

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 2065

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DATE	D-PG	OFFICIAL STATUS
02/23/2012	3939	Introduction and first reading Referred to Jobs and Economic Growth
03/08/2012	4220a 4247	Comm report: To pass as amended and re-refer to Finance Author added Pederson

1.1 A bill for an act
1.2 relating to building codes; making changes to contractor recovery fund;
1.3 amending Minnesota Statutes 2010, sections 326B.092, subdivision 7; 326B.89,
1.4 subdivisions 3, 4, 5, 7, 10; Minnesota Statutes 2011 Supplement, section
1.5 326B.0981, subdivision 4; repealing Minnesota Statutes 2010, section 326B.89,
1.6 subdivision 16.

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

1.8 Section 1. Minnesota Statutes 2010, section 326B.092, subdivision 7, is amended to
1.9 read:

1.10 Subd. 7. **License fees and license renewal fees.** (a) The license fee for each license
1.11 except a renewed license shall be the base license fee plus any applicable board fee, as
1.12 set forth in this subdivision. The license renewal fee for each renewed license is the
1.13 base license fee plus any applicable board fee, continuing education fee, and contractor
1.14 recovery fund fee and additional assessment, as set forth in this subdivision.

1.15 (b) For purposes of this section, "license duration" means the number of years for
1.16 which the license is issued except that:

1.17 (1) if the initial license is not issued for a whole number of years, the license duration
1.18 shall be rounded up to the next whole number; and

1.19 (2) if the department receives an application for license renewal after the renewal
1.20 deadline, license duration means the number of years for which the renewed license would
1.21 have been issued if the renewal application had been submitted on time and all other
1.22 requirements for renewal had been met.

1.23 (c) The base license fee shall depend on whether the license is classified as an entry
1.24 level, master, journeyman, or business license, and on the license duration. The base
1.25 license fee shall be:

2.1	License Classification	License Duration	
2.2	1 Year	2 Years	3 Years
2.3	Entry level \$10	\$20	\$30
2.4	Journeyman \$20	\$40	\$60
2.5	Master \$40	\$80	\$120
2.6	Business \$90	\$180	\$270

2.7 (d) If there is a continuing education requirement for renewal of the license, then
 2.8 a continuing education fee must be included in the renewal license fee. The continuing
 2.9 education fee for all license classifications shall be: \$10 if the renewal license duration is
 2.10 one year; \$20 if the renewal license duration is two years; and \$30 if the renewal license
 2.11 duration is three years.

2.12 (e) If the license is issued under sections 326B.31 to 326B.59 or 326B.90 to
 2.13 326B.93, then a board fee must be included in the license fee and the renewal license fee.
 2.14 The board fee for all license classifications shall be: \$4 if the license duration is one year;
 2.15 \$8 if the license duration is two years; and \$12 if the license duration is three years.

2.16 (f) If the application is for the renewal of a license issued under sections 326B.802
 2.17 to 326B.885, then the contractor recovery fund fee required under section 326B.89,
 2.18 subdivision 3, ~~and any additional assessment required under section 326B.89, subdivision~~
 2.19 ~~46~~, must be included in the license renewal fee.

2.20 Sec. 2. Minnesota Statutes 2011 Supplement, section 326B.0981, subdivision 4,
 2.21 is amended to read:

2.22 Subd. 4. **Internet continuing education.** (a) The design and delivery of an Internet
 2.23 continuing education course must be approved by the International Distance Education
 2.24 Certification Center (IDECC) or the International Association for Continuing Education
 2.25 and Training (IACET) before the course is submitted for the commissioner's approval.
 2.26 The ~~IDECC~~ approval must accompany the course submitted.

2.27 (b) An Internet continuing education course must:

2.28 (1) specify the minimum computer system requirements;

2.29 (2) provide encryption that ensures that all personal information, including the
 2.30 student's name, address, and credit card number, cannot be read as it passes across the
 2.31 Internet;

2.32 (3) include technology to guarantee seat time;

2.33 (4) include a high level of interactivity;

2.34 (5) include graphics that reinforce the content;

2.35 (6) include the ability for the student to contact an instructor or course sponsor
 2.36 within a reasonable amount of time;

(7) include the ability for the student to get technical support within a reasonable amount of time;

(8) include a statement that the student's information will not be sold or distributed to any third party without prior written consent of the student. Taking the course does not constitute consent;

(9) be available 24 hours a day, seven days a week, excluding minimal downtime for updating and administration, except that this provision does not apply to live courses taught by an actual instructor and delivered over the Internet;

(10) provide viewing access to the online course at all times to the commissioner, excluding minimal downtime for updating and administration;

(11) include a process to authenticate the student's identity;

(12) inform the student and the commissioner how long after its purchase a course will be accessible;

(13) inform the student that license education credit will not be awarded for taking the course after it loses its status as an approved course;

(14) provide clear instructions on how to navigate through the course;

(15) provide automatic bookmarking at any point in the course;

(16) provide questions after each unit or chapter that must be answered before the student can proceed to the next unit or chapter;

(17) include a reinforcement response when a quiz question is answered correctly;

(18) include a response when a quiz question is answered incorrectly;

(19) include a final examination in which the student must correctly answer 70 percent of the questions;

(20) allow the student to go back and review any unit at any time, except during the final examination;

(21) provide a course evaluation at the end of the course. At a minimum, the evaluation must ask the student to report any difficulties caused by the online education delivery method;

(22) provide a completion certificate when the course and exam have been completed and the provider has verified the completion. Electronic certificates are sufficient and shall include the name of the provider, date and location of the course, educational program identification that was provided by the department, hours of instruction or continuing education hours, and licensee's or attendee's name and license, certification, or registration number or the last four digits of the licensee's or attendee's Social Security number; and

(23) allow the commissioner the ability to electronically review the class to determine if credit can be approved.

(c) The final examination must be either an encrypted online examination or a paper examination that is monitored by a proctor who certifies that the student took the examination.

Sec. 3. Minnesota Statutes 2010, section 326B.89, subdivision 3, is amended to read:

Subd. 3. **Fund fees.** In addition to any other fees, a person who applies for or renews a license under sections 326B.802 to 326B.885 shall pay a fee to the fund. The person shall pay, in addition to the appropriate application or renewal fee, the following additional fee that shall be deposited in the fund. The amount of the fee shall be based on the person's gross annual receipts for the person's most recent fiscal year preceding the application or renewal, on the following scale:

Fee	<u>As of July 1, 2013</u>	<u>As of July 1, 2015</u>	Gross Annual Receipts
\$320	<u>\$330</u>	<u>\$350</u>	under \$1,000,000
\$420	<u>\$435</u>	<u>\$465</u>	\$1,000,000 to \$5,000,000
\$520	<u>\$540</u>	<u>\$580</u>	over \$5,000,000

Sec. 4. Minnesota Statutes 2010, section 326B.89, subdivision 4, is amended to read:

Subd. 4. **Purpose of fund.** The purpose of this fund is to:

(1) compensate owners or lessees of residential real estate who meet the requirements of this section; and

(2) reimburse the department for all legal and administrative expenses, disbursements, and costs, including staffing costs, incurred in administering and defending the fund;

~~(3) pay for educational or research projects in the field of residential contracting to further the purposes of sections 326B.801 to 326B.825; and~~

~~(4) provide information to the public on residential contracting issues.~~

Sec. 5. Minnesota Statutes 2010, section 326B.89, subdivision 5, is amended to read:

Subd. 5. **Payment limitations.** The commissioner shall not pay compensation from the fund to an owner or a lessee in an amount greater than \$75,000 per licensee. The commissioner shall not pay compensation from the fund to owners and lessees in an amount that totals more than \$150,000 per licensee. The commissioner shall only pay compensation from the fund for a final judgment that is based on a contract directly between the licensee and the homeowner or lessee that was entered into prior to the cause of action and that requires licensure as a residential building contractor or residential

remodeler. All claims, regardless of the date the breach occurred, are subject to the payment limitations and application verification requirements of this section.

Sec. 6. Minnesota Statutes 2010, section 326B.89, subdivision 7, is amended to read:

Subd. 7. **Commissioner review.** The commissioner shall within 120 days after receipt of the complete verified application:

(1) enter into an agreement with an owner or a lessee that resolves the verified application for compensation from the fund; or

(2) issue an order to the owner or the lessee accepting, modifying, or denying the verified application for compensation from the fund.

Upon receipt of an order issued under clause (2), the owner or the lessee shall have 30 days to serve upon the commissioner a written request for a hearing. If the owner or the lessee does not serve upon the commissioner a timely written request for hearing, the order issued under clause (2) shall become a final order of the commissioner that may not be reviewed by any court or agency. The commissioner shall order compensation from the fund only if the owner or the lessee has filed a verified application that complies with subdivision 6 and if the commissioner determines based on review of the application that compensation should be paid from the fund. The commissioner shall not be bound by any prior settlement, compromise, or stipulation between the owner or the lessee and the licensee. The commissioner may request a panel of one or more qualified experts to provide advice while reviewing and deciding claims.

Sec. 7. Minnesota Statutes 2010, section 326B.89, subdivision 10, is amended to read:

Subd. 10. **Right of subrogation.** Notwithstanding subdivisions 1 to 9 and 11 to 16, the commissioner shall not pay compensation from the fund to an owner or lessee unless and until the owner or lessee executes an assignment to the commissioner of all rights, title, and interest in the final judgment in the amount of the compensation to be paid under an agreement under subdivision 7, clause (1), or a final order issued under subdivision 7, clause (2), or subdivision 8. If the claimant has received or agreed to receive payment, work in kind, materials, or other form of remuneration or compensation for the loss, the claimant must disclose all forms of remuneration or compensation to the commissioner, and the value of the remuneration or compensation must be deducted from the final compensation payable by the fund. If the commissioner pays compensation from the fund to an owner or a lessee pursuant to an agreement under subdivision 7, clause (1), or a final order issued under subdivision 7, clause (2), or subdivision 8, then the commissioner shall be subrogated to all of the rights, title, and interest in the owner's or lessee's final judgment

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6.1 in the amount of compensation paid from the fund. The commissioner shall deposit in the
6.2 fund money recovered under this subdivision.

6.3 Sec. 8. **REPEALER.**

6.4 Minnesota Statutes 2010, section 326B.89, subdivision 16, is repealed.