

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 2665

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DATE	D-PG	OFFICIAL STATUS
03/14/2016	5028	Introduction and first reading Referred to Commerce
03/21/2016	5168	Authors added Bonoff; Hayden; Housley; Weber
03/31/2016		Comm report: To pass as amended Second reading

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A bill for an act

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relating to real estate appraisers; regulating appraiser fees, investigation costs,

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and appraisal management companies; amending Minnesota Statutes 2014,

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sections 45.027, subdivision 1; 82C.02, subdivisions 4, 5; proposing coding for

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new law in Minnesota Statutes, chapter 82C.

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

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

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Subdivision 1. **General powers.** In connection with the duties and responsibilities

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entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner

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of commerce may:

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(1) make public or private investigations within or without this state as the

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commissioner considers necessary to determine whether any person has violated or is

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about to violate any law, rule, or order related to the duties and responsibilities entrusted

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to the commissioner;

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(2) require or permit any person to file a statement in writing, under oath or otherwise

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as the commissioner determines, as to all the facts and circumstances concerning the

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matter being investigated;

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(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the

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duties and responsibilities entrusted to the commissioner;

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(4) conduct investigations and hold hearings for the purpose of compiling

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information related to the duties and responsibilities entrusted to the commissioner;

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(5) examine the books, accounts, records, and files of every licensee, and of every

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person who is engaged in any activity regulated; the commissioner or a designated

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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 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.

Sec. 2. 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) administers networks of independent contractors and/or employee appraisers 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 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~~ has the meaning given in Code of Federal Regulations, title 12, section 323.9.

Sec. 3. Minnesota Statutes 2014, section 82C.02, subdivision 5, is amended to read:

Subd. 5. **Appraisal management services.** "Appraisal management services" means the process of directly or indirectly performing any of the following functions on behalf of a lender, financial institution, client, or any other person to:

- (1) administer an appraiser panel;
 - (2) recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;
 - (3) receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;
 - (4) track and determine the status of orders for appraisals;
 - (5) conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; or
 - (6) provide a completed appraisal performed by an appraiser to one or more clients
- has the meaning given in Code of Federal Regulations, title 12, section 323.9.

Sec. 4. **[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;

(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.

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

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

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

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

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

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

4.17 Subd. 4. **Timely payment.** Except in the case of breach of contract or substandard
4.18 appraisal, an appraisal management company shall pay an independent contractor
4.19 appraiser for the completion of an appraisal or appraisal review:

4.20 (1) within 30 days of the appraiser providing the appraisal report to the appraisal
4.21 management company; or

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

4.24 **Sec. 5. EFFECTIVE DATE.**

4.25 Sections 2 to 4 are effective August 1, 2016, and apply to appraisal assignments
4.26 commenced on or after that date.