CHAPTER 156--S.F.No. 2665

An act relating to real estate appraisers; regulating appraiser fees, investigation costs, and appraisal management companies;amending Minnesota Statutes 2014, sections 45.027, subdivision 1; 82C.02, subdivisions 3, 4, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 82C.

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

Section 1. Minnesota Statutes 2014, section 45.027, subdivision 1, is amended to read:

Subdivision 1. **General powers.** In connection with the duties and responsibilities entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the duties and responsibilities entrusted to the commissioner;

(4) conduct investigations and hold hearings for the purpose of compiling information related to the duties and responsibilities entrusted to the commissioner;

(5) examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner;

(7) require any person subject to duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction; and

(8) assess a natural person or entity subject to the jurisdiction of the commissioner the necessary expenses of the investigation performed by the department when an investigation is made by order of the commissioner. The cost of the investigation shall be determined by the commissioner and is based on the salary cost of investigators or assistants and at an average rate per day or fraction thereof so as to provide for the total cost of the investigation. All money collected must be deposited into the general fund. A natural person or entity licensed under chapter 60K ~~or~~, 82, or 82B shall not be charged costs of an investigation if the investigation results in no finding of a violation. This clause does not apply to a natural person or entity already subject to the assessment provisions of sections 60A.03 and 60A.031.

EFFECTIVE DATE; APPLICATION. This section is effective the day following final enactment and applies to investigations commenced or concluded on or after that date.

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Sec. 2. Minnesota Statutes 2014, section 82C.02, subdivision 3, is amended to read:

Subd. 3. **Appraisal assignment.** "Appraisal assignment" means an engagement for which an appraiser is ~~employed or~~ retained to act, as a disinterested third party in giving an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate.

Sec. 3. Minnesota Statutes 2014, section 82C.02, is amended by adding a subdivision to read:

Subd. 3a. **National Registry.** "National Registry" means the registry of state-registered appraisal management companies and federally regulated appraisal management companies maintained by the Appraisal Subcommittee.

Sec. 4. Minnesota Statutes 2014, section 82C.02, subdivision 4, is amended to read:

Subd. 4. **Appraisal management company.** "Appraisal management company" means a corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly performs the following appraisal management services:

(1) within a given 12-month period, as defined in section 82C.025, administers a network or networks of ~~independent contractors and/or employee appraisers~~ more than 15 Minnesota state-licensed or state-certified real estate appraisers or 25 or more state-licensed or state-certified real estate appraisers in two or more states, who are independent contractors to the appraisal management company, as described in section 82C.025 to perform residential real estate appraisal assignments for clients;

(2) receives requests for residential real estate appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent contractor appraisers to perform the real estate appraisal services contained in the request; or

(3) serves as a third-party broker of appraisal management services between clients and appraisers.

An "appraisal management company" does not include a department or division of an entity that provides appraisal management services only to that entity.

Sec. 5. Minnesota Statutes 2014, section 82C.02, is amended by adding a subdivision to read:

Subd. 8a. **Appraisal Subcommittee.** "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Sec. 6. Minnesota Statutes 2014, section 82C.02, is amended by adding a subdivision to read:

Subd. 12a. **Federally regulated appraisal management company.** "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in United States Code, title 12, section 1813, and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.

Sec. 7. **[82C.025] APPRAISER PANEL; ANNUAL SIZE CALCULATION.**

(a) For purposes of determining whether, within a 12-month period, an appraisal management company oversees an appraiser panel of more than 15 Minnesota state-licensed or state-certified real property ap-

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praisers employed as independent contractors or 25 or more state-certified or state-licensed appraisers employed as independent contractors in two or more states, the provisions in paragraphs (b) through (e) shall apply.

(b) An appraiser is deemed part of the appraisal management company's appraiser panel as of the earliest date on which the appraisal management company:

(1) accepts the appraiser for the appraisal management company's consideration for future appraisal assignments; or

(2) engages the appraiser to perform one or more appraisals on behalf of a client.

(c) An appraiser who is deemed part of the appraisal management company's appraiser panel pursuant to paragraph (b) of this section is deemed to remain on the panel until the date on which the appraisal management company:

(1) sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; or

(2) receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

(d) If an appraiser is removed from an appraisal management company's appraiser panel pursuant to paragraph (c) of this section, but the appraisal management company subsequently accepts the appraiser for consideration for future assignments or engages the appraiser at any time during the 12 months after the appraisal management company's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the appraisal management company's appraiser panel without interruption.

(e) The period for purposes of counting appraisers on an appraisal management company's appraiser panel is the 12-month period established with which the appraisal management company is required to register.

Sec. 8. **[82C.17] REASONABLE AND CUSTOMARY FEES.**

Subdivision 1. **Fees.** An appraisal management company shall compensate appraisers with fees that are reasonable and customary for appraisal services performed in the market area of the property being appraised.

Subd. 2. **Evidence.** (a) An appraisal management company can evidence that the fees paid to an appraiser were reasonable and customary through:

(1) objective third-party information, including, but not limited to, government agency fee schedules or academic studies. An academic study used must exclude appraisal assignments ordered by an appraisal management company. The commissioner may establish a fee scheduled for use by an appraisal management company; or

(2) reviewing each of the following factors and making adjustments to recent fees paid for appraisal services performed in the market area:

(i) the type of property appraised;

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(ii) the scope of the appraisal work;

(iii) the time in which the appraisal service must be performed;

(iv) appraiser qualifications;

(v) appraiser experience and professional record; and

(vi) appraiser work quality.

(b) The fees paid for a complex appraisal assignment shall reflect the increased time, difficulty, and scope of work required.

(c) An appraisal management company shall maintain written documentation describing and substantiating all methods and information used to determine the customary and reasonable fees required by this section.

Subd. 3. **Reporting.** (a) An appraisal management company shall separately state to the client the following:

(1) the fees paid to an appraiser for appraisal services; and

(2) the fees charged by the appraisal management company for services associated with the management of the appraisal process, including procurement of the appraiser's services.

(b) An appraisal management company shall not prohibit an appraiser who is part of an appraiser panel from recording the fee that the appraiser was paid by the appraisal management company for the appraisal within the appraisal report that is submitted by the appraiser to the appraisal management company.

(c) An appraisal management company shall not include fees for appraisal management services performed by the company in the amount the company reports as charges for the appraisal by the appraiser.

Subd. 4. **Timely payment.** Except in the case of breach of contract or an appraisal that contains one or more documented errors of law, regulation, appraisal standards, or reasonable requirements of the appraisal management company that have not been corrected by an appraiser, an appraisal management company shall pay an independent contractor appraiser for the completion of an appraisal or appraisal review:

(1) within 30 days of the appraiser providing the appraisal report to the appraisal management company or within 30 days of the date the appraisal report is transmitted to the client by an appraisal management company, whichever is sooner; or

(2) in accordance with a payment schedule agreed to in writing by the appraiser and the appraisal management company.

Sec. 9. **EFFECTIVE DATE.**

Sections 2 to 8 are effective August 1, 2016, and apply to appraisal assignments commenced on or after that date.

Presented to the governor May 22, 2016

Signed by the governor May 22, 2016, 4:57 p.m.

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