

CHAPTER 283 — S.F.No. 1152

An act relating to marriage dissolution; clarifying factors to be considered in modifying a child support order; amending Minnesota Statutes 1982, section 518.64, subdivision 2.

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

Section 1. Minnesota Statutes 1982, section 518.64, subdivision 2, is amended to read:

Subd. 2. The terms of a decree respecting maintenance or support may be modified upon a showing of substantially increased or decreased earnings of a party or substantially increased or decreased need of a party, which makes the terms unreasonable and unfair. On a motion for modification of support, the court shall take into consideration the needs of the children and the financial circumstances of ~~the custodial parent's~~ each party's spouse, if any. A modification which decreases support or maintenance may be made retroactive only upon a showing that any failure to pay in accord with the terms of the original order was not willful. A modification which increases support or maintenance shall not be made retroactive if the obligor has substantially complied with the previous order. Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

Sec. 2. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved June 6, 1983

CHAPTER 284 — H.F.No. 973

An act relating to commerce; securities and real estate; modifying the definition of "investment adviser"; clarifying the definitions of "trust account" and investment metal contract; defining and regulating investment adviser representatives; expanding the regulation of investment advisers; exempting certain persons from the definition of real estate broker; modifying real estate education requirements; providing for the suspension of a broker's or salesperson's license pending a hearing; clarifying the intent of certain language

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relating to the real estate education, research, and recovery fund; modifying an exemption from the registration and annual report requirements for social and charitable organizations; amending Minnesota Statutes 1982, sections 80A.02; 80A.04, subdivisions 2 and 3; 80A.07, subdivisions 1 and 3, and by adding a subdivision; 80A.09, subdivision 1; 80A.14, subdivisions 9, 12, and by adding a subdivision; 82.17, subdivisions 4 and 6; 82.18; 82.22, subdivision 6; 82.27, subdivision 3; 82.34, subdivision 7; 309.515, subdivision 1; 309.53, subdivision 2, and by adding a subdivision.

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

Section 1. Minnesota Statutes 1982, section 80A.02, is amended to read:

80A.02 ~~ADVISORY PROHIBITED~~ ACTIVITIES.

Subdivision 1. **ADVISORY ACTIVITIES.** It is unlawful for any person who receives, directly or indirectly, any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, ~~whether through the issuance of analyses or reports or otherwise~~:

(a) to employ any device, scheme, or artifice to defraud the other person;
or

(b) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person; or

(c) to knowingly sell any security to or purchase any security from a client while acting as principal for his or her own account or knowingly effect any sale or purchase of any security for the account of a client while acting as broker for a person other than the client, unless that person discloses to the client in writing before the execution of the transaction the capacity in which he or she is acting and obtains the consent of the client to the transaction.

Subd. 1a. **SOLICITATION ACTIVITIES.** In the solicitation of advisory clients, it is unlawful for any person to make any untrue statements of material facts, or, in light of the circumstances under which they are made, to omit to state material facts necessary in order to make the statements made not misleading.

Subd. 2. **CONTRACT ACTIVITIES.** It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract the terms of which are in contravention of ~~such rules and regulations~~ as the commissioner ~~may prescribe~~ prescribes as necessary or appropriate in the public interest or for the protection of investors.

Subd. 3. **ACTIVITIES AS CUSTODIAN OF CERTAIN FUNDS.** It is unlawful for any investment adviser to take or have custody of any securities or funds of any client in contravention of ~~such rules and regulations~~ as the commissioner ~~may prescribe~~ prescribes as necessary or appropriate in the public interest or for the protection of investors.

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Sec. 2. Minnesota Statutes 1982, section 80A.04, subdivision 2, is amended to read:

Subd. 2. It is unlawful for any broker-dealer or issuer to employ an agent to represent him or her in this state unless the agent is licensed. The licensing of an agent is not effective during any period when he or she is not associated with a specified broker-dealer licensed under this chapter or a specified issuer. No agent shall at any time represent more than one broker-dealer or issuer, except that where broker-dealers affiliated by direct common control are licensed under this chapter, an agent may represent any such the broker-dealer. When an agent begins or terminates his or her employment with a broker-dealer or issuer, or begins or terminates those activities which make him that person an agent, the agent as well as the broker-dealer or issuer shall promptly notify the commissioner or his or her designated representative.

Sec. 3. Minnesota Statutes 1982, section 80A.04, subdivision 3, is amended to read:

Subd. 3. It is unlawful for any person to transact business in this state as an investment adviser unless ~~he~~ that person is so licensed or licensed as a broker-dealer under this chapter or unless his or her only clients in this state are ~~persons to whom sales are exempted under section 80A.15, subdivision 2, clause (g)~~ investment companies as defined in the Investment Company Act of 1940, other investment advisers, broker-dealers, banks, trust companies, savings and loan associations, insurance companies, employee benefit plans, corporations with a class of equity securities registered under section 12(g) of the Securities Exchange Act of 1934, small business investment companies, and government agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the commissioner.

Sec. 4. Minnesota Statutes 1982, section 80A.07, subdivision 1, is amended to read:

Subdivision 1. The commissioner may by order deny, suspend, or revoke any license or may censure the licensee, if he or she finds (a) that the order is in the public interest and (b) that the applicant or licensee or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

(1) has filed an application for license which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

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(2) has willfully violated or failed to comply with any provision of this chapter or a predecessor law or any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule under any of these statutes, or any order thereunder of which he or she has notice and to which he or she is subject;

(3) has been convicted, within the past ten years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;

(4) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(5) is the subject of an order of the commissioner denying, suspending, or revoking a license as a broker-dealer, agent or investment adviser;

(6) is the subject of an order entered within the past five years by the securities administrator of any other state or by the securities and exchange commission denying or revoking registration or license as a broker-dealer, agent, or investment adviser, or is the subject of an order of the securities and exchange commission suspending or expelling ~~him~~ that person from a national securities exchange or association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order; ~~but~~. The commissioner may not institute a revocation or suspension proceeding under this clause more than one year from the date of the order relied on, and may not enter an order under this clause on the basis of an order under another state law unless the order was based on facts which would currently constitute a ground for an order under this section;

(7) has engaged in dishonest or fraudulent practices in the securities business;

(8) has failed to maintain the minimum net capital or to comply with the limitation on aggregate indebtedness which the commissioner by rule prescribes;

(9) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business;

(10) has failed reasonably to supervise ~~his~~ agents if he is a broker-dealer, investment adviser representatives, or ~~his~~ employees if he is an investment adviser to assure their compliance with this chapter;

(11) has failed to pay the proper filing fee, but the commissioner shall vacate the order when the deficiency has been corrected;

(12) has offered or sold securities in this state through any unlicensed agent;

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(13) has made any material misrepresentation to the commissioner, or upon request reasonably made by the commissioner, has withheld or concealed information from, or refused to furnish information to, the commissioner; or

(14) has failed to reasonably supervise ~~the agents of a broker-dealer, investment adviser representatives, or the employees of an investment adviser~~ if he or she has assumed or has been designated to carry out the supervisory procedures of the broker-dealer or investment adviser.

Sec. 5. Minnesota Statutes 1982, section 80A.07, is amended by adding a subdivision to read:

Subd. 1a. INVESTMENT ADVISER REPRESENTATIVES. The commissioner, by order, shall censure or place limitations on the activities of any investment adviser representative or person seeking to become an investment adviser representative, or suspend or bar any person from being an investment adviser representative, if the commissioner finds, after notice and opportunity for hearing, that the censure, placing of limitations, suspension, or bar is in the public interest and that the person has committed or omitted any act or omission enumerated in subdivision 1. It shall be unlawful for any person as to whom an order suspending or barring him from being an investment adviser representative is in effect willfully to become, or to be, associated with an investment adviser without the consent of the commissioner, and it shall be unlawful for any investment adviser to permit this person to become, or remain, an investment adviser representative without the consent of the commissioner, if the investment adviser knew, or in the exercise of reasonable care, should have known of the order.

Sec. 6. Minnesota Statutes 1982, section 80A.07, subdivision 3, is amended to read:

Subd. 3. The commissioner may issue an order requiring a licensee or an applicant for a license to show cause why the license should not be revoked or the application denied. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. The commissioner may by order summarily suspend a license, or in the case of an investment adviser representative or person seeking to become an investment adviser representative, summarily suspend or bar that person from acting in that capacity, pending final determination of any order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits shall be held within 30 days of the issuance of the order of suspension. All hearings shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making ~~such~~ a disposition of the matter as the facts require. If the licensee or applicant fails to appear at a hearing of which he or she has been duly notified, ~~such~~ the person shall be deemed in default and the proceeding may be determined against him upon consideration of the order to show cause, the allegations of which may

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be deemed to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted pursuant to this subdivision.

Sec. 7. Minnesota Statutes 1982, section 80A.09, subdivision 1, is amended to read:

Subdivision 1. The following securities may be registered by notification:

(a) any industrial revenue bond, the interest on which is exempt from tax under ~~section 290.08, subdivision 7~~ chapter 290; and

(b) any securities issued by a person organized exclusively for social, religious, educational, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, trade, industrial development, or professional association purposes and not for pecuniary gain, and no part of the net earnings of which inures to the benefit of any private stockholder or individual; provided that no securities issued by any person offering and furnishing a burial service or funeral benefit, directly or indirectly for financial consideration, may be registered under this section.

Sec. 8. Minnesota Statutes 1982, section 80A.14, subdivision 9, is amended to read:

Subd. 9. **INVESTMENT ADVISER.** "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications ~~or~~ writings or electronic means, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

- (1) a bank, savings institution, or trust company;
- (2) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;
- (3) a broker-dealer whose performance of these services is solely incidental to the conduct of his or her business as a broker-dealer and who receives no special compensation for them;
- (4) a publisher of any bona fide newspaper, news column, newsletter, news magazine, or business or financial publication of general, regular and paid circulation, or service, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client; or
- (5) a person whose advice, analyses or reports relate only to securities exempted by ~~section 80A.15, subdivision 1, clause (a);~~

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(6) a person whose only clients in this state are other investment advisers or persons to whom sales are exempted under section 80A.15, subdivision 2, clause (g); or

(7) such other persons not within the intent of this subdivision as the commissioner may by rule or order designate.

Sec. 9. Minnesota Statutes 1982, section 80A.14, is amended by adding a subdivision to read:

Subd. 9a. INVESTMENT ADVISER REPRESENTATIVE. "Investment adviser representative" means any partner, officer, or director of an investment adviser, or any person performing similar functions, or any person, directly or indirectly, controlling or controlled by an investment adviser, including any employee of an investment adviser who provides investment advice to clients.

Sec. 10. Minnesota Statutes 1982, section 80A.14, subdivision 12, is amended to read:

Subd. 12. INVESTMENT METAL CONTRACT. "Investment metal contract" or "investment gem contract" means:

(i) a sale of an investment metal or investment gem in which the seller or an affiliate of the seller retains possession of the investment metal or investment gem; or

(ii) a contract of purchase or sale which provides for the future delivery of an investment metal or investment gem, or any option to purchase or option to sell such a contract; or

(iii) a sale of an investment metal or investment gem pursuant to a contract known to the trade as a margin account, margin contract, leverage account, or leverage contract.

"Investment metal contract" or "investment gem contract" shall not include:

(i) the sale of an investment metal or investment gem where the seller has reasonable grounds to believe that the investment metal or investment gem is being acquired for manufacturing, commercial or industrial purposes; or

(ii) the sale, or contract for the future purchase or sale, of jewelry, art objects or other manufactured or crafted goods other than bullion or bulk sales of coins; or

(iii) the sale of an investment metal or investment gem where full payment is made to the seller, and delivery of the investment metal or investment gem is made to the purchaser, or to a bank, savings institution, trust company, broker-dealer, or safe deposit company designated by the purchaser, within 20 days of

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the date of purchase, if the bank, savings institution, trust company, broker-dealer, or safe deposit company is located within this state, and is, where required, licensed under the laws of this state, provided that a purchaser may designate a bank, savings institution, trust company, or licensed broker-dealer, within this state, to accept delivery on his behalf if the bank, savings institution, trust company or licensed broker-dealer maintains the investment metal or investment gem in safe-keeping and as the specifically identifiable property of the purchaser a safe deposit company accepting such delivery may not be an affiliate of the seller;
or

(iv) any futures contracts traded on a commodities exchange registered under the Federal Commodity Futures Trading Commission Act of 1974.

Sec. 11. Minnesota Statutes 1982, section 82.17, subdivision 4, is amended to read:

Subd. 4. "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 himself, herself, or itself out as engaged in such 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;

(c) 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 goodwill, inventory, or fixtures, or any interest therein;

(d) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers, sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;

(e) engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby he or she undertakes to promote the sale of real estate through its listing in a publication issued primarily for such this purpose;

(f) 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 such the real estate is owned by such the person. A person shall be presumed to be

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engaged in the business of selling real estate if ~~such~~ 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. 12. Minnesota Statutes 1982, section 82.17, subdivision 6, is amended to read:

Subd. 6. "Trust account" means, for purposes of this chapter, a demand deposit or checking account maintained for the purpose of segregating trust funds from other funds. A trust account shall not be an interest bearing account except by agreement of the parties and subject to ~~regulations~~ rules of the commissioner, and shall not allow the financial institution a right of set off against moneys owed it by the licensee.

Sec. 13. Minnesota Statutes 1982, section 82.18, is amended to read:

82.18 EXCEPTIONS.

Unless a person is licensed or otherwise required to be licensed under this chapter, the term real estate broker does not include:

(a) a licensed practicing attorney acting solely as an incident to the practice of law, provided, however, that the attorney complies in all respects with the trust account provisions of this chapter;

(b) a receiver, trustee, administrator, guardian, executor, or other person appointed by or acting under the judgment or order of any court;

(c) any person owning and operating a cemetery and selling lots therein solely for use as burial plots;

(d) any custodian, janitor, or employee of the owner or manager of a residential building who leases residential units in ~~such~~ the building;

(e) any bank, trust company, savings and loan association, public utility, or any land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of business within the scope of its corporate powers as provided by law;

(f) public officers while performing their official duties;

(g) employees of persons enumerated in clauses (b), (e) and (f), when engaged in the specific performance of their duties;

(h) any person who acts as an auctioneer bonded in conformity with section 330.02, when ~~he~~ that person is engaged in the specific performance of his or her duties as an auctioneer;

(i) any person who acquires ~~such~~ real estate for the purpose of engaging in and does engage in, or who is engaged in the business of constructing residential, commercial or industrial buildings for the purpose of resale, ~~provided that if no~~

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more than 25 such transactions occur in any 12-month period and ~~that~~ the person complies with section 82.24;

(j) any person who offers to sell or sells an interest or estate in real estate which is a security registered pursuant to chapter 80A, when acting solely as an incident to the sale of such these securities;

(k) any person who offers to sell or sells a business opportunity which is a franchise registered pursuant to chapter 80C, when acting solely to sell the franchise;

(l) any person who contracts with or solicits on behalf of a provider a contract with a resident or prospective resident to provide continuing care in a facility, pursuant to the Continuing Care Facility Disclosure and Rehabilitation Act (chapter 80D), when acting solely as incident to the contract;

(m) any broker-dealer or agent of a broker-dealer when participating in a transaction in which all or part of a business opportunity or business, including any interest therein, is conveyed or acquired pursuant to an asset purchase, merger, exchange of securities or other business combination, if the agent or broker-dealer is licensed pursuant to chapter 80A.

Sec. 14. Minnesota Statutes 1982, section 82.22, subdivision 6, is amended to read:

Subd. 6. **INSTRUCTION; NEW LICENSES.** (a) Every salesperson, licensed after July 1, 1973 and before July 1, 1976 shall, within two years of the date his license was first granted be required to successfully complete a course of study in the real estate field consisting of not less than 60 hours of instruction, approved by the commissioner. Upon appropriate showing of hardship by the licensee, or for persons licensed pursuant to section 82.20, subdivision 1, clause (b), the commissioner may waive or modify the requirements of this subdivision. Every salesperson licensed after July 1, 1976 and before July 1, 1978 shall, within three years of the date his license was first issued, be required to successfully complete a course of study in the real estate field consisting of not less than 90 hours of instruction, approved by the commissioner;

(b) After July 1, 1978, and before January 1, 1984, 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 salesperson licensed after July 1, 1978, and before January 1, 1984, shall, within one year of the date his license was first issued, be required to successfully complete a course of study in the real estate field consisting of 60 hours of instruction approved by the commissioner.

(c) After December 31, 1983, every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field

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consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. After December 31, 1983, 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 30 hours of instruction approved by the commissioner before filing an application for the license. Every salesperson licensed after December 31, 1983, shall, within one year of the date his license was first issued, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(d) 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 licensed by the state department of education. The commissioner may by rule prescribe the curriculum and qualification of those employed as instructors.

Sec. 15. Minnesota Statutes 1982, section 82.27, subdivision 3, is amended to read:

Subd. 3. The commissioner shall issue an order requiring a licensee or applicant for a license to show cause why the license should not be revoked or suspended, or the licensee censured, or the application denied. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. The commissioner may by order summarily suspend a license pending final determination of any order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits shall be held within 30 days of the issuance of the order of suspension. All hearings shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making such disposition of the matter as the facts require. If the licensee or applicant fails to appear at a hearing of which he has been duly notified, such person shall be deemed in default, and the proceeding may be determined against him upon consideration of the order to show cause, the allegations of which may be deemed to be true.

Sec. 16. Minnesota Statutes 1982, section 82.34, subdivision 7, is amended to read:

Subd. 7. When any aggrieved person obtains a final judgment in any court of competent jurisdiction against any person licensed under this chapter, on grounds of fraudulent, deceptive or dishonest practices, or conversion of trust funds arising directly out of any transaction when the judgment debtor was licensed and performed acts for which a license is required under this chapter, or performed acts permitted by section 327.55, subdivision 1a, and which cause of action occurred on or after July 1, 1973, the aggrieved person may, upon the judgment becoming final, and upon termination of all proceedings, including

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reviews and appeals, file a verified application in the court in which the judgment was entered for an order directing payment out of the recovery portion of the fund of the amount of actual and direct out of pocket loss in ~~such~~ the transaction, but excluding any attorney's fees, interest on the loss and on any judgment obtained as a result of ~~such~~ the loss, up to the sum of \$20,000 of the amount unpaid upon the judgment, provided that nothing in this chapter shall be construed to obligate the fund for more than \$20,000 per transaction, subject to the limitations set forth in subdivisions 12 and 14, regardless of the number of persons aggrieved or parcels of real estate involved in ~~such~~ the transaction. A copy of the verified application shall be served upon the commissioner and upon the judgment debtor, and a certificate or affidavit of ~~such~~ service filed with the court. For the purpose of this section "aggrieved person" shall not include a real estate licensee who is seeking to recover a commission.

Sec. 17. Minnesota Statutes 1982, section 309.515, subdivision 1, is amended to read:

Subdivision 1. Subject to the provisions of subdivisions 2 and 3, sections 309.52 and 309.53 shall not apply to any of the following:

(a) Charitable organizations:

(1) which did not receive total contributions in excess of \$10,000 from the public within or without this state during the accounting year last ended, and

(2) which do not plan to receive total contributions in excess of such amount from the public within or without this state during any accounting year, and

(3) whose functions and activities, including fund raising, are performed wholly by persons who are unpaid for their services, and

(4) none of whose assets or income inure to the benefit of or are paid to any officer.

For purposes of this chapter, a charitable organization shall be deemed to receive in addition to ~~such~~ contributions as are solicited from the public by it, ~~such~~ the contributions as are solicited from the public by any other person and transferred to it. Any organization constituted for a charitable purpose receiving an allocation from a community chest, united fund or similar organization shall be deemed to have solicited that allocation from the public.

(b) ~~A religious society or organization which received more than half of the contributions it received in the accounting year last ended (1) from persons who are members of the organization; or (2) from a parent organization or affiliated organization; or (3) from a combination of the sources listed in clauses (1) and (2). A religious society or organization which solicits from its religious affiliates who are qualified under this subdivision and who are represented in a body or convention is exempt from the requirements of sections 309.52 and~~

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309.53. The term "member" shall not include those persons who are granted a membership upon making a contribution as a result of a solicitation.

(c) Any educational institution which is under the general supervision of the state board of education, the state university board, the state board for community colleges, or the University of Minnesota or any educational institution which is accredited by the University of Minnesota or the North Central association of colleges and secondary schools, or by any other national or regional accrediting association.

(d) A fraternal, patriotic, social, educational, alumni, professional; trade or learned society which limits solicitation of contributions to persons who have a right to vote as a member. The term "member" shall not include those persons who are granted a membership upon making a contribution as the result of a solicitation.

(e) A charitable organization soliciting contributions for any person specified by name at the time of the solicitation if all of the contributions received are transferred to the person named with no restrictions on his expenditure of it and with no deductions whatsoever.

(f) A private foundation, as defined in section 509(a) of the Internal Revenue Code of 1954, which did not solicit contributions from more than 100 persons during the accounting year last ended.

Sec. 18. Minnesota Statutes 1982, section 309.53, subdivision 2, is amended to read:

Subd. 2. Such annual report shall include a financial statement covering the immediately preceding 12 months period of operation, and shall be executed by any two duly constituted officers of the charitable organization, who shall acknowledge that it was executed pursuant to resolution of the board of directors or trustees, or if there be no such board, then by its managing group which has approved the content of the annual report. Such annual report shall also include a copy of any tax return, including amendments, submitted by the charitable organization to the Internal Revenue Service for the period covered by the annual report.

A charitable organization which files the annual report required under this subdivision with the securities and real estate division is not required to file the tax return with the commissioner of revenue. An organization which fails to file the tax return required under this section is subject to the penalties imposed by the commissioner of revenue as set forth in section 290.05, subdivisions 4 and 5.

Sec. 19. Minnesota Statutes 1982, section 309.53, is amended by adding a subdivision to read:

Subd. 3a. The federal tax return may be filed in lieu of other financial statements if it is prepared in accordance with generally accepted accounting

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principles and meets the requirements for financial statements set forth in subdivisions 2, 3 and 4.

Approved June 7, 1983

CHAPTER 285 — H.F.No. 765

An act relating to insurance; permitting differing benefit payments for services by designated health care providers; amending Minnesota Statutes 1982, section 72A.20, subdivision 15.

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

Section 1. Minnesota Statutes 1982, section 72A.20, subdivision 15, is amended to read:

Subd. 15. **PRACTICES NOT HELD TO BE DISCRIMINATION OR REBATES.** Nothing in subdivisions 8 ~~and~~ 9, or 10, or in section 72A.12, subdivisions 3 and 4, shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) In the case of any contract of life insurance or annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(2) In the case of life insurance policies issued on the industrial debit plan, making allowance, to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer, in an amount which fairly represents the saving in collection expense;

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experienced thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) In the case of a group health insurance policy, the payment of differing amounts of reimbursement to insureds who elect to receive health care goods or services from providers designated by the insurer, provided that each insurer shall on or before August 1 of each year file with the commissioner summary data regarding the financial reimbursement offered to providers so designated.

Any insurer which proposes to offer an arrangement authorized under this clause shall disclose prior to its initial offering and on or before August 1 of each year thereafter as a supplement to its annual statement submitted to the

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