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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4041

02/22/2024 Authored by Kotyza-Witthuhn
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy
03/07/2024 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to commerce; adding and modifying various provisions governing financial
1.3 institutions; making technical changes; amending Minnesota Statutes 2022, sections
1.4 47.20, subdivision 2; 47.54, subdivisions 2, 6; 48.24, subdivision 2; 58.02,
1.5 subdivisions 18, 21, by adding a subdivision; 58.04, subdivisions 1, 2; 58.05,
1.6 subdivisions 1, 3; 58.06, by adding subdivisions; 58.08, subdivisions 1a, 2; 58.10,
1.7 subdivision 3; 58.115; 58.13, subdivision 1; proposing coding for new law in
1.8 Minnesota Statutes, chapter 58; repealing Minnesota Statutes 2022, section 58.08,
1.9 subdivision 3.

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

1.11 Section 1. Minnesota Statutes 2022, section 47.20, subdivision 2, is amended to read:

1.12 Subd. 2. Definitions. For the purposes of this section the terms defined in this subdivision
1.13 have the meanings given them:

1.14 (1) "Actual closing costs" mean reasonable charges for or sums paid for the following,
1.15 whether or not retained by the mortgagee or lender:

1.16 (a) Any insurance premiums including but not limited to premiums for title insurance,
1.17 fire and extended coverage insurance, flood insurance, and private mortgage insurance, but
1.18 excluding any charges or sums retained by the mortgagee or lender as self-insured retention.

1.19 (b) Abstracting, title examination and search, and examination of public records.

1.20 (c) The preparation and recording of any or all documents required by law or custom
1.21 for closing a conventional or cooperative apartment loan.

1.22 (d) Appraisal and survey of real property securing a conventional loan or real property
1.23 owned by a cooperative apartment corporation of which a share or shares of stock or a
1.24 membership certificate or certificates are to secure a cooperative apartment loan.

2.1 (e) A single service charge, which includes any consideration, not otherwise specified  
2.2 herein as an "actual closing cost" paid by the borrower and received and retained by the  
2.3 lender for or related to the acquisition, making, refinancing or modification of a conventional  
2.4 or cooperative apartment loan, and also includes any consideration received by the lender  
2.5 for making a borrower's interest rate commitment or for making a borrower's loan  
2.6 commitment, whether or not an actual loan follows the commitment. The term service charge  
2.7 does not include forward commitment fees. The service charge shall not exceed one percent  
2.8 of the original bona fide principal amount of the conventional or cooperative apartment  
2.9 loan, except that in the case of a construction loan, the service charge shall not exceed two  
2.10 percent of the original bona fide principal amount of the loan. That portion of the service  
2.11 charge imposed because the loan is a construction loan shall be itemized and a copy of the  
2.12 itemization furnished the borrower. A lender shall not collect from a borrower the additional  
2.13 one percent service charge permitted for a construction loan if it does not perform the service  
2.14 for which the charge is imposed or if third parties perform and charge the borrower for the  
2.15 service for which the lender has imposed the charge.

2.16 (f) Charges and fees necessary for or related to the transfer of real or personal property  
2.17 securing a conventional or cooperative apartment loan or the closing of a conventional or  
2.18 cooperative apartment loan paid by the borrower and received by any party other than the  
2.19 lender.

2.20 (2) "Contract for deed" means an executory contract for the conveyance of real estate,  
2.21 the original principal amount of which is less than \$300,000. A commitment for a contract  
2.22 for deed shall include an executed purchase agreement or earnest money contract wherein  
2.23 the seller agrees to finance any part or all of the purchase price by a contract for deed.

2.24 (3) "Conventional loan" means a loan or advance of credit, other than a loan or advance  
2.25 of credit made by a credit union or made pursuant to section 334.011, to a noncorporate  
2.26 borrower in an original principal amount of less than ~~\$100,000~~ or equal to the conforming  
2.27 loan limit established by the Federal Housing Finance Agency under the Housing and  
2.28 Recovery Act of 2018, Public Law 110-289, secured by a mortgage upon real property  
2.29 containing one or more residential units or upon which at the time the loan is made it is  
2.30 intended that one or more residential units are to be constructed, and which is not insured  
2.31 or guaranteed by the secretary of housing and urban development, by the administrator of  
2.32 veterans affairs, or by the administrator of the Farmers Home Administration, and which  
2.33 is not made pursuant to the authority granted in subdivision 1, clause (3) or (4). The term  
2.34 mortgage does not include contracts for deed or installment land contracts.

3.1 (4) "Cooperative apartment loan" means a loan or advance of credit, other than a loan  
3.2 or advance of credit made by a credit union or made pursuant to section 334.011, to a  
3.3 noncorporate borrower in an original principal amount of less than \$100,000, secured by a  
3.4 security interest on a share or shares of stock or a membership certificate or certificates  
3.5 issued to a stockholder or member by a cooperative apartment corporation, which may be  
3.6 accompanied by an assignment by way of security of the borrower's interest in the proprietary  
3.7 lease or occupancy agreement in property issued by the cooperative apartment corporation  
3.8 and which is not insured or guaranteed by the secretary of housing and urban development,  
3.9 by the administrator of veterans affairs, or by the administrator of the Farmers Home  
3.10 Administration.

3.11 (5) "Cooperative apartment corporation" means a corporation or cooperative organized  
3.12 under chapter 308A or 317A, the shareholders or members of which are entitled, solely by  
3.13 reason of their ownership of stock or membership certificates in the corporation or  
3.14 association, to occupy one or more residential units in a building owned or leased by the  
3.15 corporation or association.

3.16 (6) "Forward commitment fee" means a fee or other consideration paid to a lender for  
3.17 the purpose of securing a binding forward commitment by or through the lender to make  
3.18 conventional loans to two or more credit worthy purchasers, including future purchasers,  
3.19 of residential units, or a fee or other consideration paid to a lender for the purpose of securing  
3.20 a binding forward commitment by or through the lender to make conventional loans to two  
3.21 or more credit worthy purchasers, including future purchasers, of units to be created out of  
3.22 existing structures pursuant to chapter 515B, or a fee or other consideration paid to a lender  
3.23 for the purpose of securing a binding forward commitment by or through the lender to make  
3.24 cooperative apartment loans to two or more credit worthy purchasers, including future  
3.25 purchasers, of a share or shares of stock or a membership certificate or certificates in a  
3.26 cooperative apartment corporation; provided, that the forward commitment rate of interest  
3.27 does not exceed the maximum lawful rate of interest effective as of the date the forward  
3.28 commitment is issued by the lender.

3.29 (7) "Borrower's interest rate commitment" means a binding commitment made by a  
3.30 lender to a borrower wherein the lender agrees that, if a conventional or cooperative  
3.31 apartment loan is made following issuance of and pursuant to the commitment, the  
3.32 conventional or cooperative apartment loan shall be made at a rate of interest not in excess  
3.33 of the rate of interest agreed to in the commitment, provided that the rate of interest agreed  
3.34 to in the commitment is not in excess of the maximum lawful rate of interest effective as  
3.35 of the date the commitment is issued by the lender to the borrower.

4.1 (8) "Borrower's loan commitment" means a binding commitment made by a lender to a  
4.2 borrower wherein the lender agrees to make a conventional or cooperative apartment loan  
4.3 pursuant to the provisions, including the interest rate, of the commitment, provided that the  
4.4 commitment rate of interest does not exceed the maximum lawful rate of interest effective  
4.5 as of the date the commitment is issued and the commitment when issued and agreed to  
4.6 shall constitute a legally binding obligation on the part of the mortgagee or lender to make  
4.7 a conventional or cooperative apartment loan within a specified time period in the future at  
4.8 a rate of interest not exceeding the maximum lawful rate of interest effective as of the date  
4.9 the commitment is issued by the lender to the borrower; provided that a lender who issues  
4.10 a borrower's loan commitment pursuant to the provisions of a forward commitment is  
4.11 authorized to issue the borrower's loan commitment at a rate of interest not to exceed the  
4.12 maximum lawful rate of interest effective as of the date the forward commitment is issued  
4.13 by the lender.

4.14 (9) "Finance charge" means the total cost of a conventional or cooperative apartment  
4.15 loan including extensions or grant of credit regardless of the characterization of the same  
4.16 and includes interest, finders fees, and other charges levied by a lender directly or indirectly  
4.17 against the person obtaining the conventional or cooperative apartment loan or against a  
4.18 seller of real property securing a conventional loan or a seller of a share or shares of stock  
4.19 or a membership certificate or certificates in a cooperative apartment corporation securing  
4.20 a cooperative apartment loan, or any other party to the transaction except any actual closing  
4.21 costs and any forward commitment fee. The finance charges plus the actual closing costs  
4.22 and any forward commitment fee, charged by a lender shall include all charges made by a  
4.23 lender other than the principal of the conventional or cooperative apartment loan. The finance  
4.24 charge, with respect to wraparound mortgages, shall be computed based upon the face  
4.25 amount of the wraparound mortgage note, which face amount shall consist of the aggregate  
4.26 of those funds actually advanced by the wraparound lender and the total outstanding principal  
4.27 balances of the prior note or notes which have been made a part of the wraparound mortgage  
4.28 note.

4.29 (10) "Lender" means any person making a conventional or cooperative apartment loan,  
4.30 or any person arranging financing for a conventional or cooperative apartment loan. The  
4.31 term also includes the holder or assignee at any time of a conventional or cooperative  
4.32 apartment loan.

4.33 (11) "Loan yield" means the annual rate of return obtained by a lender over the term of  
4.34 a conventional or cooperative apartment loan and shall be computed as the annual percentage  
4.35 rate as computed in accordance with sections 226.5 (b), (c), and (d) of Regulation Z, Code

5.1 of Federal Regulations, title 12, part 226, but using the definition of finance charge provided  
5.2 for in this subdivision. For purposes of this section, with respect to wraparound mortgages,  
5.3 the rate of interest or loan yield shall be based upon the principal balance set forth in the  
5.4 wraparound note and mortgage and shall not include any interest differential or yield  
5.5 differential between the stated interest rate on the wraparound mortgage and the stated  
5.6 interest rate on the one or more prior mortgages included in the stated loan amount on a  
5.7 wraparound note and mortgage.

5.8 (12) "Person" means an individual, corporation, business trust, partnership or association  
5.9 or any other legal entity.

5.10 (13) "Residential unit" means any structure used principally for residential purposes or  
5.11 any portion thereof, and includes a unit in a common interest community, a nonowner  
5.12 occupied residence, and any other type of residence regardless of whether the unit is used  
5.13 as a principal residence, secondary residence, vacation residence, or residence of some other  
5.14 denomination.

5.15 (14) "Vendor" means any person or persons who agree to sell real estate and finance  
5.16 any part or all of the purchase price by a contract for deed. The term also includes the holder  
5.17 or assignee at any time of the vendor's interest in a contract for deed.

5.18 Sec. 2. Minnesota Statutes 2022, section 47.54, subdivision 2, is amended to read:

5.19 Subd. 2. **Approval order.** (a) If no objection is received by the commissioner within  
5.20 15 days after the publication of the notice, the commissioner ~~shall issue an order~~ must  
5.21 provide written consent approving the application without a hearing if ~~it is found~~ the  
5.22 commissioner finds that ~~(a):~~ (1) the applicant bank meets current industry standards of  
5.23 capital adequacy, management quality, and asset condition, ~~(b):~~ (2) the establishment of the  
5.24 proposed detached facility ~~will improve~~ improves the quality or increase the availability of  
5.25 banking services in the community to be served; ~~and (c):~~ (3) the establishment of the proposed  
5.26 detached facility ~~will~~ does not have an undue adverse effect upon the solvency of existing  
5.27 financial institutions in the community to be served.

5.28 ~~Otherwise,~~ (b) The commissioner ~~shall~~ must deny the an application that does not meet  
5.29 the criteria under paragraph (a), clauses (1) to (3).

5.30 (c) Any proceedings for judicial review of ~~an order of~~ written consent provided by the  
5.31 commissioner ~~issued~~ under this subdivision without a contested case hearing shall be  
5.32 conducted pursuant to the provisions of the Administrative Procedure Act relating to judicial  
5.33 review of agency decisions, sections 14.63 to 14.69, and the scope of judicial review in

6.1 such proceedings shall be as provided therein. Nothing herein shall be construed as requiring  
6.2 the commissioner to conduct a contested case hearing if no written objection is timely  
6.3 received by the commissioner from a bank within three miles of the proposed location of  
6.4 the detached facility.

6.5 Sec. 3. Minnesota Statutes 2022, section 47.54, subdivision 6, is amended to read:

6.6 Subd. 6. **Expiration and extension of order approval.** If a facility is not activated  
6.7 within 18 months from the date ~~of the order approval is granted under subdivision 2,~~ the  
6.8 approval ~~order~~ automatically expires. Upon a request of made by the applicant prior to  
6.9 before the automatic expiration date of the order approval expires, the commissioner may  
6.10 grant reasonable extensions of time to the applicant to activate the facility as the  
6.11 commissioner deems necessary. The extensions of time shall not exceed a total of an  
6.12 additional 12 months. If the commissioner's order approval is the subject of an appeal in  
6.13 accordance with chapter 14, the time period referred to in this section ~~for activation of to~~  
6.14 activate the facility and any extensions shall begin begins when all appeals or rights of  
6.15 appeal from the commissioner's order approval have concluded or expired.

6.16 Sec. 4. Minnesota Statutes 2022, section 48.24, subdivision 2, is amended to read:

6.17 Subd. 2. **Loan liabilities.** Loans not exceeding 25 percent of such capital and surplus  
6.18 made upon first mortgage security on improved real estate in any state in which the bank  
6.19 or a ~~branch established under section 49.411~~ detached facility of the bank is located, or in  
6.20 any state adjoining a state in which the bank or a ~~branch established under section 49.411~~  
6.21 detached facility of the bank is located, shall not constitute a liability of the maker of the  
6.22 notes secured by such mortgages within the meaning of the foregoing provision limiting  
6.23 liability, but shall be an actual liability of the maker. These mortgage loans shall be limited  
6.24 to, and in no case exceed, 50 percent of the cash value of the security covered by the  
6.25 mortgage, except mortgage loans guaranteed as provided by the Servicemen's Readjustment  
6.26 Act of 1944, as now or hereafter amended, or for which there is a commitment to so guarantee  
6.27 or for which a conditional guarantee has been issued, which loans shall in no case exceed  
6.28 60 percent of the cash value of the security covered by such mortgage. For the purposes of  
6.29 this subdivision, real estate is improved when substantial and permanent development or  
6.30 construction has contributed substantially to its value, and agricultural land is improved  
6.31 when farm crops are regularly raised on such land without further substantial improvements.

7.1 Sec. 5. Minnesota Statutes 2022, section 58.02, is amended by adding a subdivision to  
7.2 read:

7.3 Subd. 15a. **Nationwide Multistate Licensing System and Registry.** "Nationwide  
7.4 Multistate Licensing System and Registry" has the meaning given in section 58A.02,  
7.5 subdivision 8.

7.6 Sec. 6. Minnesota Statutes 2022, section 58.02, subdivision 18, is amended to read:

7.7 Subd. 18. **Residential mortgage loan.** "Residential mortgage loan" means a loan secured  
7.8 primarily by either: (1) a mortgage, deed of trust, or other equivalent security interest on  
7.9 residential real ~~property~~ estate; or (2) certificates of stock or other evidence of ownership  
7.10 interest in and proprietary lease from corporations, partnerships, or other forms of business  
7.11 organizations formed for the purpose of cooperative ownership of residential real ~~property~~  
7.12 estate.

7.13 Sec. 7. Minnesota Statutes 2022, section 58.02, subdivision 21, is amended to read:

7.14 Subd. 21. **Residential real estate.** "Residential real estate" means real property located  
7.15 in Minnesota upon which a dwelling, as defined in United States Code, title 15, section  
7.16 1602(w), is constructed or is intended to be constructed, whether or not the owner occupies  
7.17 the real property.

7.18 Sec. 8. Minnesota Statutes 2022, section 58.04, subdivision 1, is amended to read:

7.19 Subdivision 1. **Residential mortgage originator licensing requirements.** (a) No person  
7.20 shall act as a residential mortgage originator, or make residential mortgage loans without  
7.21 first obtaining a license from the commissioner according to the licensing procedures  
7.22 provided in this chapter.

7.23 (b) A licensee must be either a partnership, limited liability partnership, association,  
7.24 limited liability company, corporation, or other form of business organization, and must  
7.25 have and maintain a surety bond in the amounts prescribed under section 58.08.

7.26 (c) The following persons are exempt from the residential mortgage originator licensing  
7.27 requirements:

7.28 (1) a person who is not in the business of making residential mortgage loans and who  
7.29 makes no more than three such loans, with its own funds, during any 12-month period;

7.30 (2) a financial institution as defined in section 58.02, subdivision 10;

7.31 (3) an agency of the federal government, or of a state or municipal government;

8.1 (4) an employee or employer pension plan making loans only to its participants;

8.2 (5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a  
8.3 specific order issued by a court of competent jurisdiction;

8.4 (6) a person who is a bona fide nonprofit organization that meets all the criteria required  
8.5 by the federal Secure and Fair Enforcement Licensing Act in Regulation H, adopted pursuant  
8.6 to Code of Federal Regulations, title 12, part 1008, subpart B, section 1008.103 (e)(7)(ii);

8.7 ~~(6)~~ (7) a person exempted by order of the commissioner; or

8.8 ~~(7)~~ (8) a manufactured home dealer, as defined in section 327B.01, subdivision 7 or 11b,  
8.9 or a manufactured home salesperson, as defined in section 327B.01, subdivision 19, that:

8.10 (i) performs only clerical or support duties in connection with assisting a consumer in  
8.11 filling out a residential mortgage loan application but does not in any way offer or negotiate  
8.12 loan terms, or hold themselves out as a housing counselor;

8.13 (ii) does not receive any direct or indirect compensation or gain from any individual or  
8.14 company for assisting consumers with a residential mortgage loan application, in excess of  
8.15 the customary salary or commission from the employer in connection with the sales  
8.16 transaction; and

8.17 (iii) discloses to the borrower in writing:

8.18 (A) if a corporate affiliation with a lender exists;

8.19 (B) if a corporate affiliation with a lender exists, that the lender cannot guarantee the  
8.20 lowest or best terms available and the consumer has the right to choose their lender; and

8.21 (C) if a corporate affiliation with a lender exists, the name of at least one unaffiliated  
8.22 lender.

8.23 (d) For the purposes of this subdivision, "housing counselor" means an individual who  
8.24 provides assistance and guidance about residential mortgage loan terms including rates,  
8.25 fees, or other costs.

8.26 (e) The disclosures required under paragraph (c), clause ~~(7)~~ (8), item (iii), must be made  
8.27 on a one-page form prescribed by the commissioner and developed in consultation with the  
8.28 Manufactured and Modular Home Association. The form must be posted on the department's  
8.29 website.

9.1 Sec. 9. Minnesota Statutes 2022, section 58.04, subdivision 2, is amended to read:

9.2 Subd. 2. **Residential mortgage servicer licensing requirements.** (a) Beginning August  
9.3 1, 1999, no person shall engage in activities or practices that fall within the definition of  
9.4 "servicing a residential mortgage loan" under section 58.02, subdivision 22, without first  
9.5 obtaining a license from the commissioner according to the licensing procedures provided  
9.6 in this chapter.

9.7 (b) The following persons are exempt from the residential mortgage servicer licensing  
9.8 requirements:

9.9 (1) a person licensed as a residential mortgage originator;

9.10 (2) an employee of one licensee or one person holding a certificate of exemption based  
9.11 on an exemption under this subdivision;

9.12 (3) a person servicing loans made with its own funds, if no more than three such loans  
9.13 are made in any 12-month period;

9.14 (4) a financial institution as defined in section 58.02, subdivision 10;

9.15 (5) an agency of the federal government, or of a state or municipal government;

9.16 (6) an employee or employer pension plan making loans only to its participants;

9.17 (7) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a  
9.18 specific order issued by a court of competent jurisdiction; ~~or~~

9.19 (8) a person who is a bona fide nonprofit organization that meets all the criteria required  
9.20 by the federal Secure and Fair Enforcement Licensing Act in Regulation H, Code of Federal  
9.21 Regulations, title 12, part 1008, subpart B, section 1008.103 (e)(7)(ii); or

9.22 ~~(8)~~ (9) a person exempted by order of the commissioner.

9.23 Sec. 10. Minnesota Statutes 2022, section 58.05, subdivision 1, is amended to read:

9.24 Subdivision 1. **Exempt person.** (a) An exempt person<sub>2</sub>, as defined by section 58.04,  
9.25 subdivision 1, paragraph (c), and subdivision 2, paragraph (b), is exempt from the licensing  
9.26 requirements of this chapter, but is subject to all other provisions of this chapter.

9.27 (b) Paragraph (a) does not apply to an institution covered under section 58.04, subdivision  
9.28 4, even if the institution is otherwise an exempt person.

10.1 Sec. 11. Minnesota Statutes 2022, section 58.05, subdivision 3, is amended to read:

10.2 Subd. 3. **Certificate of exemption.** ~~A person~~ (a) The following persons must obtain a  
10.3 certificate of exemption from the commissioner to qualify as an exempt person under section  
10.4 58.04, subdivision 1, paragraph (c), ~~a financial institution under clause (2);~~

10.5 (1) a bona fide nonprofit organization under section 58.04, subdivision 1, paragraph (c),  
10.6 clause (6); or

10.7 (2) a person exempted by order of the commissioner under section 58.04, subdivision  
10.8 1, paragraph (c), clause (6); or (7).

10.9 (b) The following persons must obtain a certificate of exemption from the commissioner  
10.10 to qualify as an exempt person under section 58.04, subdivision 2, paragraph (b), as a  
10.11 financial institution under clause (4);

10.12 (1) a bona fide nonprofit organization under section 58.04, subdivision 2, paragraph (b),  
10.13 clause (8); or

10.14 (2) a person exempted by order of the commissioner under section 58.04, subdivision  
10.15 2, paragraph (b), clause (8) (9).

10.16 Sec. 12. Minnesota Statutes 2022, section 58.06, is amended by adding a subdivision to  
10.17 read:

10.18 Subd. 5. **Background checks.** In connection with an application for a residential mortgage  
10.19 loan originator or servicer license, any person in control of an applicant must, at a minimum,  
10.20 provide the Nationwide Multistate Licensing System and Registry information concerning  
10.21 the person's identity, including:

10.22 (1) fingerprints for submission to the Federal Bureau of Investigation and a governmental  
10.23 agency or entity authorized to receive the information for a state, national, and international  
10.24 criminal history background check; and

10.25 (2) personal history and experience in a form prescribed by the Nationwide Multistate  
10.26 Licensing System and Registry, including the submission of authorization for the Nationwide  
10.27 Multistate Licensing System and Registry and the commissioner to obtain:

10.28 (i) an independent credit report obtained from a consumer reporting agency described  
10.29 in United States Code, title 15, section 1681a(p); and

10.30 (ii) information related to administrative, civil, or criminal findings by a governmental  
10.31 jurisdiction.

11.1 Sec. 13. Minnesota Statutes 2022, section 58.06, is amended by adding a subdivision to  
11.2 read:

11.3 Subd. 6. **Requesting and distributing criminal information; agency.** For the purposes  
11.4 of this section and in order to reduce the points of contact the Federal Bureau of Investigation  
11.5 may have to maintain for purposes of subdivision 5, clauses (1) and (2), the commissioner  
11.6 may use the Nationwide Multistate Licensing System and Registry as a channeling agent  
11.7 to request information from and distribute information to the United States Department of  
11.8 Justice or any governmental agency.

11.9 Sec. 14. Minnesota Statutes 2022, section 58.06, is amended by adding a subdivision to  
11.10 read:

11.11 Subd. 7. **Requesting and distributing noncriminal information; agency.** For the  
11.12 purposes of this section and in order to reduce the points of contact the commissioner may  
11.13 have to maintain for purposes of subdivision 5, clause (2), the commissioner may use the  
11.14 Nationwide Multistate Licensing System and Registry as a channeling agent to request and  
11.15 distribute information from and to any source, as directed by the commissioner.

11.16 Sec. 15. Minnesota Statutes 2022, section 58.08, subdivision 1a, is amended to read:

11.17 Subd. 1a. **Residential mortgage originators.** (a) An applicant for a residential mortgage  
11.18 originator license must file with the department a surety bond in the amount of ~~\$100,000~~  
11.19 \$125,000, issued by an insurance company authorized to do so in this state. The bond must  
11.20 cover all mortgage loan originators who are employees or independent agents of the applicant.  
11.21 The bond must be available for the recovery of expenses, fines, and fees levied by the  
11.22 commissioner under this chapter and for losses incurred by borrowers as a result of a  
11.23 licensee's noncompliance with the requirements of this chapter, sections 325D.43 to 325D.48,  
11.24 and 325F.67 to 325F.69, or breach of contract relating to activities regulated by this chapter.

11.25 (b) The bond must be submitted with the originator's license application and evidence  
11.26 of continued coverage must be submitted with each renewal. Any change in the bond must  
11.27 be submitted for approval by the commissioner, within ten days of its execution. The bond  
11.28 or a substitute bond shall remain in effect during all periods of licensing.

11.29 (c) Upon filing of the mortgage call report as required by section ~~58A.17~~ 58.141, a  
11.30 licensee shall maintain or increase ~~its~~ the licensee's surety bond to reflect the total dollar  
11.31 amount of the closed residential mortgage loans originated in this state in the preceding  
11.32 year according to the table in this paragraph. A licensee may decrease ~~its~~ the licensee's

12.1 surety bond according to the table in this paragraph if the surety bond required is less than  
 12.2 the amount of the surety bond on file with the department.

|       |   |                                       |
|-------|---|---------------------------------------|
| 12.3  | Dollar Amount of Closed Residential   | Surety Bond Required                  |
| 12.4  | Mortgage Loans  |                                       |
| 12.5  | \$0 to <del>\$5,000,000</del> <u>\$10,000,000</u>                           | <del>\$100,000</del> <u>\$125,000</u> |
| 12.6  | <del>\$5,000,000.01</del> <u>\$10,000,000.01</u> to <del>\$10,000,000</del> |                                       |
| 12.7  | <del>\$25,000,000</del>   | <del>\$125,000</del> <u>\$150,000</u> |
| 12.8  | <del>\$10,000,000.01</del> <u>\$25,000,000.01</u> to                        |                                       |
| 12.9  | <del>\$25,000,000</del> <u>\$100,000,000</u>                                | <del>\$150,000</del> <u>\$200,000</u> |
| 12.10 | Over <del>\$25,000,000</del> <u>\$100,000,000</u>                           | <del>\$200,000</del> <u>\$300,000</u> |

12.11 For purposes of this subdivision, "mortgage loan originator" has the meaning given the  
 12.12 term in section 58A.02, subdivision 7.

12.13 Sec. 16. Minnesota Statutes 2022, section 58.08, subdivision 2, is amended to read:

12.14 Subd. 2. **Residential mortgage servicers.** (a) A residential mortgage servicer licensee  
 12.15 shall continuously maintain a surety bond or irrevocable letter of credit in an amount not  
 12.16 less than ~~\$100,000~~ \$125,000 in a form approved by the commissioner, issued by an insurance  
 12.17 company or bank authorized to do so in this state. The bond or irrevocable letter of credit  
 12.18 must be available for the recovery of expenses, fines, and fees levied by the commissioner  
 12.19 under this chapter, and for losses or damages incurred by borrowers or other aggrieved  
 12.20 parties as the result of a licensee's noncompliance with the requirements of this chapter,  
 12.21 sections 325D.43 to 325D.48, and 325F.67 to 325F.69, or breach of contract relating to  
 12.22 activities regulated by this chapter.

12.23 (b) The bond or irrevocable letter of credit must be submitted with the servicer's license  
 12.24 application and evidence of continued coverage must be submitted with each renewal. Any  
 12.25 change in the bond or letter of credit must be submitted for approval by the commissioner,  
 12.26 within ten days of its execution. The bond or a substitute bond must remain in effect during  
 12.27 all periods of a license.

12.28 (c) Upon filing the mortgage call report under section 58.141, a licensee must maintain  
 12.29 or increase the licensee's surety bond to reflect the total dollar amount of unpaid principal  
 12.30 balance for residential mortgage loans serviced in Minnesota during the preceding quarter  
 12.31 according to the table in this paragraph. A licensee may decrease the licensee's surety bond  
 12.32 according to the table in this paragraph if the surety bond required is less than the amount  
 12.33 of the surety bond on file with the department.

|      |  |                             |
|------|--|-----------------------------|
| 13.1 | <u>Dollar Amount of Unpaid Principal Balance</u> | <u>Surety Bond Required</u> |
| 13.2 | <u>for Serviced Residential Mortgage Loans</u>   |                             |
| 13.3 | <u>\$0 to \$10,000,000</u>                       | <u>\$125,000</u>            |
| 13.4 | <u>\$10,000,000.01 to \$50,000,000</u>           | <u>\$200,000</u>            |
| 13.5 | <u>Over \$50,000,000</u>                         | <u>\$300,000</u>            |

13.6 Sec. 17. Minnesota Statutes 2022, section 58.10, subdivision 3, is amended to read:

13.7 Subd. 3. **Consumer education account; money credited and appropriated.** (a) The  
 13.8 consumer education account is created in the special revenue fund. Money credited to this  
 13.9 account may be appropriated to the commissioner ~~for the purpose of making to:~~ (1) make  
 13.10 grants to programs and campaigns designed to help consumers avoid being victimized by  
 13.11 unscrupulous lenders and mortgage brokers; and (2) pay for expenses the commissioner  
 13.12 incurs to provide outreach and education related to affordable housing and home ownership  
 13.13 education. The commissioner must give preference shall be given for grants to programs  
 13.14 and campaigns designed by coalitions of public sector, private sector, and nonprofit agencies,  
 13.15 institutions, companies, and organizations.

13.16 (b) A sum sufficient is appropriated annually from the consumer education account to  
 13.17 the commissioner to make the grants described in paragraph (a).

13.18 Sec. 18. Minnesota Statutes 2022, section 58.115, is amended to read:

13.19 **58.115 EXAMINATIONS.**

13.20 The commissioner has under this chapter the same powers with respect to examinations  
 13.21 that the commissioner has under section 46.04. In addition to the powers under section  
 13.22 46.04, the commissioner may accept examination reports prepared by a state agency that  
 13.23 has comparable supervisory powers and examination procedures. The authority under section  
 13.24 49.411, subdivision 7, applies to examinations of institutions under this chapter.

13.25 Sec. 19. Minnesota Statutes 2022, section 58.13, subdivision 1, is amended to read:

13.26 Subdivision 1. **Generally.** (a) No person acting as a residential mortgage originator or  
 13.27 servicer, including a person required to be licensed under this chapter, and no person exempt  
 13.28 from the licensing requirements of this chapter under section 58.04, except as otherwise  
 13.29 provided in paragraph (b), shall:

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

- 14.1 (2) fail to deposit all trust funds into a trust account within three business days of receipt;  
14.2 commingle trust funds with funds belonging to the licensee or exempt person; or use trust  
14.3 account funds for any purpose other than that for which they are received;
- 14.4 (3) unreasonably delay the processing of a residential mortgage loan application, or the  
14.5 closing of a residential mortgage loan. For purposes of this clause, evidence of unreasonable  
14.6 delay includes but is not limited to those factors identified in section 47.206, subdivision  
14.7 7, paragraph (d);
- 14.8 (4) fail to disburse funds according to its contractual or statutory obligations;
- 14.9 (5) fail to perform in conformance with its written agreements with borrowers, investors,  
14.10 other licensees, or exempt persons;
- 14.11 (6) charge a fee for a product or service where the product or service is not actually  
14.12 provided, or misrepresent the amount charged by or paid to a third party for a product or  
14.13 service;
- 14.14 (7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property  
14.15 law;
- 14.16 (8) violate any provision of any other applicable state or federal law regulating residential  
14.17 mortgage loans including, without limitation, sections 47.20 to 47.208 and 47.58;
- 14.18 (9) make or cause to be made, directly or indirectly, any false, deceptive, or misleading  
14.19 statement or representation in connection with a residential loan transaction including,  
14.20 without limitation, a false, deceptive, or misleading statement or representation regarding  
14.21 the borrower's ability to qualify for any mortgage product;
- 14.22 (10) conduct residential mortgage loan business under any name other than that under  
14.23 which the license or certificate of exemption was issued;
- 14.24 (11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for  
14.25 the purpose of influencing the independent judgment of the appraiser with respect to the  
14.26 value of real estate that is to be covered by a residential mortgage or is being offered as  
14.27 security according to an application for a residential mortgage loan;
- 14.28 (12) issue any document indicating conditional qualification or conditional approval for  
14.29 a residential mortgage loan, unless the document also clearly indicates that final qualification  
14.30 or approval is not guaranteed, and may be subject to additional review;

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

15.4 (14) provide or offer to provide for a borrower, any brokering or lending services under  
15.5 an arrangement with a person other than a licensee or exempt person, provided that a person  
15.6 may rely upon a written representation by the residential mortgage originator that it is in  
15.7 compliance with the licensing requirements of this chapter;

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

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

15.13 (17) represent that the licensee or exempt person is acting as the borrower's agent after  
15.14 providing the nonagency disclosure required by section 58.15, unless the disclosure is  
15.15 retracted and the licensee or exempt person complies with all of the requirements of section  
15.16 58.16;

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

15.24 For purposes of this section, "investment grade" refers to a system of categorizing  
15.25 residential mortgage loans in which the loans are distinguished by interest rate or discount  
15.26 points or both charged to the borrower, which vary according to the degree of perceived  
15.27 risk of default based on factors such as the borrower's credit, including credit score and  
15.28 credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior  
15.29 bankruptcy or foreclosure;

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

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

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

16.10 (22) violate section 82.77, relating to table funding;

16.11 (23) make, provide, or arrange for a residential mortgage loan all or a portion of the  
16.12 proceeds of which are used to fully or partially pay off a "special mortgage" unless the  
16.13 borrower has obtained a written certification from an authorized independent loan counselor  
16.14 that the borrower has received counseling on the advisability of the loan transaction. For  
16.15 purposes of this section, "special mortgage" means a residential mortgage loan originated,  
16.16 subsidized, or guaranteed by or through a state, tribal, or local government, or nonprofit  
16.17 organization, that bears one or more of the following nonstandard payment terms which  
16.18 substantially benefit the borrower: (i) payments vary with income; (ii) payments of principal  
16.19 or interest are not required or can be deferred under specified conditions; (iii) principal or  
16.20 interest is forgivable under specified conditions; or (iv) where no interest or an annual  
16.21 interest rate of two percent or less is charged in connection with the loan. For purposes of  
16.22 this section, "authorized independent loan counselor" means a nonprofit, third-party  
16.23 individual or organization providing home buyer education programs, foreclosure prevention  
16.24 services, mortgage loan counseling, or credit counseling certified by the United States  
16.25 Department of Housing and Urban Development, the Minnesota Home Ownership Center,  
16.26 the Minnesota Mortgage Foreclosure Prevention Association, AARP, or NeighborWorks  
16.27 America;

16.28 (24) make, provide, or arrange for a residential mortgage loan without verifying the  
16.29 borrower's reasonable ability to pay the scheduled payments of the following, as applicable:  
16.30 principal; interest; real estate taxes; homeowner's insurance, assessments, and mortgage  
16.31 insurance premiums. For loans in which the interest rate may vary, the reasonable ability  
16.32 to pay shall be determined based on a fully indexed rate and a repayment schedule which  
16.33 achieves full amortization over the life of the loan. For all residential mortgage loans, the  
16.34 borrower's income and financial resources must be verified by tax returns, payroll receipts,  
16.35 bank records, or other similarly reliable documents.

17.1 Nothing in this section shall be construed to limit a mortgage originator's or exempt  
17.2 person's ability to rely on criteria other than the borrower's income and financial resources  
17.3 to establish the borrower's reasonable ability to repay the residential mortgage loan, including  
17.4 criteria established by the United States Department of Veterans Affairs or the United States  
17.5 Department of Housing and Urban Development for interest rate reduction refinancing loans  
17.6 or streamline loans, or criteria authorized or promulgated by the Federal National Mortgage  
17.7 Association or Federal Home Loan Mortgage Corporation; however, such other criteria  
17.8 must be verified through reasonably reliable methods and documentation. The mortgage  
17.9 originator's analysis of the borrower's reasonable ability to repay may include, but is not  
17.10 limited to, consideration of the following items, if verified: (1) the borrower's current and  
17.11 expected income; (2) current and expected cash flow; (3) net worth and other financial  
17.12 resources other than the consumer's equity in the dwelling that secures the loan; (4) current  
17.13 financial obligations; (5) property taxes and insurance; (6) assessments on the property; (7)  
17.14 employment status; (8) credit history; (9) debt-to-income ratio; (10) credit scores; (11) tax  
17.15 returns; (12) pension statements; and (13) employment payment records, provided that no  
17.16 mortgage originator shall disregard facts and circumstances that indicate that the financial  
17.17 or other information submitted by the consumer is inaccurate or incomplete. A statement  
17.18 by the borrower to the residential mortgage originator or exempt person of the borrower's  
17.19 income and resources or sole reliance on any single item listed above is not sufficient to  
17.20 establish the existence of the income or resources when verifying the reasonable ability to  
17.21 pay;

17.22 (25) engage in "churning." As used in this section, "churning" means knowingly or  
17.23 intentionally making, providing, or arranging for a residential mortgage loan when the new  
17.24 residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower  
17.25 considering all of the circumstances, including the terms of both the new and refinanced  
17.26 loans, the cost of the new loan, and the borrower's circumstances; In order to demonstrate  
17.27 a reasonable, tangible net benefit to the borrower, the circumstances at the time of the  
17.28 application must be documented in writing and must be signed by the borrower prior to the  
17.29 closing date;

17.30 (26) the first time a residential mortgage originator orally informs a borrower of the  
17.31 anticipated or actual periodic payment amount for a first-lien residential mortgage loan  
17.32 which does not include an amount for payment of property taxes and hazard insurance, the  
17.33 residential mortgage originator must inform the borrower that an additional amount will be  
17.34 due for taxes and insurance and, if known, disclose to the borrower the amount of the  
17.35 anticipated or actual periodic payments for property taxes and hazard insurance. This same

18.1 oral disclosure must be made each time the residential mortgage originator orally informs  
18.2 the borrower of a different anticipated or actual periodic payment amount change from the  
18.3 amount previously disclosed. A residential mortgage originator need not make this disclosure  
18.4 concerning a refinancing loan if the residential mortgage originator knows that the borrower's  
18.5 existing loan that is anticipated to be refinanced does not have an escrow account; or

18.6 (27) make, provide, or arrange for a residential mortgage loan, other than a reverse  
18.7 mortgage pursuant to United States Code, title 15, chapter 41, if the borrower's compliance  
18.8 with any repayment option offered pursuant to the terms of the loan will result in negative  
18.9 amortization during any six-month period.

18.10 (b) Paragraph (a), clauses (24) through (27), do not apply to a state or federally chartered  
18.11 bank, savings bank, or credit union, an institution chartered by Congress under the Farm  
18.12 Credit Act, or to a person making, providing, or arranging a residential mortgage loan  
18.13 originated or purchased by a state agency or a tribal or local unit of government. This  
18.14 paragraph supersedes any inconsistent provision of this chapter.

18.15 Sec. 20. **[58.141] REPORTS AND UNIQUE IDENTIFIER.**

18.16 **Subdivision 1. Mortgage call reports.** A residential mortgage originator or servicer  
18.17 must submit reports of condition to the Nationwide Multistate Licensing System and Registry.  
18.18 Reports submitted under this subdivision must be in the form and contain the information  
18.19 required by the Nationwide Multistate Licensing System and Registry.

18.20 **Subd. 2. Report to Nationwide Multistate Licensing System and Registry.** Subject  
18.21 to section 58A.14, the commissioner must regularly report violations of this chapter, as well  
18.22 as enforcement actions and other relevant information, to the Nationwide Multistate Licensing  
18.23 System and Registry.

18.24 **Subd. 3. Unique identifier; display.** The unique identifier of any person originating a  
18.25 residential mortgage loan must be clearly displayed on all residential mortgage loan  
18.26 application forms, solicitations, or advertisements, including business cards or websites,  
18.27 and any other documents the commissioner establishes by rule or order.

18.28 Sec. 21. **RULEMAKING.**

18.29 The commissioner of commerce must amend Minnesota Rules, part 2675.2170, to comply  
18.30 with the changes made in this act. The commissioner of commerce may use the good cause  
18.31 exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend

- 19.1 the rule under this section. Minnesota Statutes, section 14.386, does not apply, except as  
19.2 provided under Minnesota Statutes, section 14.388.

19.3 Sec. 22. **REPEALER.**

19.4 Minnesota Statutes 2022, section 58.08, subdivision 3, is repealed.

APPENDIX  
Repealed Minnesota Statutes: H4041-1

**58.08 BONDS; LETTERS OF CREDIT.**

Subd. 3. **Exemption.** Subdivision 2 does not apply to mortgage originators or mortgage servicers who are approved as seller/servicers by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.