

between such the lots, blocks, or plats as are not also vacated, unless it appears that the street or alley or part thereof sought to be vacated is useless for the purpose for which it was laid out. If any part of a street, alley, or public ground proposed for vacation terminates at or abuts upon, or is adjacent to any public water, the petitioner shall serve notice of the petition by certified mail upon the commissioner of natural resources at least ~~30~~ 60 days before the term at which it shall be heard. The notice under this subdivision ~~is for notification purposes only and does not create~~ creates a right of intervention by the commissioner of natural resources. The petitioner shall cause two weeks published and posted notice of such application to be given, the last publication to be at least ten days before the term at which it shall be heard; and the petitioner shall also serve personally, or cause to be served personally, notice of ~~such the~~ application, at least ten days before the term at which the application shall be heard, upon the mayor of the city, the president of the statutory city, or the chair of the town board of the town where such the land is situated. The court shall hear all persons owning or occupying land that would be affected by the proposed vacation, and if, in the judgment of the court, the same would be damaged, the court may determine the amount of ~~such the~~ damage and direct its payment by the applicant before the vacation or alteration shall take effect. A certified copy of the order of the court shall be filed with the county auditor, and recorded by the county recorder. The district court shall not vacate or alter any street, alley, or public ground dedicated to the public use in or by any ~~such~~ plat in any city or town organized under a charter or special law which provides a method of procedure for the vacation of streets and public grounds by the municipal authorities of ~~such the~~ city or town.

Sec. 4. WHEELCHAIR SECUREMENT POSITION TEMPORARY EXEMPTION.

Notwithstanding any contrary provisions in Minnesota Statutes, chapter 299A, or Minnesota Rules, chapter 7450, enrolled participants in the National Veterans Wheelchair Games may be transported in transit vehicles in side-facing positions. Transportation services and operators of transit vehicles, when they are providing transportation to enrolled participants in the National Veterans Wheelchair Games in the counties of Hennepin and Ramsey, are exempt from statutes and rules insofar as they prohibit transportation of wheelchair users in side-facing positions. This exemption is effective on June 26, 2005, and expires on July 3, 2005.

Presented to the governor May 24, 2005

Signed by the governor May 27, 2005, 3:15 p.m.

CHAPTER 118—S.F.No. 1636

An act relating to commerce; regulating the powers and duties of, and annual reporting required for, certain financial institutions; regulating safe deposit companies; removing obsolete references to the credit union advisory task force; regulating residential mortgage originators;

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regulating real estate brokers and salespersons; providing for insurance license renewals; regulating for the voluntary dissolution of fraternal benefit societies; prohibiting the deceptive use of a financial institution name; amending Minnesota Statutes 2004, sections 47.10, subdivision 1; 47.75; 48.10; 48.15, subdivision 4; 48.512, by adding a subdivision; 52.062, subdivision 2; 55.10, subdivision 4; 58.16, subdivision 4; 60A.13, subdivision 5; 64B.30, by adding a subdivision; 82.17, subdivisions 10, 18; 82.36, subdivision 4; 82.41, subdivision 13; 299A.61, subdivision 3; 325F.69, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 58; repealing Minnesota Statutes 2004, section 52.062, subdivision 3; Minnesota Rules, part 2675.2610, subpart 5.

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

Section 1. Minnesota Statutes 2004, section 47.10, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY, APPROVAL, LIMITATIONS.** (a) Except as otherwise specially provided, the net book value of land and buildings for the transaction of the business of the corporation, including parking lots and premises leased to others, shall not be more than as follows:

(1) for a bank, trust company, savings bank, or stock savings association, if investment is for acquisition and improvements to establish a new bank banking office, or is for improvements to existing property or acquisition and improvements to adjacent property, approval by the commissioner of commerce is not required if the total investment does not exceed 50 percent of its existing capital stock and paid-in surplus. Upon written prior approval of the commissioner of commerce, a bank, trust company, savings bank, or stock savings association may invest in the property and improvements in clause (1) or for acquisition of nonadjacent property for expansion or future use, if the aggregate of all such investments does not exceed 100 percent of its existing capital stock and paid-in surplus;

(2) for a mutual savings association, five percent of its net assets.

(b) For purposes of this subdivision, an intervening highway, street, road, alley, other public thoroughfare, or easement of any kind does not cause two parcels of real property to be nonadjacent.

Sec. 2. Minnesota Statutes 2004, section 47.75, is amended to read:

47.75 LIMITED TRUSTESHIP.

Subdivision 1. **RETIREMENT, HEALTH SAVINGS, AND MEDICAL SAVINGS ACCOUNTS.** (a) A commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company may act as trustee or custodian:

(1) under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended;

(2) of a medical savings account under the Federal Health Insurance Portability and Accountability Act of 1996, as amended;

(3) of a health savings account under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, as amended; and also

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(4) under the Federal Employee Retirement Income Security Act of 1974, as amended.

(b) The trustee or custodian may accept the trust funds if the funds are invested only in savings accounts or time deposits in the commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company. All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

Sec. 3. Minnesota Statutes 2004, section 48.10, is amended to read:

48.10 ANNUAL AUDIT; REPORT.

The board of directors of a bank, bank and trust, or trust company shall annually examine its books, either in person, or by appointing an examining committee, or an auditor, who may be an independent auditor or accountant. The examining committee or auditor shall be solely responsible to the directors. A report shall be made to the directors as to the scope of the examination or audit, and also to show those assets, excluding marketable securities and fixed assets, which are carried on the books for more than actual value. This report shall be retained as a permanent record or incorporated in the minutes of the meeting, and a copy of the report shall be sent to the commissioner of commerce.

Sec. 4. Minnesota Statutes 2004, section 48.15, subdivision 4, is amended to read:

Subd. 4. **RETIREMENT, HEALTH SAVINGS, AND MEDICAL SAVINGS ACCOUNTS.** (a) A state bank may act as trustee or custodian:

(1) of a self-employed retirement plan under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended;

(2) of a medical savings account under the Federal Health Insurance Portability and Accountability Act of 1996, as amended;

(3) of a health savings account under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, as amended; and

(4) of an individual retirement account under the Federal Employee Retirement Income Security Act of 1974, as amended, if the bank's duties as trustee or custodian are essentially ministerial or custodial in nature and the funds are invested only (1) (i) in the bank's own savings or time deposits; or (2) (ii) in any other assets at the direction of the customer if the bank does not exercise any investment discretion, invest the funds in collective investment funds administered by it, or provide any investment advice with respect to those account assets.

(b) Affiliated discount brokers may be utilized by the bank acting as trustee or custodian for self-directed IRAs, if specifically authorized and directed in appropriate documents. The relationship between the affiliated broker and the bank must be fully disclosed. Brokerage commissions to be charged to the IRA by the affiliated broker

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should be accurately disclosed. Provisions should be made for disclosure of any changes in commission rates prior to their becoming effective. The affiliated broker may not provide investment advice to the customer.

(c) All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

(d) The authority granted by this section is in addition to, and not limited by, section 47.75.

Sec. 5. Minnesota Statutes 2004, section 48.512, is amended by adding a subdivision to read:

Subd. 10. FEDERAL LAW COMPLIANCE. In lieu of the identification rules in subdivision 2, a financial intermediary may choose to comply with the federal customer identification standards set forth in United States Code, title 31, section 5318, and its implementing regulation, Code of Federal Regulations, title 31, section 103.121, as amended from time to time.

Sec. 6. Minnesota Statutes 2004, section 52.062, subdivision 2, is amended to read:

Subd. 2. **SUSPENSION.** The commissioner of commerce may suspend the operation of the credit union by giving notice to its board of directors by certified mail with a copy to the advisory council. Said notice shall include a list of reasons for said suspension and a list of any specific violations of law, bylaw, or rule, and shall specify which operations of the credit union may be continued during the period of suspension. The notice shall also fix a time and place for a hearing before the commissioner of commerce or such person or persons as the commissioner of commerce may designate. The hearing shall be held within 60 days of the notice of suspension, and the advisory council shall sit at such hearing for the purpose of providing advice and counsel to the commissioner of commerce or a representative. Evidence may be produced at said hearing by any party thereto, and the commissioner of commerce shall base the decision as to the continued suspension of operation of the credit union upon said evidence. If the commissioner of commerce decides to continue the suspension, the commissioner shall give notice of the decision to the board of directors of the credit union.

Sec. 7. Minnesota Statutes 2004, section 55.10, subdivision 4, is amended to read:

Subd. 4. **WILL SEARCHES, BURIAL DOCUMENTS PROCUREMENT, AND INVENTORY OF CONTENTS.** (a) Upon being furnished with satisfactory proof of death of a sole lessee or the last surviving co-lessee of a safe deposit box, an employee of the safe deposit company shall open the box and examine the contents in the presence of an individual who appears in person and furnishes an affidavit stating that the individual believes:

(1) the box may contain the will or deed to a burial lot or a document containing instructions for the burial of the lessee or that the box may contain property belonging to the estate of the lessee; and

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(2) the individual is an interested person as defined in this section and wishes to open the box for any one or more of the following purposes:

- (i) to conduct a will search;
- (ii) to obtain a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements; or
- (iii) to obtain an inventory of the contents of the box.

(b) The safe deposit company may not open the box under this section if it has received a copy of letters of office of the representative of the deceased lessee's estate or other applicable court order.

(c) The safe deposit company need not open the box if:

- (1) the box has previously been opened under this section for the same purpose;
- (2) the safe deposit company has received notice of a written or oral objection from any person or has reason to believe that there would be an objection; or
- (3) the lessee's key or combination is not available.

(d) For purposes of this section, the term "interested person" means any of the following:

- (1) a person named as personal representative in a purported will of the lessee;
- (2) a person who immediately prior to the death of the lessee had the right of access to the box as a deputy;
- (3) the surviving spouse of the lessee;
- (4) a devisee of the lessee;
- (5) an heir of the lessee;
- (6) a person designated by the lessee in a writing acceptable to the safe deposit company which is filed with the safe deposit company before death; or
- (7) a state or county agency with a claim authorized by section 256B.15.

(e) For purposes of this section, the term "will" includes a will or a codicil.

(f) If the box is opened for the purpose of conducting a will search, the safe deposit company shall remove any document that appears to be a will and make a true and correct machine copy thereof, replace the copy in the box, and then deliver the original thereof to the clerk of court for the county in which the lessee resided immediately before the lessee's death, if known to the safe deposit company, otherwise to the clerk of the court for the county in which the safe deposit box is located. The will must be personally delivered or sent by registered mail. If the interested person so requests, any deed to burial lot or document containing instructions for the burial of the lessee may be copied by the safe deposit box company and the copy or copies thereof delivered to the interested person.

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(g) If the box is opened for the purpose of obtaining a document required to facilitate the lessee's wishes regarding the body, funeral, or burial arrangements, any such document may be removed from the box and delivered to the interested person with a true and correct machine copy retained in the box. If the safe deposit box company discovers a document that appears to be a will, the safe deposit company shall act in accordance with paragraph (f).

(h) If the box is opened for the purpose of obtaining an inventory of the contents of the box, the employee of the safe deposit company shall make, or cause to be made, an inventory of the contents of the box, to which the employee and the interested person shall attest under penalty of perjury to be correct and complete. Within ten days of opening the box pursuant to this subdivision, the safe deposit company shall deliver the original inventory of the contents to the court administrator for the county in which the lessee resided immediately before the lessee's death, if known to the safe deposit company, otherwise to the court administrator for the county in which the safe deposit box is located. The inventory must be personally delivered or sent by registered mail. If the interested person so requests, the safe deposit company shall make a true and correct copy of any document in the box, and of the completed inventory form, and deliver that copy to the interested person. If the contents of the box include a document that appears to be a will, the safe deposit company shall act in accordance with paragraph (f).

(i) If a box opened for the purpose of conducting an inventory, will search, or burial document search is completely empty, the safe deposit company need not follow the procedures above. Instead, the employee of the safe deposit company can complete an inventory of the box contents indicating the fact that the box contained nothing. The form must be signed by the employee and the interested person. If the interested person so requests, the safe deposit company may provide a copy of the completed inventory form to the interested person. The interested person shall then complete the documentation needed by the safe deposit company to surrender the empty box. If another interested person inquires about the box after it has been surrendered, the safe deposit company may state that the deceased renter had previously rented the box and that the box was surrendered because it was empty.

(j) The safe deposit company need not ascertain the truth of any statement in the affidavit required to be furnished under this subdivision and when acting in reliance upon an affidavit, it is discharged as if it dealt with the personal representative of the lessee. The safe deposit company is not responsible for the adequacy of the description of any property included in an inventory of the contents of a safe deposit box, nor for conversion of the property in connection with actions performed under this subdivision, except for conversion by intentional acts of the company or its employees, directors, officers, or agents. If the safe deposit company is not satisfied that the requirements of this subdivision have been met, it may decline to open the box.

(k) No contents of a box other than a will and a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements may be removed pursuant to this subdivision. The entire contents of the box, however, may be removed pursuant to section 524.3-1201.

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Sec. 8. [58.125] PROHIBITION ON SERVICE AS A RESIDENTIAL MORTGAGE ORIGINATOR.

Subdivision 1. DEFINITIONS. (a) "Dishonesty" means directly or indirectly to cheat or defraud; to cheat or defraud for monetary gain or its equivalent; or to wrongfully take property belonging to another in violation of any criminal statute. Dishonesty includes acts involving want of integrity, lack of probity, or a disposition to distort, cheat, or act deceitfully or fraudulently, and may include crimes which federal, state, or local laws define as dishonest.

(b) "Breach of trust" means a wrongful act, use, misappropriation, or omission with respect to any property or fund which has been committed to a person in a fiduciary or official capacity, or the misuse of one's official or fiduciary position to engage in a wrongful act, use, misappropriation, or omission.

Subd. 2. GENERALLY. Except with the prior written consent of the commissioner under subdivision 4, any individual, who has been convicted of a criminal offense involving dishonesty or a breach of trust or money laundering, or has agreed to or entered into a pretrial diversion or similar program in connection with a prosecution for such offense, may not serve as a residential mortgage originator or be employed in that capacity by a person licensed as a mortgage originator.

Subd. 3. DE MINIMIS OFFENSES. Approval is automatically granted and an application will not be required if the covered offense is considered de minimis because it meets all of the following criteria:

- (1) there is only one conviction or program entry of record for a covered offense;
- (2) the offense was punishable by imprisonment for a term of less than one year and/or a fine of less than \$1,000, and the individual did not serve time in jail;
- (3) the conviction or program was entered at least five years before the date an application would otherwise be required; and
- (4) the offense did not involve a financial institution or residential mortgage loans.

Subd. 4. PRIOR CONSENT. (a) An application for prior consent of the commissioner under this section must be in writing, under oath, and on a form obtained from and prescribed by the commissioner. The following factors must be considered by the commissioner when reviewing an application:

- (1) the specific nature of the offense and the circumstances surrounding the offense;
- (2) evidence of rehabilitation since the offense;
- (3) the age of the person at the time of conviction; and
- (4) whether or not restitution has been made.

(b) The receipt by an individual of prior consent of the commissioner under this section must not be construed as imposing upon an employer an affirmative obligation to employ that individual in any capacity. Nothing in this section precludes an

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employer from denying employment based upon the existence of a criminal offense specified in subdivision 2 or for any other lawful reason.

Sec. 9. Minnesota Statutes 2004, section 58.16, subdivision 4, is amended to read:

Subd. 4. **TRUST ACCOUNT.** The residential mortgage originator shall deposit in a trust account within three business days all fees received before the time a loan is actually funded. The trust account must be in a financial institution located within the state of Minnesota, and, with respect to advance fees, the account must be controlled by an unaffiliated accountant, attorney, or bank officer or employee.

Sec. 10. Minnesota Statutes 2004, section 60A.13, subdivision 5, is amended to read:

Subd. 5. **RENEWAL LICENSE BASED ON APPROVED STATEMENT.** Upon the approval of the statement the commissioner shall issue a renewal license for the succeeding year beginning June first. Any license to a company or its agent, issued after the approval of the statement, shall expire May 31 of the year following. The license issued by the commissioner is perpetual and is considered renewed annually on June 1 upon payment of the renewal license fee, the annual filing fee, and all other fees required by section 60A.14.

Sec. 11. Minnesota Statutes 2004, section 64B.30, is amended by adding a subdivision to read:

Subd. 3. **VOLUNTARY DISSOLUTION.** Upon application to the commissioner, a domestic society may request that it be dissolved and that its existence be terminated. Such application shall demonstrate that the applicant has satisfied its members' policy obligations or that it has transferred such obligations to another society, domestic or foreign, by means of assumption or bulk reinsurance or otherwise, that the applicant's supreme governing body has approved such termination and dissolution and that the application includes such other information that the commissioner requires. Any limitation in section 64B.13 related to reinsurance by a domestic society with another society shall not apply to reinsurance entered into in conjunction with the transfer of member policy obligations as a part of a voluntary dissolution. Upon the approval of the application by the commissioner, the society shall be deemed dissolved and its existence terminated upon the date set forth in the application.

Sec. 12. Minnesota Statutes 2004, section 82.17, subdivision 10, is amended to read:

Subd. 10. **LOAN BROKER.** "Loan broker" means a licensed real estate broker or salesperson who, for another and for a ~~commission, fee, or other valuable consideration~~ an advance fee 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, or represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson, either in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan, or in connection with the conduct of his or her ordinary business activities as a loan broker.

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"Loan broker" does not include a licensed real estate broker or salesperson who, in the course of representing a purchaser or seller of real estate, incidentally assists the purchaser or seller in obtaining financing for the real property in question if the licensee does not receive a separate commission, fee, or other valuable consideration for this service.

For the purposes of this subdivision, an "advance fee" means a commission, fee, charge, or compensation of any kind paid before the closing of a loan, that is intended in whole or in part as payment for finding or attempting to find a loan for a borrower. Advance fee does not include pass-through fees or commitment or extended lock fees or other fees as determined by the commissioner.

Sec. 13. Minnesota Statutes 2004, section 82.17, subdivision 18, is amended to read:

Subd. 18. **REAL ESTATE BROKER; BROKER.** "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 out as engaged in 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, which is not a residential mortgage loan as defined by section 58.02, subdivision 18;

(c) "real estate broker" or "broker" as set forth in clause (b) shall not apply to the originating, making, processing, selling, or servicing of a loan in connection with the broker's ordinary business activities by of a mortgagee, lender, or servicer approved or certified by the secretary of Housing and Urban Development, or approved or certified by the administrator of Veterans Affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified as a multifamily seller/servicer by the Federal Home Loan Mortgage Corporation, or as a multifamily partner approved or certified by the Federal National Mortgage Association;

(d) 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 good will, inventory, or fixtures, or any interest therein;

(e) 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;

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(f) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same, promotes the sale of real estate by advertising it in a publication issued primarily for this purpose, if the person:

(1) negotiates on behalf of any party to a transaction;

(2) disseminates any information regarding the property to any party or potential party to a transaction subsequent to the publication of the advertisement, except that in response to an initial inquiry from a potential purchaser, the person may forward additional written information regarding the property which has been prepared prior to the publication by the seller or broker or a representative of either;

(3) counsels, advises, or offers suggestions to the seller or a representative of the seller with regard to the marketing, offer, sale, or lease of the real estate, whether prior to or subsequent to the publication of the advertisement;

(4) counsels, advises, or offers suggestions to a potential buyer or a representative of the seller with regard to the purchase or rental of any advertised real estate; or

(5) engages in any other activity otherwise subject to licensure under this chapter;

(g) 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 the real estate is owned by the person. A person shall be presumed to be engaged in the business of selling real estate if 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. 14. Minnesota Statutes 2004, section 82.36, subdivision 4, is amended to read:

Subd. 4. **ESCROW ACCOUNT.** The loan broker shall deposit in an escrow account within 48 hours all fees received prior to the time a loan is actually funded. The escrow account shall be in a bank located within the state of Minnesota and shall be controlled by an unaffiliated accountant, lawyer, or bank ~~officer or employee~~.

Sec. 15. Minnesota Statutes 2004, section 82.41, subdivision 13, is amended to read:

Subd. 13. **FRAUDULENT, DECEPTIVE, AND DISHONEST PRACTICES.**

(a) **PROHIBITIONS.** For the purposes of section ~~82.40~~ 82.35, subdivision 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

(1) act on behalf of more than one party to a transaction without the knowledge and consent of all parties;

(2) act in the dual capacity of licensee and undisclosed principal in any transaction;

(3) receive funds while acting as principal which funds would constitute trust funds if received by a licensee acting as an agent, unless the funds are placed in a trust

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account. Funds need not be placed in a trust account if a written agreement signed by all parties to the transaction specifies a different disposition of the funds, in accordance with section 82.35, subdivision 1;

(4) violate any state or federal law concerning discrimination intended to protect the rights of purchasers or renters of real estate;

(5) make a material misstatement in an application for a license or in any information furnished to the commissioner;

(6) procure or attempt to procure a real estate license for himself or herself or any person by fraud, misrepresentation, or deceit;

(7) represent membership in any real estate-related organization in which the licensee is not a member;

(8) advertise in any manner that is misleading or inaccurate with respect to properties, terms, values, policies, or services conducted by the licensee;

(9) make any material misrepresentation or permit or allow another to make any material misrepresentation;

(10) make any false or misleading statements, or permit or allow another to make any false or misleading statements, of a character likely to influence, persuade, or induce the consummation of a transaction contemplated by this chapter;

(11) fail within a reasonable time to account for or remit any money coming into the licensee's possession which belongs to another;

(12) commingle with his or her own money or property trust funds or any other money or property of another held by the licensee;

(13) demand from a seller a commission to compensation which the licensee is not entitled, knowing that he or she is not entitled to the commission compensation;

(14) pay or give money or goods of value to an unlicensed person for any assistance or information relating to the procurement by a licensee of a listing of a property or of a prospective buyer of a property (this item does not apply to money or goods paid or given to the parties to the transaction);

(15) fail to maintain a trust account at all times, as provided by law;

(16) engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive activity;

(17) represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client and a copy must be left with the client. The disclosure document must contain the following:

(i) the basis of fees, commissions, or other compensation received by him or her in connection with rendering of financial planning services or financial counseling or advice in the following language:

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“My compensation may be based on the following:

- (a) ... commissions generated from the products I sell you;
- (b) ... fees; or
- (c) ... a combination of (a) and (b). [Comments]”;

(ii) the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

“I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]”;

(iii) the license(s) held by the person under this chapter or chapter 60A or 80A in the following language:

“I am licensed in Minnesota as a(n):

- (a) ... insurance agent;
- (b) ... securities agent or broker/dealer;
- (c) ... real estate broker or salesperson;
- (d) ... investment adviser”; and

(iv) the specific identity of any financial products or services, by category, for example mutual funds, stocks, or limited partnerships, the person is authorized to offer or sell in the following language:

“The license(s) entitles me to offer and sell the following products and/or services:

- (a) ... securities, specifically the following: [List];
- (b) ... real property;
- (c) ... insurance; and
- (d) ... other: [List].”

(b) **DETERMINING VIOLATION.** A licensee shall be deemed to have violated this section if the licensee has been found to have violated sections 325D.49 to 325D.66, by a final decision or order of a court of competent jurisdiction.

(c) **COMMISSIONER’S AUTHORITY.** Nothing in this section limits the authority of the commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this section.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 16. Minnesota Statutes 2004, section 299A.61, subdivision 3, is amended to read:

Subd. 3. **LIMIT ON LIABILITY OF FINANCIAL INSTITUTION.** A financial institution, including its employees or company agents, that provides or reasonably attempts to provide information regarding stolen, forged, or fraudulent check information checks for use by the crime alert network, check verification services, consumer reporting agencies, a banking industry antifraud database consistent with federal privacy law, or by law enforcement agencies that are investigating a crime is not liable to any person for disclosing the information, provided that the financial institution is acting in good faith.

Sec. 17. Minnesota Statutes 2004, section 325F.69, is amended by adding a subdivision to read:

Subd. 6. **DECEPTIVE USE OF FINANCIAL INSTITUTION NAME.** No person shall include the name, trade name, logo, or tagline of a financial institution as defined in section 49.01, subdivision 2, in a written solicitation for financial services directed to a customer who has obtained a loan from the financial institution without written permission from the financial institution, unless the solicitation clearly and conspicuously states that the person is not sponsored by or affiliated with the financial institution, which shall be identified by name. This statement shall be made in close proximity to, and in the same or larger font size as, the first and most prominent use or uses of the name, trade name, logo, or tagline in the solicitation, including on an envelope or through an envelope window containing the solicitation. For purposes of this section, the term "financial institution" includes a financial institution's affiliates and subsidiaries. This subdivision shall not prohibit the use of a financial institution name, trade name, logo, or tagline of a financial institution if the use of that name is part of a fair and accurate comparison of like products or services.

Sec. 18. **REPEALER.**

(a) Minnesota Statutes 2004, section 52.062, subdivision 3, is repealed.

(b) Minnesota Rules, part 2675.2610, subpart 5, is repealed.

Sec. 19. **EFFECTIVE DATE.**

Section 8 is effective January 1, 2006.

Presented to the governor May 24, 2005

Signed by the governor May 27, 2005, 3:05 p.m.

CHAPTER 119—H.F.No. 367

An act relating to real property; providing for certain defeasible estates; modifying residential purchase agreement cancellations; amending the foreclosure advice notice; modifying

New language is indicated by underline, deletions by ~~strikeout~~.