or a salesperson who is licensed to the listing broker, represents the Seller and acts on behalf of the Seller. A Seller's broker owes to the Seller the fiduciary duties described below.(2) The broker must also disclose to the Buyer material facts as defined in Minnesota Statutes, section 82.197, subdivision 6, of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property. If a broker or salesperson working with a Buyer as a customer is representing the Seller, he or she must act in the Seller's best interest and must tell the Seller any information disclosed to him or her, except confidential information acquired in a facilitator relationship (see paragraph V below). In that case, the Buyer will not be represented and will not receive advice and counsel from the broker or salesperson.

II.

Subagent: A broker or salesperson who is working with a Buyer but represents the Seller. In this case, the Buyer is the broker's customer and is not represented by that broker. If a broker or salesperson working with a Buyer as a customer is representing the Seller, he or she must act in the Seller's best interest and must tell the Seller any information that is disclosed to him or her. In that case, the Buyer will not be represented and will not receive advice and counsel from the broker or salesperson.

III.

Buyer's Broker: A Buyer may enter into an agreement for the broker or salesperson to represent and act on behalf of the Buyer. The broker may represent the Buyer only, and not the Seller, even if he or she is

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being paid in whole or in part by the Seller. A Buyer's broker owes to the Buyer the fiduciary duties described below.(2) The broker must disclose to the Buyer material facts as defined in Minnesota Statutes, section 82.197, subdivision 6, of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property. If a broker or salesperson working with a Seller as a customer is representing the Buyer, he or she must act in the Buyer's best interest and must tell the Buyer any information disclosed to him or her, except confidential information acquired in a facilitator relationship (see paragraph V below). In that case, the Seller will not be represented and will not receive advice and counsel from the broker or salesperson.

IV.

Dual Agency-Broker Representing both Seller and Buyer: Dual agency occurs when one broker or salesperson represents both parties to a transaction, or when two salespersons licensed to the same broker each represent a party to the transaction. Dual agency requires the informed consent of all parties, and means that the broker and salesperson owe the same duties to the Seller and the Buyer. This role limits the level of representation the broker and salespersons can provide, and prohibits them from acting exclusively for either party. In a dual agency, confidential information about price, terms, and motivation for pursuing a transaction will be kept confidential unless one party instructs the broker or salesperson in writing to disclose specific information about him or her. Other information will be shared. Dual agents may not advocate for one party to the detriment of the other.(3)

Within the limitations described above, dual agents owe to both Seller and Buyer the fiduciary duties described below.(2) Dual agents must disclose to Buyers material facts as defined in Minnesota Statutes, section 82.197, subdivision 6, of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property.

V.

Facilitator: A broker or salesperson who performs services for a Buyer, a Seller, or both but does not represent either in a fiduciary capacity as a Buyer's Broker, Seller's Broker, or Dual Agent. **THE FACILITATOR BROKER OR SALESPERSON DOES NOT OWE ANY PARTY ANY OF THE FIDUCIARY DUTIES LISTED BELOW, EXCEPT CONFIDENTIALITY, UNLESS THOSE DUTIES ARE INCLUDED IN A WRITTEN FACILITATOR SERVICES AGREEMENT.** The facilitator broker or salesperson owes the duty of confidentiality to the party but owes no other duty to the party except those duties required by law or contained in a written facilitator services agreement, if any. In the event a facilitator broker or salesperson,

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working with a Buyer, shows a property listed by the facilitator broker or salesperson, then the facilitator broker or salesperson must act as a Seller's Broker (see paragraph I above). In the event a facilitator broker or salesperson, working with a Seller, accepts a showing of the property by a Buyer being represented by the facilitator broker or salesperson, then the facilitator broker or salesperson must act as a Buyer's Broker (see paragraph III above).

(1) This disclosure is required by law in any transaction involving property occupied or intended to be occupied by one to four families as their residence.

(2) The fiduciary duties mentioned above are listed below and have the following meanings:

Loyalty-broker/salesperson will act only in client(s)' best interest.

Obedience-broker/salesperson will carry out all client(s)' lawful instructions.

Disclosure-broker/salesperson will disclose to client(s) all material facts of which broker/salesperson has knowledge which might reasonably affect the client's rights and interests use and enjoyment of the property.

Confidentiality-broker/salesperson will keep client(s)' confidences unless required by law to disclose specific information (such as disclosure of material facts to Buyers).

Reasonable Care-broker/salesperson will use reasonable care in performing duties as an agent.

Accounting-broker/salesperson will account to client(s) for all client(s)' money and property received as agent.

(3) If Seller(s) decides not to agree to a dual agency relationship, Seller(s) may give up the opportunity to sell the property to Buyers represented by the broker/salesperson. If Buyer(s) decides not to agree to a dual agency relationship, Buyer(s) may give up the opportunity to purchase properties listed by the broker.

Subd. 5. **APPLICATION CREATION OF DUAL AGENCY.** The disclosures required by subdivision 4 apply only to residential real property transactions. If circumstances create a dual agency situation, the broker must make full disclosure to all parties to the transaction as to the change in relationship of the parties to the broker due to dual agency. A broker, having made full disclosure, must obtain the consent of all parties to these circumstances in residential real property transactions in the purchase agreement in the form set forth below which shall be set off in a boxed format to draw attention to it:

Broker represents both the seller(s) and the buyer(s) of the property involved in this transaction, which creates a dual agency. This means that broker and it salespersons owe fiduciary duties to both seller(s) and buyer(s). Because the parties may have conflicting interests, broker and its salespersons are prohibited from advocating exclusively for either party. Broker cannot act as a dual agent in this

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transaction without the consent of both seller(s) and buyer(s).

Seller(s) and buyer(s) acknowledge that:

(1) confidential information communicated to broker which regards price, terms, or motivation to buy or sell will remain confidential unless seller(s) or buyer(s) instructs broker in writing to disclose this information. Other information will be shared;

(2) broker and its salespersons will not represent the interests of either party to the detriment of the other; and

(3) within the limits of dual agency, broker and its salespersons will work diligently to facilitate the mechanics of the sale.

With the knowledge and understanding of the explanation above, seller(s) and buyer(s) authorize and instruct broker and its salespersons to act as dual agents in this transaction.

.....
<u>Seller</u>	<u>Buyer</u>
.....
<u>Seller</u>	<u>Buyer</u>
.....
<u>Date</u>	<u>Date</u>

Subd. 6. AGENT OF BROKER DISCLOSURE. A salesperson shall only conduct business under the licensed name of and on behalf of the broker to whom the salesperson is licensed. An individual broker shall only conduct business under the broker's licensed name. A broker licensed to a corporation or partnership shall only conduct business under the licensed corporate or partnership name. A licensee shall affirmatively disclose, before the negotiation or consummation of any transaction, the licensed name of the broker under whom the licensee is authorized to conduct business in accordance with this section.

Subd. 7. FINANCIAL INTERESTS DISCLOSURE; LICENSEE. (a) Prior to the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner of real property that the licensee is a real estate broker or agent salesperson, and in what capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

(b) When a principal in the transaction is a licensee or a relative or business associate of the licensee, that fact must be disclosed in writing.

Subd. 6- 8. MATERIAL FACTS. (a) Licensees shall disclose to any prospective purchaser all material facts of which the licensees are aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensees are aware.

(b) It is not a material fact relating to real property offered for sale and no regulatory action shall be brought against a licensee for failure to disclose in any real

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~~estate transaction~~ the fact or suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity; or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under that section, if the broker or salesperson, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee is not required to disclose, except as otherwise provided in paragraph (e), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

(e) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report, if a copy of the report is provided to the licensee, described in paragraph (d).

(f) The limitation on disclosures set forth in paragraphs (b) and (c) shall modify any common law duties with respect to disclosure of material facts.

Subd. 9. NONPERFORMANCE OF ANY PARTY. If a licensee is put on notice by any party to a real estate transaction that the party will not perform in accordance with the terms of a purchase agreement or other similar written agreement to convey real estate, the licensee shall immediately disclose the fact of that party's intent not to perform to the other party or parties to the transaction. Whenever reasonably possible, the licensee shall inform the party who will not perform of the licensee's obligation to disclose this fact to the other party or parties to the transaction prior to making the disclosure. The obligation required by this section shall not apply to notice of a party's inability to keep or fulfill any contingency to which the real estate transaction has been made subject.

Sec. 23. Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

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Subd. 2a. **ADDITIONAL BROKER'S LICENSE.** An individual who holds a broker's license in his or her own name or for or on behalf of a corporation or partnership must be issued an additional broker's license only upon demonstrating that the additional license is necessary in order to serve a legitimate business purpose; that the broker will be capable of supervising all salespersons over whom he or she will have supervisory responsibility or, in the alternative, that the broker will have no supervisory responsibilities under the additional license; and that the broker has a substantial ownership interest in each corporation or partnership for or on whose behalf he or she holds or will hold a broker's license.

The requirement of a substantial ownership interest does not apply where the broker seeking the additional license or licenses is an officer of a corporation for or on whose behalf the broker already holds a license and the broker is applying for the additional license or licenses for or on behalf of an affiliated corporation or corporations of which he or she is also an officer. For the purpose of this section, "affiliated corporation" means a corporation which is directly or indirectly controlled by the same persons as the corporation for or on whose behalf the broker is already licensed to act.

For the purposes of this section, a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

Sec. 24. Minnesota Statutes 2002, 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, 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, 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 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.

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

(f) Applicants for a real estate salesperson license shall submit to the commissioner, along with the application for licensure, a copy of the course completion certificate for courses I, II, and III.

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Sec. 25. Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 3a. **APPLICATION FOR BROKER'S LICENSE.** After successful completion of the real estate broker's examination, an individual shall have one year from the date of the examination to apply for a broker's license, unless the individual is a salesperson who remains continuously active in the real estate field as a licensee. Failure to apply for the broker's license or to remain continuously active in the real estate field will necessitate a reexamination.

Sec. 26. Minnesota Statutes 2002, section 82.20, subdivision 4, is amended to read:

Subd. 4. **CORPORATE AND PARTNERSHIP LICENSES.** (a) A corporation applying for a license shall have at least one officer individually licensed to act as broker for the corporation. The corporation broker's license shall extend no authority to act as broker to any person other than the corporate entity. Each officer who intends to act as a broker shall obtain a license.

(b) A partnership applying for a license shall have at least one partner individually licensed to act as broker for the partnership. Each partner who intends to act as a broker shall obtain a license.

(c) Applications for a license made by a corporation shall be verified by the president and one other officer. Applications made by a partnership shall be verified by at least two partners.

(d) Any partner or officer who ceases to act as broker for a partnership or corporation shall notify the commissioner upon said termination. The individual licenses of all salespersons acting on behalf of a corporation or partnership, are automatically ineffective upon the revocation or suspension of the license of the partnership or corporation. The commissioner may suspend or revoke the license of an officer or partner without suspending or revoking the license of the corporation or partnership.

(e) The application of all officers of a corporation or partners in a partnership who intend to act as a broker on behalf of a corporation or partnership shall accompany the initial license application of the corporation or partnership. Officers or partners intending to act as brokers subsequent to the licensing of the corporation or partnership shall procure an individual real estate broker's license prior to acting in the capacity of a broker. No corporate officer who maintains a salesperson's license may exercise any authority over any trust account administered by the broker nor may they be vested with any supervisory authority over the broker.

(f) The corporation or partnership applicant shall make available upon request, such records and data required by the commissioner for enforcement of this chapter.

(g) The commissioner may require further information, as the commissioner deems appropriate, to administer the provisions and further the purposes of this chapter.

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Sec. 27. Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 7a. AUTOMATIC TRANSFER OF SALESPERSON'S LICENSE. A salesperson may utilize the automatic license transfer provisions of subdivision 9, clause (b), if the salesperson commences association with the broker to whom the salesperson is transferring, as evidenced by the dates of the signatures of both brokers on the form prescribed by the commissioner, within five days after terminating the salesperson's association with the broker from whom the salesperson is transferring, provided the salesperson's educational requirements are not past due.

A salesperson may not utilize the automatic license transfer provisions of subdivision 9, clause (b), if the sales person has failed to notify the commissioner within ten days of any change of information contained in the salesperson's license application on file with the commissioner or of a civil judgment, disciplinary action, or criminal offense, which notice is required pursuant to section 82.20, subdivision 11.

Sec. 28. Minnesota Statutes 2002, section 82.20, subdivision 8, is amended to read:

Subd. 8. TIMELY 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, salesperson, or closing agent whether or not the renewed license has been received on or before July 1 of the renewal year. 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 of the renewal 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 of the renewal year, shall be unlicensed until such time as the license has been issued by the commissioner and is received.

Sec. 29. Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 8a. PROCEDURE. An application for automatic transfer shall be made only on the form prescribed by the commissioner. The transfer is ineffective if the form is not completed in its entirety.

The form shall be accompanied by a \$10 transfer fee, and the license renewal fee, if applicable. Cash will not be accepted.

The signature of the broker from whom the salesperson is transferring must predate the signature of the broker to whom the salesperson is transferring. The salesperson is unlicensed for the period of time between the times and dates of both signatures. The broker from whom the salesperson is transferring shall sign and date

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the transfer application upon the request of the salesperson and shall destroy the salesperson's license immediately.

Sec. 30, Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 9a. EFFECTIVE DATE. (a) The transfer is effective when the broker to whom the salesperson is transferring signs and dates the transfer application form, provided the commissioner receives the form and fee within 72 hours after the date and time of the new broker's signature, either by certified mail, or personal delivery to the commissioner's office. The commissioner may accept an application for license transfer made by an electronic agent or an electronic record with an electronic signature if the commissioner has the capability of accepting the application electronically. In the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received. The properly executed automatic transfer form serves as a temporary real estate license for no more than 45 days.

(b) The transfer is ineffective if the fee is paid by means of a check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal drawn on an account with insufficient funds.

(c) The salesperson shall retain the certified mail return receipt, if the transfer application is delivered to the commissioner by mail, retain a photocopy of the executed transfer application, and provide a photocopy of the executed transfer application to the broker from whom the salesperson is transferring.

(d) The real estate salesperson automatic transfer must be in the form prescribed by the commissioner.

Sec. 31, Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 11a. MANDATORY. Licensees shall notify the commissioner of the facts in subdivisions 11b to 11d.

Sec. 32, Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 11b. CIVIL JUDGMENT. Licensees must notify the commissioner in writing within ten days of a final adverse decision or order of a court, whether or not the decision or order is appealed, regarding any proceeding in which the licensee was named as a defendant, and which alleged fraud, misrepresentation, or the conversion of funds, if the final adverse decision relates to the allegations of fraud, misrepresentation, or the conversion of funds.

Sec. 33, Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 11c. DISCIPLINARY ACTION. The licensee must notify the commissioner in writing within ten days of the suspension or revocation of the licensee's real estate or other occupational license issued by this state or another jurisdiction.

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Sec. 34. Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 11d. **CRIMINAL OFFENSE.** The licensee must notify the commissioner in writing within ten days if the licensee is charged with, adjudged guilty of, or enters a plea of guilty or nolo contendere to a charge of any felony, or of any gross misdemeanor alleging fraud, misrepresentation, conversion of funds, or a similar violation of any real estate licensing law.

Sec. 35. Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 12a. **TEMPORARY BROKER'S PERMIT.** In the event of death or incapacity of a broker, the commissioner may issue a 45-day temporary permit to an individual who has had a minimum of two years actual experience as a licensed real estate salesperson and who is otherwise reasonably qualified to act as a broker. Upon application prior to its expiration, the 45-day temporary permit shall be renewed once by the commissioner if the applicant demonstrates that he or she has made a good faith effort to obtain a broker's license within the preceding 45 days and an extension of time will not harm the public interest.

Only those salespersons licensed to the deceased or incapacitated broker at the time of death or incapacity may conduct business for or on behalf of the person to whom the temporary broker's license was issued.

Sec. 36. Minnesota Statutes 2002, section 82.20, is amended by adding a subdivision to read:

Subd. 14a. **WITHDRAWAL OF LICENSE OR APPLICATION.** A licensee or license applicant may at any time file with the commissioner a request to withdraw from the status of licensee or to withdraw a pending license application. Withdrawal from the status of licensee or withdrawal of the license application becomes effective 30 days after receipt of a request to withdraw or within a shorter period the commissioner determines unless a revocation, suspension, or denial proceeding is pending when the request to withdraw is filed or a proceeding to revoke, suspend, deny, or to impose conditions upon the withdrawal is instituted within 30 days after the request to withdraw is filed. If a proceeding is pending or instituted, withdrawal becomes effective at the time and upon the conditions the commissioner determines by order. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may institute a revocation or suspension proceeding within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was in effect.

Sec. 37. **[82.201] COMPUTATION OF TIME.**

Subdivision 1. **DAYS.** Where performing or doing any act, duty, matter, payment, or thing is ordered or directed, and the period of time or duration for performing or doing it is prescribed and fixed by law, rule, or order, the time, except as otherwise

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provided in subdivision 2, is computed so as to exclude the first and include the last day of any such prescribed or fixed period or duration of time. When the last day of the period falls on Sunday or on any day made a legal holiday, by the laws of this state or of the United States, the day is omitted from the computation.

Subd. 2. MONTHS. When the lapse of a number of months before or after a certain day is required by law, rule, or order, the number of months is computed by counting the months from the day, excluding the calendar month in which the day occurs, and including the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

Sec. 38. Minnesota Statutes 2002, section 82.21, is amended by adding a subdivision to read:

Subd. 5. CASH NOT ACCEPTED. All fees must be paid by check, draft, credit card, or other negotiable or nonnegotiable instrument or order of withdrawal that is drawn against funds held by a financial institution. Cash will not be accepted.

Sec. 39. Minnesota Statutes 2002, section 82.21, is amended by adding a subdivision to read:

Subd. 6. OVERPAYMENT OF FEES. An overpayment of a fee paid pursuant to this chapter shall be refunded within a reasonable time after a letter requesting the refund is received by the commissioner and signed by the person making the overpayment.

Refunds shall not be given for other than overpayment of fees. A request for a refund of an overpayment must be received by the commissioner within six months of the date of deposit or it will be forfeited.

Sec. 40. Minnesota Statutes 2002, section 82.22, is amended by adding a subdivision to read:

Subd. 5a. WAIVERS. The commissioner may waive the real estate licensing experience requirement for the broker's examination.

(a) An applicant for a waiver shall provide evidence of:

(1) successful completion of a minimum of 90 quarter credits or 270 classroom hours of real estate-related studies;

(2) a minimum of five consecutive years of practical experience in real estate-related areas; or

(3) successful completion of 30 credits or 90 classroom hours and three consecutive years of practical experience in real estate-related areas.

(b) A request for a waiver shall be submitted to the commissioner in writing and be accompanied by documents necessary to evidence qualification as set forth in paragraph (a).

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(c) The waiver will lapse if the applicant fails to successfully complete the broker's examination within one year from the date of the granting of the waiver.

Sec. 41. Minnesota Statutes 2002, section 82.22, is amended by adding a subdivision to read:

Subd. 5b. FAILURE TO RENEW LICENSE. If a license lapses or becomes ineffective due to the licensee's failure to file a timely renewal application or otherwise, the commissioner may institute a revocation or suspension proceeding within two years after the license was last effective and enter a revocation or suspension order as of the last date on which the license was in effect.

Sec. 42. Minnesota Statutes 2002, section 82.22, subdivision 6, is amended to read:

Subd. 6. INSTRUCTION; NEW LICENSES. (a) Every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. Every 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, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules, and of which two hours must consist of training in laws and regulations on agency representation and disclosure, before filing an application for the license. This subdivision does not apply to salespeople licensed in Minnesota before July 1, 1969.

~~(b) 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.~~

~~(e) An applicant for a broker's license must successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules. The course must have been completed within 12 months prior to the date of application for the broker's license.~~

~~(d) (c) 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. 43. Minnesota Statutes 2002, section 82.22, is amended by adding a subdivision to read:

Subd. 6a. CHANGE OF APPLICATION INFORMATION. The commissioner must be notified in writing of a change of information contained in the license application on file with the commissioner within ten days of the change.

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Sec. 44. Minnesota Statutes 2002, section 82.22, is amended by adding a subdivision to read:

Subd. 6b. CANCELLATION OF SALESPERSON'S OR BROKER'S LICENSE. A salesperson's or broker's license that has been canceled for failure of a licensee to complete postlicensing education requirements must be returned to the commissioner by the licensee's broker within ten days of receipt of notice of cancellation. The license shall be reinstated without reexamination by completing the required instruction, filing an application, and paying the fee for a salesperson's or broker's license within two years of the cancellation date.

Sec. 45. Minnesota Statutes 2002, section 82.22, is amended by adding a subdivision to read:

Subd. 6c. PASSING GRADE FOR EXAMINATION. A passing grade for a salesperson's and broker's examination shall be a score of 75 percent or higher on the uniform portion and a score of 75 percent or higher on the state portion of the examination.

The commissioner shall not accept the scores of a person who has cheated on an examination. Cheating on a real estate examination shall be grounds for denying an application for a broker's or salesperson's license.

Sec. 46. Minnesota Statutes 2002, section 82.22, subdivision 8, is amended to read:

Subd. 8. DURATION. No renewal of a salesperson's license shall be effective beyond a date two years after the granting of such salesperson's license unless the salesperson has furnished evidence of compliance with ~~either subdivisions 6 or 7~~ section 82.22, subdivision 6. The commissioner shall cancel the license of any salesperson who fails to comply with ~~subdivisions 6 or 7~~ section 82.22, subdivision 6. This subdivision shall not apply to salespeople licensed in Minnesota prior to July 1, 1969.

Sec. 47. Minnesota Statutes 2002, section 82.22, subdivision 12, is amended to read:

Subd. 12. RECIPROCITY. The requirements of ~~this section~~ subdivisions 6 and 13 may be waived for individuals of other jurisdictions, provided: (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.

Sec. 48. Minnesota Statutes 2002, section 82.22, subdivision 13, is amended to read:

Subd. 13. CONTINUING EDUCATION. (a) All real estate salespersons and all real estate brokers shall be required to successfully complete 30 hours of real estate

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continuing education, either as a student or a lecturer, in courses of study approved by the commissioner, during the initial license period and during each succeeding 24-month license period. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Licensees may not claim credit for continuing education not actually completed as of the date their report of continuing education compliance is filed.

(b) The commissioner ~~shall~~ may adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of ~~this subdivision~~ prelicense instruction as required under section 82.22, subdivision 6, and continuing education as required under this section. The commissioner may not approve a course which can be completed by the student at home or outside the classroom without the supervision of an instructor except accredited courses using new delivery technology, including interactive technology, and the Internet. 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. Courses in motivation, salesmanship, psychology, or time management shall not be approved by the commissioner for continuing education credit. The commissioner may approve courses in any other subjects, including, but not limited to, communication, marketing, negotiation, and technology for continuing education credit.

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

(d) As part of the continuing education requirements of this section, the commissioner shall require that all real estate brokers and salespersons receive:

(1) at least one hour of training during each license period in courses in laws or regulations on agency representation and disclosure; and

(2) at least one hour of training during each license period in courses in state and federal fair housing laws, regulations, and rules, other antidiscrimination laws, or courses designed to help licensees to meet the housing needs of immigrant and other underserved populations.

Clauses (1) and (2) do not apply to real estate salespersons and real estate brokers engaged solely in the commercial real estate business who file with the commissioner a verification of this status along with the continuing education report required under paragraph (a).

(e) The commissioner is authorized to establish a procedure for renewal of course accreditation.

(f) Approved continuing education courses may be sponsored or offered by a broker of a real estate company and may be held on the premises of a company licensed under this chapter. All continuing education course offerings must be open to any interested individuals. Access may be restricted by the sponsor based on class size only.

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Courses must not be approved if attendance is restricted to any particular group of people. A broker must comply with all continuing education rules prescribed by the commissioner. The commissioner shall not approve any prelicense instruction courses offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business.

(g) No more than one-half of the credit hours per licensing period, including continuing education required under subdivision 6, may be credited to a person for attending any combination of courses either: Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

(1) sponsored by, offered by, or affiliated with a real estate company or its agents;
or

(2) offered using new delivery technology, including interactive technology, and the Internet.

(h) The real estate education course completion certificate must be in the form set forth by the commissioner.

Students are responsible for maintaining copies of course completion certificates.

Sec. 49. Minnesota Statutes 2002, section 82.24, subdivision 3, is amended to read:

Subd. 3. **NONDEPOSITABLE ITEMS.** In the event earnest money or other down payments in a real estate transaction are received by the broker or salesperson in the form of a nondeposable item such as a note, bond, stock certificate, treasury bill, or any other instrument or equity or thing of value received by a broker, salesperson, or closing agent received in lieu of cash as earnest money or down payment in a real estate transaction shall be held by deposited immediately with an authorized escrow agent, whose authority is evidenced by a written agreement executed by the offeror and the escrow agent. A receipt shall be issued to the buyer for the value of the nondeposable item.

In the event the broker acts as the escrow agent, the broker shall obtain written authority from the buyer and seller to hold such items in escrow. In all cases, the parties shall be advised of the details relative to the nondeposable item, including the nature of the item, the amount, and in whose custody such item is being held. The fact that such an item is being held by the broker shall be duly recorded in the broker's trust account records.

Sec. 50. Minnesota Statutes 2002, section 82.24, subdivision 5, is amended to read:

Subd. 5. **TRUST ACCOUNTS.** (a) 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.

(b) Unless otherwise agreed upon in writing by the parties to a transaction, the broker with whom trust funds are to be deposited in satisfaction of subdivision 1 shall be the listing broker.

New language is indicated by underline, deletions by strikeout.

(c) A check received from a potential buyer shall be deposited into the listing broker's trust account not later than the third business day after delivery of the check to the broker, except that the check may be held by the listing broker until acceptance or rejection of the offer if:

(1) the check by its terms is not negotiable by the broker or if the potential buyer has given written instructions that the check shall not be deposited nor cashed until acceptance or shall be immediately returned if the offer is rejected; and

(2) the potential seller is informed that the check is being so held before or at the time the offer is presented to that person for acceptance.

If the offer is accepted, the check shall be deposited in a neutral escrow depository or the trust fund account of the listing broker not later than the third business day following acceptance of the offer unless the broker has received written authorization from all parties to the transaction to continue to hold the check. If the offer is rejected, the check shall be returned to the potential buyer not later than the next business day after rejection.

(d) Trust funds must be maintained in a trust account until disbursement is made in accordance with the terms of the applicable agreements and proper accounting is made to the parties entitled to an accounting.

Disbursement must be made within a reasonable time following the consummation or termination of a transaction if the applicable agreements are silent as to the time of disbursement.

Sec. 51. Minnesota Statutes 2002, section 82.24, is amended by adding a subdivision to read:

Subd. 9. CONSENT TO PLACE IN SPECIAL ACCOUNT. Trust funds may be placed by the broker in a special account which may be an interest-bearing account or certificate of deposit if the buyer and the seller consent in writing to the special account and to the disposition of the trust funds, including any interest thereon.

Sec. 52. Minnesota Statutes 2002, section 82.24, is amended by adding a subdivision to read:

Subd. 10. LICENSEE AS PRINCIPAL. Funds which would constitute trust funds if received by a licensee acting as an agent must, if received by a licensee acting as principal, be placed in a trust account unless a written agreement signed by all parties to the transaction specifies a different disposition of the funds. The written agreement shall state that the funds would otherwise be placed in a real estate trust account.

Sec. 53. Minnesota Statutes 2002, section 82.24, is amended by adding a subdivision to read:

Subd. 11. TRUST ACCOUNT RECORDS. (a) Every broker shall keep a record of all trust funds received, including notes, savings certificates, uncashed or uncollected checks, or other similar instruments. Said records shall set forth:

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

- (1) date funds received;
- (2) from whom received;
- (3) amount received;
- (4) with respect to funds deposited in a trust account, the date of said deposit;
- (5) with respect to funds previously deposited in a trust account, the check number or date of related disbursements; and
- (6) a monthly balance of the trust account.

Each broker shall maintain a formal trust cash receipts journal and a formal cash disbursement journal, or similar records, in accordance with generally accepted accounting principles. All records and funds shall be subject to inspection by the commissioner or an agent of the commissioner at any time.

(b) Each broker shall keep a separate record for each beneficiary or transaction, accounting for all funds therein which have been deposited in the broker's trust bank account. These records shall set forth information sufficient to identify the transaction and the parties thereto. At a minimum, each record shall set forth:

- (1) the date funds are deposited;
- (2) the amount deposited;
- (3) the date of each related disbursement;
- (4) the check number of each related disbursement;
- (5) the amount of each related disbursement; and
- (6) a description of each disbursement.

Sec. 54. [82.261] GUARANTEED SALE PROGRAMS.

If a broker advertises or offers a guaranteed sale program, or other program whereby the broker undertakes to purchase real property in the event he or she is unable to effectuate a sale to a third party within a specified period of time, a written disclosure that sets forth clearly and completely the general terms and conditions under which the broker agrees to purchase the property and the disposition of any profit at the time of resale by the broker must be provided to the seller prior to the execution of a listing agreement.

Sec. 55. Minnesota Statutes 2002, section 82.27, is amended by adding a subdivision to read:

Subd. 8. REVOCATIONS. If the commissioner finds that any licensee or applicant is no longer in existence or has ceased to do business as a broker or salesperson or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application.

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

Sec. 56. **[§2.36] LOAN BROKERS.**

Subdivision 1. COMPLIANCE. Loan brokers shall comply with the requirements of subdivisions 2 to 7.

Subd. 2. CONTRACT PROVISIONS. A loan broker shall enter into a written contract with each customer and shall provide a copy of the written contract to each customer at or before the time of receipt of any fee or valuable consideration paid for loan brokerage services. The written contract shall:

(1) identify the escrow account into which the fees or consideration will be deposited;

(2) set forth the circumstances under which the loan broker will be entitled to disbursement from the escrow account;

(3) set forth the circumstances under which the customer will be entitled to a refund of all or part of the fee;

(4) specifically describe the services to be provided by the loan broker and the dates by which the services will be performed;

(5) state the maximum rate of interest to be charged on any loan obtained;

(6) contain a statement which notifies the customer of his or her rights to cancel the contract pursuant to subdivision 3;

(7) disclose, with respect to the 12-month period ending ten business days prior to the date of the contract in question, the percentage of the loan broker's customers for whom loans have actually been funded as a result of the loan broker's services. This disclosure need not be made for any period prior to September 8, 1986; and

(8) disclose the cancellation rights and procedures set forth in subdivision 3.

Subd. 3. CANCELLATION. Any customer of a loan broker who pays a fee prior to the time a loan is actually funded shall have an unconditional right to rescind the contract for loan brokerage services at any time until midnight of the third business day after the day on which the contract is signed. Cancellation is evidenced by the customer giving written notice of cancellation to the loan broker at the address stated in the contract. Notice of cancellation, if given by mail, is effective upon deposit in a mailbox properly addressed to the loan broker with postage prepaid. Notice of cancellation need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the customer not to be bound by the contract. No act of a customer of a loan broker shall be effective to waive the right to rescind as provided in this subdivision.

Subd. 4. ESCROW ACCOUNT. The loan broker shall deposit in an escrow account within 48 hours all fees received prior to the time a loan is actually funded. The escrow account shall be in a bank located within the state of Minnesota and shall be controlled by an unaffiliated accountant, lawyer, or bank officer or employee.

Subd. 5. RECORDS. The loan broker shall maintain a separate record of all fees received for services performed or to be performed as a loan broker. Each record shall set forth the date funds are received, the person from whom the funds are received, the

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amount received, the date of deposit in the escrow account, the account number, the date the funds are disbursed and the check number of the disbursement, and a description of each disbursement and the justification for the disbursement.

Subd. 6. MONTHLY STATEMENT. The loan broker shall provide to each customer at least monthly a detailed written accounting of all disbursements of the customer's funds from the trust account.

Subd. 7. DISCLOSURE OF LENDERS. The loan broker shall provide to each customer at the expiration of the contract a list of the lenders or loan sources to whom loan applications were submitted on behalf of the customer.

Sec. 57. [82.37] NEGOTIATIONS.

Subdivision 1. WRITTEN OFFERS. All written offers to purchase or lease shall be promptly submitted in writing to the seller or lessor.

Subd. 2. NONDISCLOSURE OF TERMS OF OFFER. A licensee shall not disclose the terms of an offer to another prospective buyer or the licensee representing or assisting the buyer prior to the presentation of the offer to the seller.

Subd. 3. CLOSING COSTS. Licensees shall disclose to a buyer or a seller at or before the time an offer is written or presented that the buyer or seller may be required to pay certain closing costs, which may effectively reduce the proceeds from the sale or increase the cash outlay at closing.

Subd. 4. REQUIRED DOCUMENTS. Licensees shall furnish to the parties to the transaction at the time the documents are signed or become available a true and accurate copy of listing agreements, earnest money receipts, purchase agreements, contracts for deed, option agreements, closing statements, truth-in-housing forms, energy audits, and any other record, instrument, or document that is material to the transaction and that is in the licensee's possession.

Subd. 5. CLOSING STATEMENT. The listing broker or his or her designee shall deliver to the seller, at the time of closing, a complete and detailed closing statement setting forth all of the receipts and disbursements handled by the broker for the seller. The listing broker shall also deliver to the buyer, at the time of closing, a complete and detailed statement setting forth the disposition of all money received in the transaction from the buyer.

Sec. 58. [82.46] RENTAL SERVICES.

Subdivision 1. LICENSE. A rental service shall obtain a real estate broker's license before engaging in business or holding itself out as being engaged in business. No person shall act as a real estate salesperson on behalf of a rental service without first obtaining a real estate salesperson's license on behalf of the rental service.

Subd. 2. DISSEMINATION OF UNIT INFORMATION. A rental service shall not provide information regarding a rental unit without the express authority of the owner of the unit.

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

Subd. 3. ADVERTISING. A rental service shall not advertise in a manner that is misleading with regards to fees charged, services provided, the availability of rental units, or rental terms or conditions.

Sec. 59. [82.48] STANDARDS OF CONDUCT.

Subdivision 1. ACCESS TO GOVERNING STATUTES AND RULES. Every real estate office and branch office shall have a current copy of this chapter and chapter 83 and the rules adopted under those chapters, available for the use of licensees. Access to the statutes and rules required by this section may be made available through an electronic agent.

Subd. 2. PENALTY FOR NONCOMPLIANCE. The methods, acts, or practices set forth in sections 82.19, subdivision 10; 82.191; 82.197; 82.22, subdivision 6a; 82.261; 82.37; and subdivisions 1 and 3, are standards of conduct governing the activities of real estate brokers and salespersons. Failure to comply with these standards shall constitute grounds for license denial, suspension, or revocation, or for censure of the licensee.

Subd. 3. RESPONSIBILITIES OF BROKERS. (a) SUPERVISION OF PERSONNEL. Brokers shall adequately supervise the activities of their salespersons and employees. Supervision includes the ongoing monitoring of listing agreements, purchase agreements, other real estate-related documents which are prepared or drafted by the broker's salespersons or employees or which are otherwise received by the broker's office, and the review of all trust account books and records. If an individual broker maintains more than one place of business, each place of business shall be under the broker's direction and supervision. If a partnership or corporate broker maintains more than one place of business, each place of business shall be under the direction and supervision of an individual broker licensed to act on behalf of the partnership or corporation.

The primary broker shall maintain records specifying the name of each broker responsible for the direction and supervision of each place of business. If an individual broker, who may be the primary broker, is responsible for supervising more than one place of business, the primary broker shall, upon written request of the commissioner, file a written statement specifying the procedures which have been established to ensure that all salespersons and employees are adequately supervised. Designation of another broker to supervise a place of business does not relieve the primary broker of the ultimate responsibility for the actions of licensees.

(b) PREPARATION AND SAFEKEEPING OF DOCUMENTS. Brokers shall be responsible for the preparation, custody, safety, and accuracy of all real estate contracts, documents, and records, even though another person may be assigned these duties by the broker.

(c) DOCUMENTATION AND RESOLUTION OF COMPLAINTS. Brokers shall investigate and attempt to resolve complaints made regarding the practices of any individual licensed to them and shall maintain, with respect to each individual licensed to them, a complaint file containing all material relating to any complaints received in writing for a period of three years.

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

(d) DISCLOSURE OF LISTED PROPERTY INFORMATION. A broker may allow any unlicensed person, who is authorized by the broker, to disclose any factual information pertaining to the properties listed with the broker, if the factual information is provided to the unlicensed person in written form by the broker representing or assisting the seller(s).

Sec. 60. [82.51] UNCLAIMED PROPERTY ACT COMPLIANCE.

Upon the initial application for a real estate broker's license and upon each annual application for renewal, the applicant or broker shall be required to inform the commissioner of compliance with the requirements set forth in chapter 345 relating to unclaimed property.

Sec. 61. REVISOR'S INSTRUCTION.

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make the necessary cross-reference changes consistent with the renumbering.

Column A	Column B
<u>82.17, subdivision 13</u>	<u>82.17, subdivision 2</u>
<u>82.17, subdivision 10</u>	<u>82.17, subdivision 3</u>
<u>82.17, subdivision 3</u>	<u>82.17, subdivision 4</u>
<u>82.17, subdivision 11</u>	<u>82.17, subdivision 5</u>
<u>82.17, subdivision 14</u>	<u>82.17, subdivision 6</u>
<u>82.17, subdivision 15</u>	<u>82.17, subdivision 7</u>
<u>82.17, subdivision 16</u>	<u>82.17, subdivision 8</u>
<u>82.17, subdivision 17</u>	<u>82.17, subdivision 9</u>
<u>82.17, subdivision 18</u>	<u>82.17, subdivision 10</u>
<u>82.17, subdivision 19</u>	<u>82.17, subdivision 11</u>
<u>82.17, subdivision 20</u>	<u>82.17, subdivision 12</u>
<u>82.17, subdivision 2</u>	<u>82.17, subdivision 13</u>
<u>82.17, subdivision 21</u>	<u>82.17, subdivision 14</u>
<u>82.17, subdivision 22</u>	<u>82.17, subdivision 15</u>
<u>82.17, subdivision 9</u>	<u>82.17, subdivision 16</u>
<u>82.17, subdivision 8</u>	<u>82.17, subdivision 17</u>
<u>82.17, subdivision 4</u>	<u>82.17, subdivision 18</u>
<u>82.17, subdivision 5</u>	<u>82.17, subdivision 19</u>
<u>82.17, subdivision 23</u>	<u>82.17, subdivision 20</u>
<u>82.17, subdivision 12</u>	<u>82.17, subdivision 21</u>
<u>82.17, subdivision 24</u>	<u>82.17, subdivision 22</u>
<u>82.17, subdivision 6</u>	<u>82.17, subdivision 23</u>
<u>82.17, subdivision 7</u>	<u>82.17, subdivision 24</u>
<u>82.33</u>	<u>82.18</u>
<u>82.191</u>	<u>82.19</u>
<u>82.201</u>	<u>82.20</u>
<u>82.196</u>	<u>82.21, subdivision 1</u>
<u>82.195</u>	<u>82.21, subdivision 2</u>

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<u>82.197</u>		<u>82.22</u>	
<u>82.18</u>		<u>82.23</u>	
<u>82.21</u>		<u>82.24</u>	
<u>82.261</u>		<u>82.27</u>	
<u>82.22, subdivision 1</u>		<u>82.29, subdivision 1</u>	
<u>82.22, subdivision 11</u>		<u>82.29, subdivision 2</u>	
<u>82.22, subdivision 4</u>		<u>82.29, subdivision 3</u>	
<u>82.22, subdivision 2</u>		<u>82.29, subdivision 4</u>	
<u>82.22, subdivision 5a</u>		<u>82.29, subdivision 5</u>	
<u>82.22, subdivision 6c</u>		<u>82.29, subdivision 6</u>	
<u>82.22, subdivision 3</u>		<u>82.29, subdivision 7</u>	
<u>82.22, subdivision 6</u>		<u>82.29, subdivision 8</u>	
<u>82.20, subdivision 2</u>		<u>82.31, subdivision 1</u>	
<u>82.20, subdivision 3</u>		<u>82.31, subdivision 2</u>	
<u>82.20, subdivision 3a</u>		<u>82.31, subdivision 3</u>	
<u>82.20, subdivision 4</u>		<u>82.31, subdivision 4</u>	
<u>82.22, subdivision 5</u>		<u>82.31, subdivision 5</u>	
<u>82.22, subdivision 6a</u>		<u>82.31, subdivision 6</u>	
<u>82.22, subdivision 13</u>		<u>82.32</u>	
<u>82.22, subdivision 8</u>		<u>82.33, subdivision 1</u>	
<u>82.20, subdivision 8,</u>			
<u>paragraph (a)</u>		<u>82.33, subdivision 2</u>	
<u>82.20, subdivision 8,</u>			
<u>paragraph (b)</u>		<u>82.33, subdivision 3</u>	
<u>82.22, subdivision 10</u>		<u>82.33, subdivision 4</u>	
<u>82.22, subdivision 5b</u>		<u>82.33, subdivision 5</u>	
<u>82.22, subdivision 6b</u>		<u>82.33, subdivision 6</u>	
<u>82.20, subdivision 1</u>		<u>82.34, subdivision 1</u>	
<u>82.20, subdivision 2a</u>		<u>82.34, subdivision 2</u>	
<u>82.20, subdivision 5</u>		<u>82.34, subdivision 3</u>	
<u>82.20, subdivision 6</u>		<u>82.34, subdivision 4</u>	
<u>82.20, subdivision 7</u>		<u>82.34, subdivision 5</u>	
<u>82.20, subdivision 9,</u>			
<u>paragraphs (a) and (b)</u>		<u>82.34, subdivision 6</u>	
<u>82.20, subdivision 7a</u>		<u>82.34, subdivision 7</u>	
<u>82.20, subdivision 8a</u>		<u>82.34, subdivision 8</u>	
<u>82.20, subdivision 9a</u>		<u>82.34, subdivision 9</u>	
<u>82.20, subdivision 9,</u>			
<u>paragraph (c)</u>		<u>82.34, subdivision 10</u>	
<u>82.20, subdivision 12</u>		<u>82.34, subdivision 11</u>	
<u>82.20, subdivision 12a</u>		<u>82.34, subdivision 12</u>	
<u>82.20, subdivision 13</u>		<u>82.34, subdivision 13</u>	
<u>82.20, subdivision 14</u>		<u>82.34, subdivision 14</u>	
<u>82.20, subdivision 14a</u>		<u>82.34, subdivision 15</u>	
<u>82.20, subdivision 15</u>		<u>82.34, subdivision 16</u>	

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

<u>82.27, subdivision 1</u>	<u>82.35, subdivision 1</u>
<u>82.20, subdivision 10</u>	<u>82.35, subdivision 2</u>
<u>82.27, subdivision 2</u>	<u>82.35, subdivision 3</u>
<u>82.27, subdivision 2a</u>	<u>82.35, subdivision 4</u>
<u>82.27, subdivision 3</u>	<u>82.35, subdivision 5</u>
<u>82.27, subdivision 4</u>	<u>82.35, subdivision 6</u>
<u>82.27, subdivision 5</u>	<u>82.35, subdivision 7</u>
<u>82.27, subdivision 6</u>	<u>82.35, subdivision 8</u>
<u>82.27, subdivision 7</u>	<u>82.35, subdivision 9</u>
<u>82.27, subdivision 8</u>	<u>82.35, subdivision 10</u>
<u>82.31</u>	<u>82.38</u>
<u>82.20, subdivision 11</u>	<u>82.39, subdivision 1</u>
<u>82.20, subdivision 11a</u>	<u>82.39, subdivision 2</u>
<u>82.20, subdivision 11b</u>	<u>82.39, subdivision 3</u>
<u>82.20, subdivision 11c</u>	<u>82.39, subdivision 4</u>
<u>82.20, subdivision 11d</u>	<u>82.39, subdivision 5</u>
<u>82.32</u>	<u>82.40</u>
<u>82.19, subdivision 1</u>	<u>82.41, subdivision 1</u>
<u>82.19, subdivision 2</u>	<u>82.41, subdivision 2</u>
<u>82.19, subdivision 3</u>	<u>82.41, subdivision 3</u>
<u>82.19, subdivision 4</u>	<u>82.41, subdivision 4</u>
<u>82.19, subdivision 4a</u>	<u>82.41, subdivision 5</u>
<u>82.19, subdivision 5</u>	<u>82.41, subdivision 6</u>
<u>82.19, subdivision 6</u>	<u>82.41, subdivision 7</u>
<u>82.19, subdivision 7</u>	<u>82.41, subdivision 8</u>
<u>82.19, subdivision 8</u>	<u>82.41, subdivision 9</u>
<u>82.19, subdivision 9</u>	<u>82.41, subdivision 10</u>
<u>82.19, subdivision 10</u>	<u>82.41, subdivision 11</u>
<u>82.19, subdivision 11</u>	<u>82.41, subdivision 12</u>
<u>82.19, subdivision 12</u>	<u>82.41, subdivision 13</u>
<u>82.29</u>	<u>82.42</u>
<u>82.34</u>	<u>82.43</u>
<u>82.22, subdivision 12</u>	<u>82.44</u>
<u>82.23, subdivision 2</u>	<u>82.45, subdivision 1</u>
<u>82.23, subdivision 3</u>	<u>82.45, subdivision 2</u>
<u>82.23, subdivision 1</u>	<u>82.45, subdivision 3</u>
<u>82.28</u>	<u>82.47</u>
<u>82.176</u>	<u>82.49</u>
<u>82.24, subdivision 1</u>	<u>82.50, subdivision 1</u>
<u>82.24, subdivision 2</u>	<u>82.50, subdivision 2</u>
<u>82.24, subdivision 3</u>	<u>82.50, subdivision 3</u>
<u>82.24, subdivision 4</u>	<u>82.50, subdivision 4</u>
<u>82.24, subdivision 5</u>	<u>82.50, subdivision 5</u>
<u>82.24, subdivision 6</u>	<u>82.50, subdivision 6</u>
<u>82.24, subdivision 7</u>	<u>82.50, subdivision 7</u>

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82.24, subdivision 8
82.24, subdivision 9
82.24, subdivision 10
82.24, subdivision 11

82.50, subdivision 8
82.50, subdivision 9
82.50, subdivision 10
82.50, subdivision 11

Sec. 62. REPEALER.

(a) Minnesota Statutes 2002, section 82.22, subdivision 9, is repealed.

(b) Minnesota Rules, parts 2800.0100; 2800.0200; 2800.0300; 2800.1100; 2800.1200; 2800.1300; 2800.1400; 2800.1500; 2800.1600; 2800.1700; 2800.1750; 2800.1751; 2800.1800; 2800.1900; 2800.2000; 2800.2100; 2800.2150; 2805.0100; 2805.0200; 2805.0300; 2805.0400; 2805.0500; 2805.0600; 2805.0700; 2805.0800; 2805.0900; 2805.1000; 2805.1100; 2805.1300; 2805.1400; 2805.1500; 2805.1600; 2805.1700; 2805.1800; 2805.1900; and 2805.2000, are repealed.

Presented to the governor May 13, 2004

Signed by the governor May 15, 2004, 9:45 p.m.

CHAPTER 204—H.F.No. 2052

An act relating to human services; extending the sunset date for the supportive housing and managed care pilot project; amending Minnesota Statutes 2002, section 256K.25, subdivision 7.

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

Section 1. Minnesota Statutes 2002, section 256K.25, subdivision 7, is amended to read:

Subd. 7. **SUNSET.** The pilot project under this section sunsets on June 30, ~~2006~~ 2007.

Presented to the governor May 13, 2004

Signed by the governor May 15, 2004, 10:45 p.m.

CHAPTER 205—H.F.No. 722

An act relating to traffic regulations; exempting garbage trucks and recycling vehicles from certain weight restrictions; amending Minnesota Statutes 2002, section 169.87, subdivision 6.

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

Section 1. Minnesota Statutes 2002, section 169.87, subdivision 6, is amended to read:

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